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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JON CORZINE, a Senator from the State of New Jersey.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we begin this day with the words of the psalmist when he prayed,

I cried out, You answered me and made me bold with strength in my soul.—(Psalm 138:3).

We, too, cry out, asking You to make us bold because of Your strength surging in our souls. We yield our souls to be ports of entry and dwelling places for Your Spirit in us. You form Your character in us and give us convictions we cannot deny. Your strength makes us resolute in living the truth. We feel boldness to speak Your truth and to follow Your guidance. Exorcize any fear, timidity, or equivocation.

Father, as the Nation looks to our Senators for moral integrity and inspiration, give them a special measure of Your power, so that, from the depth of their souls, they will have Your supernatural strength to lead with courage. We have a great need for You; and You are a great God to meet our needs. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON CORZINE led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 10, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CORZINE thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant majority leader is recognized, the Senator from Nevada.

SCHEDULE

Mr. REID. We will begin a period of time until 10:30 to debate the Daschle amendment. We have people who wish to speak. The time is evenly divided between the two leaders. We will vote on this matter at approximately 10:30.

Today, because it is Tuesday, we will be in our weekly party conferences from 12:30 to 2:15. At 2:15 we will begin consideration of the homeland defense bill. This morning we will work on the Interior bill. Hopefully, we will have a couple of votes—not just this one vote—on this matter that will be voted on at 10:30.

Tomorrow there are a number of activities here and at the Pentagon regarding September 11. Tomorrow there will not be much legislative business. There will be an opportunity for people to give speeches. Around noon there will be a moment of silence. Following that, we will have some time set aside for people to give speeches, if they desire. We have so much to do and so little time to do it.

Thursday and Friday, we are working on this bifurcated schedule. Maybe if we get rid of these two amendments today we can see the end in sight for the Interior appropriations bill. Hopefully, we will be able to work with Senator THOMPSON, who has been easy to work with, and move this along. Some of the other Members, we know, are waiting. We hope we can accomplish a lot today. We could have a late night tonight.

RESERVATION OF LEADER TIME

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

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 5093, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5093) making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

Pending:

Byrd amendment No. 4472, in the nature of a substitute.

Byrd amendment No. 4480 (to amendment No. 4472), to provide funds to repay accounts from which funds were borrowed for emergency wildfire suppression.

Daschle modified amendment No. 4481 (to amendment No. 4480), to provide emergency disaster assistance to agricultural producers.

AMENDMENT NO. 4481

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes remaining for debate on the Daschle amendment numbered 4481.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent I be allowed to follow Senator BURNS.

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

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

Mr. BURNS. I thank my friend from Minnesota. Senator BYRD will be a little bit late this morning. If the Senator would like to give his statement now, that is perfectly OK with me. I think there will be more speakers on our side. I am supporting the amendment. We will make those points at a later time.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague and I thank the Senator from Montana for all of his support, all of his leadership on this amendment that deals with disaster assistance for rural America.

Colleagues, the Presiding Officer comes from a State where agriculture is not the No. 1 industry. Thomas ''Tip'' O'Neill said all politics is local. I add, all politics is personal. For me, this is probably the biggest priority I have right now, to get help to people.

This amendment, which started with Senator BYRD providing assistance for firefighters working on fires in our country, and some Members said, let's do this all together.

I come from a State where we have had massive devastation, massive losses from flooding. Others come from States where there is drought. Others come from States where there are fires. And, of course, since I have been in the Senate it has been hurricanes, tornados, you name it. This provides much needed assistance to farmers, whether they be wheatgrowers, soybeans, or livestock producers.

In our State, the estimates of the amount of loss of dollars is $300 million plus. The people with the best of crop insurance have lost 30 percent that they do not have covered. The independent producers cannot make it.

This is what we have, a situation that is a perfect example of there but the grace of God go I, or we are our brother's keeper or sister's keeper. How true.

I have never, since I have been a Senator, voted against disaster assistance for any part of the country. I know that when people are hit by floods or drought or tornadoes or hurricanes or fire, it does not have a thing to do with whether they work hard or do not work hard, are good managers or not good managers. No one asks for this.

In the original farm bill, I think we had over $2 billion for disaster assistance for 2001. It was taken out in conference. It was opposed, I guess, by the administration and some of the leadership in the House. We tried to bring this disaster relief bill up, we tried to put it on the supplemental appropriations bill, without much luck.

I think the support has built for this legislation. We are going to have a really strong vote, and, frankly, I am not really interested in drawing the line, as in Democrats versus Republicans. I do not think this has much to do with that. I wish the administration would be more supportive, but I think the President will sign this bill. I know he will. I think if we get a strong vote on the Senate side, the House will support it. It is just impossible for any Senator or Representative—it doesn't really matter about party—you just cannot turn your back on people.

All these statistics, to me, translate in personal terms. The trips I have taken to northwestern Minnesota have been among the most emotional experiences I have had as a Senator. You can see the damage the floods have caused.

FEMA can help with temporary housing, and FEMA can help if there is damage of public infrastructure. FEMA helped us build a new school in Ada, MN. That was so important. But when it comes to farm country, really, if we do not provide the help, it is just not going to be there. FEMA cannot deal with these kinds of crop losses.

It is just the absolute sense of discouragement, of just being completely beaten down, of seeing your whole life's work disappear, of just believing there is no future. Then there has been the delay, and the delay, and I think a lot of farmers—and not just farmers, people in northwest Minnesota—have just lost all hope.

I make this appeal to all my colleagues to please support this legislation. The truth of the matter is, never in the 12 years I have been here have we hesitated to provide disaster assistance moneys to people. We never have hesitated—never—to take it out of general revenue. We know we are going to have to do it. As I say, if it is the farmers in northwest Minnesota now, it could be people on the coast in Florida who need help tomorrow. God knows, people in Colorado need it. Certainly in Colorado we have drought; South Dakota, North Dakota; Kansas is faced with these struggles—it is all over the country. And then it could be something else next year and the next year. We are talking about natural disasters. This is long overdue.

As a Senator from Minnesota, I view this as the most important vote we could have. I appeal to all my colleagues, regardless of the region of the country you are from, regardless of whether you are faced with any of these catastrophes. I again pledge, one more time—I see two more colleagues here in the Chamber, so I am not going to take more than another minute or two. Here is what I say to you, and it is an absolute promise I will keep. If you, as a Senator from New Jersey, or the Senator in the chair, any Senator ever comes to the floor and says, my God, this is what has happened, there is this devastation, there is no way people can build their economic lives without this disaster relief—I know it is not in the State of Minnesota—will you, as a Senator from Minnesota, support this? I will say yes, because we are a national community and we help people. That is what it is about: We help people. This is critically important.

I hope we will get a huge vote for this amendment. I make the plea to all my colleagues, regardless of the State they are from, to please support this amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BURNS. Mr. President, I yield 15 minutes to the Senator from Kansas.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. ROBERTS. I thank my distinguished colleague for yielding.

Mr. President, before you saddle up to ride on a new trail, it is a good thing to take a look at where you have been. You can avoid a lot of trouble—a lot of ditches, a lot of box canyons—that way. The problem is that in terms of yet another expensive disaster bill for farmers and ranchers—sorely needed—we are indeed in a box canyon. It appears we are going to have to pay quite a price to backtrack, to get to a responsible and reasonable farm program policy to be of assistance to our farmers.

We didn't have to go down this trail. I would like to read a quote by the distinguished Senate majority leader. He is doing the best he can, as he sees it, with the disaster bill. But the majority leader said in regard to the new farm bill when it was passed in May, according to CQ Monitor News:

> What we are doing is putting certainty back in the bill. And I would argue, we're going to be doing it at less cost to the Federal Government during the course and life of this bill than we did under Freedom to Farm because you are not going to see these disastrous supplemental requests in the future. We'd still like to get one for 2001, but in the future you are not going to see them. It won't be necessary.

At the same time, we also had many say that the new farm bill was the greatest farm bill ever passed.

Here we are, only 4 months out from the passage of the farm bill, and farmers are lined up outside the Farm Service Agency offices in great numbers, with all of the complexities of the bill, and already these folks and a majority of the farm and commodity organizations are also lined up, pushing for a disaster assistance package, a bill the Congressional Budget Office now says will come close to $6 billion. It is a bill that faces an uphill, if not impossible, battle in the House and a possible Presidential veto.

How on Earth did we get here after passing the so-called greatest farm bill ever? Because in my view the new farm bill is flawed. Simply put, it provides no assistance to farmers when they need it the most. That so-called and much talked about countercyclical safety net we heard so much about—well, it was not a safety net. It is a hammock. It has holes, and it is lying on parched acres suffering from drought.

We are in, as has been said and has also been covered in the press, one of the worst droughts we have ever seen in many parts of the Plains. Pastures are gone. Cattle herds have been liquidated. Combines never left the shed

in parts of Kansas. Parts of our great State look like the desert areas of the southwestern United States. I have bankers telling me they cannot cash flow a single producer who does business at their bank.

In large part, these cash flow problems are the result of a farm bill that provides no assistance to producers this crop-year when they do not have a crop. When the farm bill was debated months ago, I said I would vote against the bill because it would not have provided the so-called countercyclical assistance to wheat producers in 9 of the last 20 years. Why would you support a farm bill that did not really provide any assistance in about half of the time in the past 20 years, with most of those years being in poor production years caused by droughts, flooding, freeze, insects—the years when we need the assistance the most, 9 out of 20? I did not think that was a very good deal.

For that I received some criticism on this floor. I was told it was OK that the bill would not have paid out in 9 of those 20 years because that meant that prices were high and producers would not need the assistance.

Let the record show that yesterday in Dodge City, KS, the closing price was $4.67 a bushel on wheat. That is a tremendous price as compared to where it has been, so prices have come up. It is about $2.91 a bushel for corn, $4.28 a bushel on sorghum, $5.61 a bushel on soybeans—great prices. But, with these prices, my producers are barely hanging on. Why? They have no crops to sell. Consequently, the few who did sold early to meet these emergency obligations.

This August, I just finished a 105-county listening tour. I wish those ''greatest farm bill ever'' proponents would have been there. My farm meeting in Stockton, KS, America, started out with a farmer telling me:

> Pat, thanks for voting against that farm bill. I don't think most of us can survive this first year under it. We were counting, under the old bill, on a supplemental payment called the AMTA payment, or at best the equivalent of that payment.

It was a common statement all throughout Kansas.

The difference is that under that payment, the checks would have been there now and it would have been 60 cents for wheat as opposed to a very small direct payment of 6 cents a bushel for wheat. And the other three components of the countercyclical payment don't work in times such as this.

It is true that prices are high. But it is because drought has reduced the supplies. In many instances, my producers had no crop to harvest. And that is true in Montana, it is true in Wyoming, it is true in Colorado, it is true in South Dakota, it is true in Nebraska, and it is true in Oklahoma. But due to these high prices, they are not going to receive any countercyclical payments. There is no loan deficiency payment, and they have no crop to put under loan.

One of the criticisms of the farm bill was that it was too complex. Farmers would get payments in maybe one in four mailboxes. If you looked in one mailbox, no payment. If you looked in a second mailbox, no payment. If you looked in a third mailbox, no payment. If you looked in a fourth mailbox, maybe 6 cents a bushel.

That is one of the major flaws of this farm bill. It is why I pushed an alternative farm bill approach. It is also why I proposed implementing this bill or any new bill in 2003—the next cropyear to give us enough time to work on it—and doing a budgeted $5.5 billion supplemental AMTA payment plus livestock feed assistance for this year—cash payments, income protection, not a countercyclical payment less than what we are going to spend in regard to this disaster bill.

Instead, here we are doing a disaster bill again. Every even numbered year there is disaster assistance proposed and disaster assistance to implement. As long as this farm bill is our current policy, we are probably going to be back here doing one each and every year.

This ride into a farm bill box canyon is expensive. It is full of regulatory potholes, all sorts of snakes that come back and bite the producer and truly counterproductive—not countercyclical. Two years ago, we made significant reforms to the Crop Insurance Program. That was the tool under the Kerrey-Roberts bill, or the Roberts-Kerrey bill depending on which one you want to give the credit. If you like it, it is the Roberts-Kerrey bill. If you do not like it, it is the Kerrey-Roberts bill.

There are significant reforms. Coverage levels are up. Insured acres are up. Indemnities paid to producers are substantial. We spent $1 billion to address the problems caused by multiple years of losses. Many producers are telling me they are just beginning to realize the benefits of this change.

You can insure up to the 85 percent coverage level. However, because of the farm bill that was passed earlier this year, which took money out of crop insurance, we are now doing a disaster assistance bill that works to undermine the very reforms we passed in the year 2000. Again, it didn't have to happen this way.

We proposed a farm bill that would have provided assistance in years of both low prices and crop losses. The other side said: No thank you.

We proposed a supplemental AMTA package and livestock assistance that would have been paid for in the budget. The checks would be out this month. The other said: No thank you.

It took USDA 8 months to provide disaster payments several years ago. They are hard hit today trying to work through all of the paperwork on the new farm bill. I am not sure that will happen in regard to immediate assistance. Here we are again, just like the farm bill. My minority party was shut out of any committee consideration of that bill. And due to the parliamentary situation in which this second-degree amendment was submitted, we have no opportunity to offer amendments to this package.

I had a proposal to allow producers to choose between 2001 and 2002 assistance. The other side didn't like that, though it was a better deal for taxpayers. It brought the price down. And, after all, farmers did receive the extra AMTA payment in 2001.

Was it perfect? No. But it was a halfway point between those wanting assistance and some in this body who want nothing at all. It worked to protect the Crop Insurance Program by requiring the purchase of crop insurance in order to receive disaster assistance.

Why buy crop insurance if you are going to get disaster assistance every year?

It tried to make proper use of taxpayer dollars by keeping this spending in check. And it was popular with my Kansas producers on my recent tour in the 105 counties of the great State of Kansas.

We will not have a chance to debate any alternative proposals today. This package will probably pass. I am going to reluctantly—heels dragging—support it. I have to support it. The situation is grim—absolutely grim. It has been hotter out in Kansas. It has been drier out in Kansas. But it has never been as hot and as dry at the same time—even back in dirty thirties—as is the case as of today.

But let's be honest with ourselves and the American public. These funds are coming straight from Social Security. It is the other side that has increased the bidding war right at the start of this appropriations process, and we are doing this plain and simple because we have a new farm bill that is flawed and that has created a cash flow vacuum in rural America.

There is no question that we need—that our farmers need—this disaster assistance. The situation in farm country hit by drought—the drought that caused increased market prices in other commodity regions, not the farm bill—is recordbreaking. It is severe. By passing—''force-feeding'' is the better term—this expensive emergency disaster package, without any chance for amendment, what do we achieve? I will tell you what we achieve. We achieve an issue. I hope the end result is that we achieve a bill. Right now we have an issue. This bill will not pass the House. It will not be signed by the President. It is going to be a little tough for the farmer, it seems to me, to cashflow with politics and an issue at the bank.

I hope when we pass this bill—this very expensive bill that is headed for an uphill battle in the House and with the administration—that we can reach some accommodation in conference.

Reluctantly, I will vote for the bill. I don't like the way it has been brought up. I have gone over all of the reasons

why I think we should have done it another way.

I yield the floor.

Mr. BURNS. Mr. President, I would like to make another note about this process being hijacked for the last year and a half. When we started talking about drought and disaster relief and agriculture, the number was much smaller. In the meantime, we did pass a farm bill that I reluctantly supported. Of course, I was a party, with the Senator from Kansas, in offering a substitute amendment that I think would have been better for agriculture.

We have a circumstance at this time in this particular case where the money was taken out of agriculture and a drought where you have no crop for sale. We have a cashflow problem. In other words, we would like to see our agricultural producers go to the insurance program—we think it is much better than it was, say, 2 years ago—and to assume some responsibility in risk management. That is not the case now because of the drying up of funds over the last year and a half. The circumstances have changed. Thus, we have the amendment on the floor that is before us today.

I appreciate the work the Senator from Kansas has done in providing real help instead of getting into a position where we fall to the whims of politics. There are circumstances that arise that make this issue a very contentious issue. I thank him for his work.

Mr. ROBERTS. I thank the Senator.

Mr. BURNS. Mr. President, I yield to the Senator from Nebraska.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I thank my friend and colleague from Montana, Senator BURNS, for granting me some time this morning to speak regarding this very important legislation to assist our farmers and ranchers across our country with the disaster which they have been experiencing—not only this year but in many cases for 2 or as many as 5 years.

I thank Senators BAUCUS and BURNS for their tireless work to get drought relief to the floor. I thank Senator DASCHLE for moving so quickly to get this amendment to a vote.

I think going home over the August recess certainly gave many Senators—and all of us from the States that have been hit by drought even more reason to move on this bill. I am glad we are having this vote today.

This drought is a disaster. It has been a disaster for agriculture and a disaster for rural communities which depend so much on agriculture. If this had been a hurricane or an earthquake, we would have already responded. If we had found a way to call a drought by name, such as ''Drought Andrew,'' or drought this or drought that, we probably would have been able to have it crystallized so people could see that it is the same kind of experience as you have with any other natural disaster. It just takes a longer time in building. It doesn't have necessarily a beginning point or an ending point, but it expands over a broad period of time. We would have had an aid package within a few weeks, and assistance would already be on the way, and the communities that have felt the hurt and the pain would already be feeling the positive effects from this kind of support. Here we are responding to natural disasters, and I think it is important we do that. We can remedy that by passing this amendment today, not waiting any longer.

I also believe that my colleagues who are not from drought-stricken States may not have the entire picture about how bad this has been. I know I have been kept up to date on the devastation caused by the drought—getting reports, getting information, seeing pictures—but visiting the drought areas during the recess firsthand was certainly an eye-opening experience.

Going to farms that have had crops—some good, some bad—every year for 70 years and today, this year, to see there is no crop, for the first time ever, is an eye-opening experience. To walk across a cornfield and find only shriveled cobs that can barely be shucked and having no kernels is an eye-opening experience.

This is not the result of poor planning or some unfortunate weather; this is the result of a natural disaster that has crept upon the land, had no mercy; and it has turned upside down the hopes and the work that went into planting this spring.

Again, for much of my State, this is a no-yield year. I would like to give some specific examples that I heard back home. A family farmer near McCook, NE—my hometown—Dale Dueland, whom I have known from the days that he crawled across his family's floor, said he would have a zero yield on his 900 acres of dryland corn. That crop is a loss this year, despite preparation that assumes little moisture—as he always assumes little moisture—and despite crop insurance.

Al Davis from Hyannis told me: ''Each day places another nail in the coffin of many individual ranchers in Nebraska and on the Great Plains. Many ranchers have already thrown in the towel and are liquidating portions of their herds,'' which will have an impact not only today and tomorrow but for the next several years until those herds are rebuilt, if they are rebuilt.

Annette Dubas, who owns a ranch and farm in western Nance County, NE, told me after the third year in a row of drought conditions, some farmers in her area had already been forced out, while others work two jobs just to be able to keep their farms going. These are not big-time corporate farms; these are family farmers who are being driven out of businesses that, in some cases, have been in their families for generations—in many cases 100 or more years.

The relief package before us today is of the utmost importance to farmers and ranchers across Nebraska and all rural America. It will make the difference between keeping their farms or being forced out of agriculture—to the very great detriment of all of us who depend on the ''breadbasket of the world.''

We must pass this legislation and ensure that our rural communities are not allowed to wither under the worst conditions in over half a century.

This is not the result of a bad crop-year or bad market price; it is about a no-crop year. It is about a no-pasture year, a no-grassland year on top of 2 or more for 5 years. It has been where we have been experiencing no crops, no pasture, and no future—unless we are able to step forward today and adopt this legislation.

Mr. President, I would like to close my statement this morning by quoting from what Dale Dueland said at the Senate Agriculture Committee hearing in Grand Island, NE, last month. And I quote him:

> This drought is a disaster. It is as severe and as much a disaster as any flood, tornado, hurricane, or earthquake that you could imagine. It has been sneaky and sinister. It has tempted and teased us for two years with moderate dry spells, and this year just unleashed an unbelievable 90 days of extreme heat and dry to scorch the earth. This disaster deserves extreme measures to deal with the problems.

Mr. President, I could not have said it better than my friend Dale Dueland.

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

Mr. BURNS. Mr. President, I yield 6 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 6 minutes.

Mr. BINGAMAN. Mr. President, I thank my colleague, Senator BURNS, for yielding time for me to come and speak on behalf of this amendment.

This is an amendment to provide emergency drought relief for ranchers and farmers. The amendment is based on Senator BAUCUS' bipartisan bill, S. 2800, of which I am very pleased to be a cosponsor, along with 16 other Senators.

The ranching tradition in our State—in New Mexico—goes back 400 years to the time that the Spanish settled the State. The cattle and calf industry in our State is the single most important agricultural product that we have, which represents close to $1 billion a year in direct cash receipts to people in our State.

Most of the cattle industry is concentrated in rural areas of the State, such as Union County, Chaves County, and Curry County. These are family-owned businesses. The families in New Mexico who own these businesses, in many cases, have ranched this same land for many generations.

New Mexico, like much of the rest of the West, is now in the throes of the worst drought in at least 50 years. In some parts of the State, the drought has persisted for the last 3 years.

According to the Natural Resources Conservation Service, this has been one of New Mexico's driest years in recent history. The lack of normal snow and rainfall has left ranchers in our State with little pasture for grazing livestock.

The Governor of New Mexico has declared a statewide drought emergency. He declared that in April. The Secretary of Agriculture has now declared every agricultural county in our State a disaster area.

Since March of this year, the USDA has rated range and pasture conditions in New Mexico at an average of 81 percent poor or very poor. These conditions have made it impossible for ranchers to maintain their herds. As a result of the continuing drought, water tanks and stock ponds in New Mexico's rangeland have dried up. Ranchers in my State are hauling water and are supplementing feed for their herds. As grazing conditions have continued to worsen, many ranchers have culled their herds because of the cost of water and feed being more than they could bear at this stage.

The drought will continue to impact producers in our State for years to come. Without emergency support such as contained in this amendment, the ongoing drought could very well put many of our ranching families out of business for good.

I would like to take this opportunity to thank the staff of the USDA's Farm Service Agency in New Mexico for their fine work so far this year in helping New Mexico farmers and ranchers deal with the drought. They have used the limited tools available to them. Paul Gutierrez, Scotty Abbott, and Rosalie Ramirez have worked effectively to provide some limited economic help to producers throughout New Mexico. As a result, many producers in our State have been able to take advantage of low-cost loans, emergency haying and grazing on CRP land, or assistance through the USDA's Emergency Conservation Program.

However, even with this limited help from USDA, the farmers and ranchers of New Mexico are continuing to suffer the economic effects of the drought. In previous years, Congress has provided emergency support through the Crop Disaster Program, the Livestock Assistance Program, and the American Indian Livestock Feed Program. I believe the drought disaster in New Mexico is so severe that assistance again this year is justified.

I first voted to support drought relief in February during consideration of the farm bill. That amendment, which Senator BAUCUS offered, was adopted by a large vote of 69 to 30. Unfortunately, the House refused to include the emergency funding in the farm bill, and it was dropped in conference.

Since the Senate voted in February, the conditions in my State have continued to deteriorate because of the lack of moisture.

The emergency funding provided in this amendment will provide payments to ranchers for the losses they have suffered from the drought. The disaster funding is desperately needed. I hope all Senators will support the amendment.

Mr. President, I ask unanimous consent that a letter from Frank A. DuBois, who is the New Mexico Secretary of Agriculture, in support of emergency drought funding as provided for in this amendment, be printed in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
STATE OF NEW MEXICO,
Las Cruces, NM, June 6, 2002.

Hon. JEFF BINGAMAN,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BINGAMAN: As you know, our ranchers are facing a financial hardship due to the drought. I ask your support for funding the Livestock Assistance Program authorized in the recent farm bill.

Pasture conditions have declined severely over the past months. Currently, pasture and feed conditions are reported in very poor to poor condition. As a result, ranchers are providing supplemental feed and hauling water to their livestock. Ranchers in the state are also culling herds to reduce their feed costs.

Cattle and calves are New Mexico's largest agricultural industry. The overall economic impact from the ranching industry to the state is over $1 billion.

Please call me at (505) 646–5063 if you have any questions.

Sincerely,

FRANK A. DUBOIS.

Mr. BINGAMAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Three minutes, 15 seconds remain.

Mr. BURNS. I yield 3 minutes to my friend from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, Wyoming is experiencing a level of drought that has been devastating to the ranching industry of my State. In an effort to address a need that grows more and more desperate every day, I am cosponsoring the emergency agricultural disaster assistance amendment. This amendment funds the Livestock Assistance Program for both 2001 and 2002 and responds to a call for help that echoes through the ranching communities of Wyoming and throughout the west.

The need for drought assistance is great, but the need for responsible legislating is just as great. As a cosponsor, I am fully supportive of the amendment before us; however, I must serve the needs of my State without breaking the budget. For this reason, I plan to introduce an amendment, with the support of Senator GRASSLEY, to offset the emergency funding for the Livestock Assistance Program by reinstating payment limitations in the farm bill. I plan to pay my own way for the assistance I have advocated for over a year.

My proposed amendment does its best to work within the strictures of a poor economy. I am not unmindful of the fact that the United States will have a deficit this year after 4 years of surplus. Alan Greenspan said to me a few weeks ago that one of the things this country needs the most now is fiscal responsibility. As a fiscal conservative myself, I plan to use an offset for desperately needed livestock assistance funding.

Time has changed things since we voted for disaster assistance in the farm bill. The national economic picture isn't so rosy with the thunder clouds of the forecasted deficit on the horizon. In fact, the economic forecast is as stark as the weather forecast ranchers are reading in my State. This is a time for choices. The agricultural community can't have it all, but we can do our best to act responsibly and serve their needs. That is what my amendment would do. And it doesn't just serve the ranching community

My proposed amendment is not an attempt to decrease the assistance going to our agricultural communities or to thwart the emergency agricultural amendment before us now. I have spent the last month in Wyoming and the devastation there is imprinted in my brain. This is the third year Wyoming and the west have been battling the effects of the weather and suffering through a drought that has had a severe impact on families and communities throughout the west. As an example, when I was home in Gillette I noted that we had received just over half of our normal level of precipitation since January. Water is so precious right now Wyomingites treasure every drop that falls from the sky as a gift from the heavens. Unfortunately, those gifts have been few and far between and, at the printing of the last crop report, 80 percent of Wyoming's range and pasture feed was rated in poor or very poor condition. That 80 percent represents a huge increase over our 5-year average, which was 32 percent.

At the present time, only 13 percent of Wyoming has adequate topsoil moisture. That lack of soil moisture not only makes it impossible to grow crops, but it also has effects that ripple throughout our entire State.

In our Popo Agie Conservation district a fracture opened up this summer in the ground. Soil scientists called in to determine the cause of the fracture said that the 5-foot deep crack had opened up because there is not enough moisture in the soil for the land to maintain its current status and structure.

There is a good reason for that. The U.S. Drought Monitor indicates that significant parts of the west, including Wyoming, are experiencing an exceptional level of drought—level D4. That's the highest rating given for the status of a drought.

As I noted, the effects of drought at a D4 level ripple throughout our communities. For instance, the drought

has forced Wyoming's Governor Geringer to ban the use of fireworks or campfires on State lands. Many of Wyoming's towns and counties have followed the Governor's lead and banned similar activities on their town and county lands. These stipulations have ruined some businesses and forced others that rely on summer sales to go without their one chance to make a profit this year. It's a sacrifice, but everyone understands the reason for the ban. After all, in a region that has been plagued with fires, a single spark in an area surrounded by dry wood is a formula for disaster. Although everyone understands the need to take drastic steps to address the drought, everyone is also suffering from the devastating impact of a lack of water.

It may be difficult for some of us to comprehend the lack of water out west because for so many of the fortunate citizens of the United States a sufficient supply of water is no further away than the nearest tap or faucet. There are even States suffering from the effects of floods. Wyoming, however, as is much of the west, is in desperate need of every drop of water we can find.

The best example of what the drought has meant to our tourism and recreational industry is the Bighorn Canyon National Recreation Area, which stretches 60 miles from the beginning of Bighorn Lake to Yellowtail Dam in Montana.

Usually boaters have a choice of three ramps to use to launch their boats onto the lake. The lake has been dropping an average of 2 to 5 inches a day, so all the ramps have been closed. Since the drought began the water level has dropped at least 45 feet.

The reservoirs in the rest of Wyoming are in even worse condition. If the drought continues, the dam at Boysen reservoir will no longer be able to produce electricity because the dangerously low volume of water means that there will be insufficient water pressure to spin the turbines and produce the electricity that the towns and people of Wyoming depend on for the necessities of life.

As you can see, the drought has had an impact on just about every aspect of life in the west especially those activities and resources we have always taken for granted. With the drought, there will be no campfires, no fireworks, no boating, in short, the recreational activities of the spring, summer and fall are no longer permitted—or possible.

True, this is a terrible problem, but for those who have to forego a year of these activities, it has been an inconvenience. For the agricultural community, however, the drought threatens their way of life and their ability to provide for their families. For the ranchers and farmers, the drought threatens to destroy the land and turn once valuable topsoil into dry dust that will blow away and never be restored to use again. For them, and so many others, the drought has been nothing short of a disaster.

It's easy for me to tell you how my constituents are suffering because of the drought which has destroyed so much of the resources upon which they depend, but unless you hear with your own ears how bad things have become, you still might not believe it.

Let me tell you a story about what your life would be like if you were part of a typical family in Wyoming that is barely holding on from the effects of 3 years of drought.

It's July on the ranch and you have 1,000 cow/calf pairs. Normally, on a day like today, you would have paper and pencil in hand to calculate how much you expect to make in the fall when you sell your calves. Unfortunately, this is not a normal day or a typical year. For on this day you are using your pencil and paper to calculate just how bad the news will be in the coming months. Your bottom line this year will not reflect your margin of profit, but your margin for survival.

Last year you sold 1,000 calves at an average of 600 pounds for $1.07 a pound. Your total income from your hard work came to almost $640,000. That is before any expenses.

This year, the conditions brought about by the current drought have forced you to sell your calves earlier and at a lighter weight.

That's the bad news.

The worse news is that you have watched the bottom fall out of the cattle market this year. That means you'll be selling your cattle at a lower weight and at a lower price. It's a double whammy that is sure to destroy you this year and leave you muttering the old baseball adage to yourself, Wait till next year.

So, you continue your calculations and note that you'll probably be selling 1,000 calves this year at an average of 500 pounds for only 80 cents a pound. That will bring you about $400,000—before you pay your expenses. Thanks to the drought, your total income has already dropped from $640,000 to $400,000. Unfortunately, your expenses and your bills have not taken a similar drop. In fact, they have increased—which you discover when you start working on next year's budget.

After a terrible sale, you realize you have to start feeding your cows soon. Cows come from cows—so you have to keep some. Normally, this doesn't pose a problem because a rancher usually puts hay up all summer to start feeding the cattle in January.

The drought ended that. You see, the drought stole the irrigation water you would normally use to grow your crops of hay and corn on the 1,000 acres of farmland.

Adding up what that will cost you comes out like this—the cost of buying hay, the loss of corn production, the cost of feeding your cattle for four additional months, the cost of leasing additional grazing land and paying full price for irrigation water even though you only are getting ⅕ of the water you pay for that adds up to about $355,000, again added expenses due to the drought.

Remember, our total income came to $400,000. That means, after those expenses, you're left with about $45,000 to pay the normal operating expenses of the ranch, pay your mortgage, pay whatever help you have hired, make repairs on your ranch and the equipment you need—and, oh yes, feed and clothe your family.

Ranchers have added up those numbers in just about every way you can imagine and come up with the same answer—they can't afford to keep their cattle. That's why the sale rings in Wyoming are full and overflowing—which only serves to continue to drive prices downward.

As you can see, the double pressures of drought and the current depressed market have hit the ranchers in the West particularly hard.

Ranchers are usually an optimistic bunch, but this time nature offers them no reprieve and little reason to hope.

Farmers are having the same problem, but they have something our ranchers do not have—crop insurance.

Here on the Senate floor we crafted a farm bill that ensured there would be help for our Nation's farmers. We fully funded the programs farmers rely on and made sure they'd have a source of support when the market turned sour. Unfortunately, we didn't do the same for ranchers. The rancher doesn't have a safety net to keep him propped up nor does his crop, the cattle he raises, have a price safety net. This is an inequity that must be addressed.

As I listened to the heartfelt deliberations of the Senate on the farm bill, I heard a plea for the provision of $360,000 a year, which is the current payment limitation, in assistance to farmers. As the debate progressed I couldn't help but think of the ranchers who are struggling to make ends meet in Wyoming and throughout the west who are set to receive next to nothing to help them.

It seems clear to them, and to me, and to anyone who reviews our farm policy that farm bill payments were not intended to subsidize every acre of every farm—nor every bushel produced. They were meant to help those in need and to keep family farms in business. Shouldn't that same logic apply to family ranchers and ranches?

The American taxpayer should not be asked to keep large corporations or weekend hobby farmers in silk overalls and gold-plated pitchforks. Farm assistance was intended for and must continue to be directed at small and medium producers—family farmers who truly need help. Our rural communities depend on farms and the farms, in turn, depend on their communities.

Too many small farms are not receiving the assistance that is needed while large multi-million dollar corporations continue to receive Federal funds for

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

Even farmers have recognized the desperate circumstances that face our ranchers and the inequity of their situations. Recently, we heard from an Illinois farmer who had a ''heart for Wyoming.'' He wanted to donate hay to help Wyoming ranchers struggling to find feed for their herds. Don't get me wrong, we'll be glad to get it, but it will be a drop in a bucket compared to what we need—though it will be a much appreciated drop!

Just like the rancher with his pencil figuring out his budget, when you add it all up, there can be only one responsible conclusion and I have tried to present it in an amendment I plan on introducing later today.

Only by reinstating tougher payment limitations on farm bill payments and using the savings to offset emergency feed assistance to livestock producers for drought disaster can we hope to save them, while also making a stab at fiscal responsibility.

Current law has set payment limitations at $360,000, but that fails to count the gains farmers receive when they forfeit their crop to the CCC and keep the loan or when they use commodity certificates. These gains are not considered against the $360,000 payment limitation. Basically, payments are still unlimited.

If we have learned one thing this year, it should be to avoid tricky accounting. My amendment would put in place real payment limits by counting all gain. My amendment establishes that limit at $280,000 per year. This should be an easy choice as the Senate has already voted its support of farm bill payment limitations by 61–33 on February 7 of this year.

The reinstatement of payment limitations is directly in line with the proposal the administration made to the World Trade Organization to globally lower trade distorting subsidies. The proposal would limit trade distorting subsidies to five percent of agricultural production. Stricter payment limitations now would decrease the impact that this proposal would have on our farm bill programs. As world leaders we should set an example in word and deed for the rest of the world. We have spoken the word with the proposal. But as we all know, actions speak louder than words, so let us put our words into action today.

Under the terms of my legislation, a savings of at least $500 million from the strengthened payment limitations would be applied to the Livestock Assistance Program. The Livestock Assistance Program is available to livestock producers in counties that have been declared disaster areas by the President or the Secretary of Agriculture. It provides minimal financial relief to livestock producers that are experiencing livestock production loss due to drought and other disasters—but only if there is money in the fund. The emergency agricultural disaster assistance amendment before us now puts money in the fund and my proposed amendment would prevent that money from being another addition to our national debt.

Once the LAP is funded, producers apply for relief and a formula splits the available monies according to their needs. It assists all producers who qualify, but the extent of the assistance that is available is limited by the program funding and the number of applicants. The more applicants there are across the country, the smaller the individual payment.

Without the assistance and provisions in my proposed amendment, Congress is clearly picking the winners and losers of the current climate and economic conditions facing the West. This is not only unfair, it is unwise, too. We are continuing to slip outrageous benefits to corporate farms that don't need assistance while the West blows away in the wind. I'm only asking for what is fair and for what we should have done long ago.

I urge my colleagues to support the emergency agricultural disaster assistance amendment. If we pass this emergency amendment, the ranchers who are suffering will know that they have been heard. I also urge my colleagues to support my proposed amendment after this vote. If we go on to pass my amendment, we will have made the choice to act responsibly while providing desperately needed assistance. It will give ranchers and our economy a fighting chance to survive. We owe our ranchers and ourselves no less.

In conclusion, Mr. President, as I said, I am one of the cosponsors on this drought amendment. It is of critical importance to our State. We are in the third year of a critical drought. Each year has gotten worse. There has been less rain each year. Our ranchers are suffering terribly. I have tried on three different occasions to get some livestock assistance payments included in different bills. They have not made it through conference committee. At the same time we have taken care of farmers, we have provided them with payments of up to $360,000 each.

It is my intention, once this amendment is disposed of, to submit an amendment for the body to vote on that would provide for a slight reduction in those assistance payments where we are subsidizing every acre and every bushel produced on every farm so that something, anything can go to ranchers. We are talking about $360,000 to farmers, zero to ranchers. If my amendment for livestock assistance payments passes, they would get approximately $8,000. Does anybody see the disparity here? Ranchers need help, too. They are having to sell off their herds. When they sell off their herds, it drives the prices down. They were getting $1.07 a pound. How much are you paying for beef in the grocery store? It went down 80 cents a pound. It has been down to 60 cents a pound. Your prices went up. There is a monopoly in the beef, but that is another issue. We will cover that at another time.

We need to do something for the producers so we can keep putting food on the table. It is a huge part of the economy. It cascades into the rest of the economy. When farmers and ranchers can't buy things, then the merchants from whom they buy can't buy things. The economy implodes on itself.

Transportation is important in this country, but food production is more important. If we can't eat, we can't travel. We need to do something for the ranchers. There is a way we can do it. We absolutely need to do something on drought assistance. I hope my amendment will be accepted to offset some of the livestock assistance payments with the other payments so that we are not busting the budget. The best way for us to improve the economy is to watch the spending. That would be a cross-payment.

I ask for Members to watch for the amendment and to support the drought amendment.

The PRESIDING OFFICER. Thirty seconds remains to the Senator from Montana.

Mr. BURNS. I ask the Chair if the time of those who support the amendment has been used?

The PRESIDING OFFICER. Twenty-three minutes remain on the other side.

Mr. BURNS. We used 23 of it?

The PRESIDING OFFICER. Twenty-three minutes remain on the other side. Nine seconds remain on the side of the Senator from Montana.

Mr. BURNS. Mr. President, I yield to my friend from Colorado. I want to protect the opposition's time, understanding that we are starting to run out of time totally before the vote comes.

The PRESIDING OFFICER. The Senator's time has expired. Twenty-two minutes, 45 seconds remain to Senator WELLSTONE. The time is in the control of Senator WELLSTONE.

Mr. WELLSTONE. I would be pleased to give 5 minutes out of our time to the opponents.

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

Mr. BURNS. Can I yield 2 minutes to my friend from Colorado and allow him to outline his statement?

The PRESIDING OFFICER. Yes. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Minnesota for being willing to yield some time to my side.

I want to follow up on some of the comments made by my colleagues from the intermountain area, particularly the Rocky Mountain region. Colorado is right in the center of this drought. With all the stories you have heard about the States around Colorado, we are much more affected than anybody else.

This is a very unique drought. It is a more severe drought than any of the

people in Colorado can ever remember. In fact, if you look at the tree rings up in some of the foothill areas, a study has been done which suggests that maybe this drought has been the most severe drought we have had since the 1700s. So we have a lot of individuals in rural communities, farmers and ranchers, suffering as a result of this drought.

I have been working closely with the Secretary of Agriculture, Ann Veneman, to try to provide as much relief as we can with the program moneys available. I thank the administration for being responsive, but we have to do more than that. That is why I am a cosponsor on this particular legislation. That is why I am pushing hard for its passage.

I grew up on a ranch in Walden, CO, spending my summers baling hay, and tending to cattle. But this year, hay is scarce and maintaining a cattle herd is a task of monumental proportions. I have seen the devastation caused by the drought as I have traveled across the state, and I have come to the very serious conclusion that farmers and ranchers, and the rural communities that depend on them, must receive emergency disaster assistance—before it is too late.

Those involved in agriculture have a strong tradition of lending their neighbor a hand when they are in need, and helping those who have suffered through a major loss. When a rancher's barn burns to the ground, you can count on farmers and ranchers throughout the county showing up to help rebuild. When a death or illness prevents the harvest of a crop, you can bet that a dozen combines will show up to bring the crop in, to salvage the season in the face of loss, and to lend a helping hand to those in need.

Yet this type of kindness is not isolated to the farm or ranch—we in the United States have always responded to natural disasters by providing the needed emergency assistance. And providing the needed assistance to those who produce our food, and sustain our democracy is no different. Following in the great fellowship that calls Americans together during the most challenging times, I urge my colleagues to immediately pass the emergency disaster amendment that is now before us.

The drought, which in some parts of my state has entered its fourth year, has transformed large expanses of prairie landscapes, and scarred mountain slopes and valleys to the point that all four corners of the state are parched beyond memory. In fact, the United States Department of Agriculture estimates that 93 percent of Colorado pasture is rated as either poor or very poor, and subsoil moisture supplies continue to be rated at extremely low at 86 percent very short.

Responding to the drought by developing new feed programs, working with Natural Resources Conservation Service field offices, funding the Emergency Conservation Program, and by responding quickly to the needs of farmers and ranchers of my state, Secretary of Agriculture Ann Veneman and President Bush, have provided farmers and ranchers with the tools to survive, and for that, I thank them both.

When I first urged the Secretary to release CRP ground for emergency grazing and haying in May, she responded by acting much more quickly than past practice dictated. In August, when I personally called the Secretary to urge the extension of the deadline, she responded the next day by extending the emergency haying and grazing deadline through November 30. Thank you, Madam Secretary, for your leadership in this difficult time.

While the administration has provided the tools to survive up to this point, the drought has now reached the point at which Congress must act swiftly to ensure survival beyond today.

I recognize that the arid climate of the west means dry weather, but I think that everyone would agree that this drought is anything but normal. In fact, I have been told dozens of times by farmers and ranchers—producers who have 70 plus years of experience—that this is the most severe drought they have ever witnessed. I recently had the opportunity to discuss the drought with scientists studying tree rings along Boulder Creek. They told me that only by tracing the rings back to the 1700's, could one find a period of comparable drought.

I have taken an active role in providing Coloradan's with access to programs that provide the necessary emergency resources. Over the past month, I have traveled across Colorado, meeting with 600 farmers and ranchers in Yuma, CO, coordinating meetings with dozens of producers in Las Animas, Alamosa, and Delta, and meeting with well over one hundred producers in Pueblo, to discuss the drought and drought relief. At the disaster forums, I brought together federal agencies that provide drought relief with the people who need their help the most. I listened as farmers and ranchers—some of whom had driven nearly 300 miles to attend—told of their need for assistance.

I listened as the Colorado Commissioner of Agriculture warned that state could lose as many as 50 percent of its farms because of the drought, and ranchers expressed their anguish at the fact that more than 1 million head of cattle—half the state's total—have already been liquidated. I listened as Larry Fillmore, a rancher north of Boone, CO, stood in a barren pasture that normally supports tall grass and cattle, and emotionally describe that the last moisture the pasture received was last October—in the form of a hail storm. Even the sage brush, with roots ten feet deep, had turned brown. I listened as ranchers told the story of mass cattle selloffs. In the proud community of La Junta, they are experiencing drought induced traffic jams, as a streaming line of trucks hauls cattle to the sale barn. Sale volume records are falling, and one sale—just one sale—can last nearly 24 hours straight, running from 9 am to 6:30 am the next morning.

According to an article in the Denver Post, over 700,000 acres of dryland winter wheat, worth an estimated $120 million, has been lost due to drought. Production was 38 million bushels this year, compared with a 10-year annual average of 83.4 million bushels. Sunflower production, worth almost $20 million last year, was down 71 percent this year, and 250,000 acres of dryland corn has completely withered away.

Perhaps the most telling story of all is that of Ed Hiza. Standing in the middle of his pasture, he said that 80 percent of the cattle in a 20 mile radius were gone, and that most of the remaining 20 percent would be shipped out within a month. Mr. Hiza made it clear about what the drought means for him, and many of his neighbors, ''We've endured a lot of hardship in this county, and this drought is just the nail in our coffin.'' This story is recounted in the Pueblo Chieftan.

For those who do not believe that the drought is indeed that severe, I hope that they will pay attention to the following statistics, and keep in mind that Colorado is the source of water for many downstream States. According to the Colorado Department of Natural Resources, the South Platte River flows now hover at 13% of average, and Arkansas River streamflows are at record lows. In the San Luis Valley, many domestic wells have stopped flowing. Citizens are seeking assistance from Federal and State agencies for redrilling wells. The San Luis Valley aquifer has been drawn down to the lowest level ever recorded. On the Rio Grande, the flow is 6% of normal. Without using the flows that are normally dedicated to a wildlife refuge, the Rio Grande would probably be dry at the stateline. Many streams are dry and many more may go dry. On the Gunnison River, streamflows are near record lows. Calls on the river are occurring that have not been placed since the construction of one million acre feet of storage—the Aspinall Unit reservoirs—upstream. In the Colorado River Basin, reservoir supplies are bleak. Active storage in Grandby Reservoir is less than 1/5 of capacity. Dillon will have 75,000 acre feet out of 252,000 acre feet. Williams Fork will be at its dead pool. Wolford Mountain Reservoir will have 19,000 acre feet and Reudi Reservoir will have 35,000 acre feet of its 120,000 acre feet capacity.

In the Yampa, White and North Platte basins, many reservoirs are empty save for their dead pool storage. Streamflows are well below normal. In the San Juan and Dolores Basins, all irrigation reservoirs are expected to be emptied. The San Juan is flowing at 3% of normal, and the Animas River is flowing at 14% of normal.

In short, the need for relief is real. Although there is no legislative cure

for a lack of moisture, we can help ease the economic hemorrhaging caused by the drought. As we search for new alternatives that will provide drought relief to communities and businesses, I urge my colleagues to vote in favor of this amendment, and support those who have suffered from natural disaster.

I ask unanimous consent to print the following information in the RECORD.

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

[From the Denver Post, Sept. 7, 2002]

SENATE SHOULD OK FARM BILL

A prediction that Colorado will lose 20 to 50 percent of its farms and ranches over the next year underscores the importance of a bill in the U.S. Senate that will give cash and low-interest loans to help keep farms from shutting down their operations.

The bill, a $5 billion drought emergency package, is co-sponsored by Sen. Wayne Allard, a Loveland Republican. It is expected to pass the Senate on Monday. We urge swift passage of this measure that provides money for farms in dire need.

Not only would the emergency package provide low-interest loans for Colorado farmers and ranchers severely affected by drought conditions, it also provides cash grants for those who are too deep in debt to qualify for other government-subsidized loans.

Colorado's agricultural income stands to drop by one-half due to the drought. Production is already so far down this year that large dairy farms are losing thousands of dollars a month, hundreds of thousands of acres of produce have died and the prices paid to farmers for their products are decreasing.

Because the state has received federal drought designation, farmers also may qualify for federal loans. But many Colorado farms and ranches can't qualify for federal funding. Therefore, state loans and grants are of paramount importance during this extremely dry year.

What is frightening is that if the state's snowfall doesn't increase significantly this winter, the situation is going to be even worse next year.

The whole disturbing situation also makes a strong case for enhanced water storage systems during wet years.

While the government passes a measure to pump more cash into agriculture, we also must look at being more aggressive in planning for the state's future water needs.

[From the Denver Post, Sept. 6, 2002]

SENATE BILL SEEKS CASH FOR FARMERS IN DROUGHT

OFFICIALS FEAR STATE WILL LOSE 20%–50% OF FARMS IN YEAR

(By Kit Miniclier)

Cash and loans would be available to farmers in Colorado and the rest of the country hit hard by drought under a $5 billion drought emergency package co-sponsored by U.S. Sen. Wayne Allard, R-Colo.

Low-interest loans aren't enough help for farmers whose worth shrank during the drought, agriculture officials say.

They predict Colorado will lose from 20 to 50 percent of its farms and ranches over the next year.

The measure, which Allard predicted would win Senate approval Monday, provides loans. It also offers cash grants for those who can't qualify for low-interest federal loans, he said.

''This is the worst drought in Colorado history,'' probably going back to the 1700s, said Allard, the only veterinarian in the Senate.

Agriculture, which consumes about 85 percent of Colorado's water, earns about $5 billion as the produce leaves the farm or ranch, ''and you can add another $12 billion at retail,'' said Don Ament, a veteran farmer, state lawmaker and Colorado's commissioner of agriculture.

Dead and dying crops are expected to cut Colorado farm income by at least half this year, Ament warned Gov. Bill Owens this week.

Although a statewide federal drought designation earlier this year cleared the way for low-interest federal loans, many farmers and ranchers aren't eligible because they are already deeply in debt.

''A catastrophic impact on agriculture and rural businesses can be expected'' this fall because of this loss of crops and income, according to a report compiled for Owens.

If Colorado doesn't get a substantial snowpack this winter, ''the situation will be tenfold worse by this time next year,'' Ament added.

That's because there was water in the reservoirs this year, but many are dry now.

The state could increase its water storage by 150,000 acre-feet by simply repairing existing dams, according to Greg Walcher, executive director of the Colorado Department of Natural Resources.

There is a consensus—for this first time in two generations—to store water for bad years, Walcher added.

Colorado's drought-related losses reportedly include:

More than 1 million cattle—half the state's total, including breeder stock for hundreds of farms—sold prematurely.

Big dairy farms losing $15,000 to $20,000 a month because of low milk prices and rising feed prices.

700,000 acres of dryland winter wheat worth an estimated $120 million died. Production was 38 million bushels, compared with a 10-year annual average of 83.4 million bushels.

Sunflower production worth almost $20 million last year, was down 71 percent this year.

This year's 250,000 acres of dryland corn dried up before it could be harvested. Last year's crop was worth $34 million.

Sorghum for grain, which grossed about $17 million last year, is down by at least 25 percent this year.

''You know you've got real trouble when you drive by a reservoir and dirt storms are blowing out of the lake bottom,'' said Ament, who had recently driven past Barr Lake State Park northeast of Denver.

[From the Pueblo Chieftain, Aug. 24, 2002]

RANCHER'S LAMENT: ''FEED AND WORRY''

(By Margie Wood)

With decent rain, the sandy soil on Larry Fillmore's ranch north of Boone would support waist-high grass and a cattle herd—and a way of life that has kept his family on the land for four generations.

This year, a portion that's in the Conservation Reserve Program is covered by a gray tangle of grass that saw its last moisture in the form of hail last October. And that was better than a 40-acre plot across the road, where two horses and a congregation of prairie dogs have eaten pretty much everything in sight.

''I'm ashamed of this part,'' Fillmore told visitors on a drought tour sponsored by the Colorado Association of Conservation Districts on Friday. ''I thought it would rain someday.''

But it didn't rain until a little bit of moisture fell Thursday night. By that time, Fillmore had sent most of his cattle to Oklahoma. He still has some stock in mountain meadows and is worrying about what to do with them in October when they have to be moved.

''I was still feeding (rather than having grass for the cattle to graze on) the 15th of July,'' he said. ''We did two things all spring and summer: feed and worry. And that took up all day and all night.''

His neighbor, J.D. Wright, has a stocker cattle operation nearby, meaning he buys calves in the fall, feeds them in through the winter and grazes them in the summer before taking them to sell. This year, there was so little grass he sold them early and figures he lost about $10 a head.

Now, after witnessing 11 lightning fires that burned thousands of acres in the area, Wright looks at a CRP field and sees a lot of fuel.

He agreed with Randy Loutzenhiser of Flagler, President of the state association of conservation districts, that the CRP land should be used periodically, maybe every third or fourth year, to keep it healthy and reduce the fuel load.

The CRP program is run by the Natural Resources Conservation Services, and this year the U.S. Department of Agriculture did make some allowances for grazing and haying on CRP land because of the drought. But there was a penalty involved, and Fillmore opted not to pay the price to move cattle onto his CRP land.

As the tour moved farther north in the Olney-Boone Conservation District, district conservationist Dave Miller of the NRCS pointed out a green field that had 4 to 4½ inches of rain this year, with grass about 8 inches tall.

Another field had a fire followed by rain in the same lightning storm, so the grass recovered somewhat. Yet another had a lightning fire with no rain, and the soil already is beginning to blow, Miller noted. ''We're hoping somehow it will get some grass on it. The only other thing to keep it from blowing would be deep chiseling—and I mean 30 inches deep.''

In some areas, even sagebrush looked brown and dead. ''Those plants may have roots 10 feet deep,'' Miller said. ''Still, there's no water for them.''

But the worst sight on the tour was a field that has been farmed in a beans-milo rotation. The ground was tilled in the spring, exposing the roots.

''He planted a crop but there was no rain, no crop,'' Miller said—and all the silt with its nutrients has blown away, leaving a stretch of pale sand unbroken by one green shoot.

A few miles away, rancher Ed Hiza said 80 percent of the cattle in a 20-mile radius are gone. He expects to ship the rest of his cattle out within a month, saying ''I can't feed them for nine more months, and that's the earliest I can see growing anything to feed them.

''We've endured a lot of hardship in this county, and this drought is just the nail in our coffin,'' he said. ''Economically we find a lot of excuses about world markets and that, but the situation is that I could be forced off this ranch in the next few years.''

[From the Pueblo Chieftain, Aug. 24, 2002]

ALLARD: DROUGHT MORE SERIOUS IN SOUTHERN COLORADO

(By Margie Wood)

U.S. Sen. Wayne Allard talked about drought at a standing-room-only meeting at the Greater Pueblo Chamber of Commerce Friday afternoon, assembling representatives of various state and federal agencies that can help suffering farmers and communities.

''This is a very critical situation, and it's more serious in Southern Colorado than in the northern part of the state,'' he said. ''I've read that tree rings going back to the 1700s show no worse drought year than this one.''

Allard said he has introduced legislation to provide direct aid to farmers and ranchers who have lost crops or livestock, and he is working to reform the tax code to help ranchers who have to liquidate their herds.

He noted that Agriculture Secretary Ann Veneman has extended CRP grazing/haying permits through Nov. 30, and said, ''That won't solve all the problems, but it has helped some people stay in business.''

Allard's aide Cory Gardner said the Senator is working on a federal drought assistance bill that has now reached $3 billion.

Others who appeared with Allard were Gigi Dennis, former state senator from Pueblo West who now heads the regional Rural Development agency under the USDA; Lewis Frank of the Farm Service Agency; State Conservationist Allen Green; and representatives of the Federal Emergency Management Agency and the Small Business Administration.

State Agriculture Commissioner Don Ament noted, ''We can't seem to get out of these crises. I hate to be so negative, but we're here to help you survive.''

Their audience ranged from John Stencel of the Rocky Mountain Farmers Union to a sheep rancher from Montrose to several Las Animas County ranchers.

''We're about four years into this drought in Las Animas County,'' said Gary Hill. ''It is kinda funny that it didn't really get to be a drought until our city cousins couldn't water their lawns.''

Stencel also spoke of the ''quiet tragedy'' of drought, and said it will take the state agricultural producers years to dig out.

Allard's staff conducted a similar meeting in Alamosa on Thursday.

Farmer Ray Wright, who heads the Rio Grande Water Conservation District and is a member of the Colorado Water Conservation Board, said the area is in a water deficit and an overdraft on the water supply will continue.

Alamosa businessman Leroy Martinez said part of the problem is that the traditional farming area has been expanded to the point where it can't be supplied with water.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. I don't know how much time I have to yield.

Mr. WELLSTONE. Mr. President, are there other colleagues who want to speak on the Republican side who have not had a chance?

Mr. BURNS. In other words, those who oppose this amendment have not seen fit to come to the floor. That is the dilemma in which we find ourselves.

Mr. REID. Mr. President, is there a question before the Senate?

The PRESIDING OFFICER. At this time, the question is who yields time? Twenty minutes remain in the control of Senator WELLSTONE. Twenty minutes remain to the opposition.

Mr. REID. Mr. President, I ask unanimous consent that until someone shows up to oppose this, Senator BURNS be allowed to allocate time for those in support of the amendment.

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

Mr. REID. The reason I say Senator BURNS, Senator BYRD is not here, and he has the greatest confidence in Senator BURNS to handle this bill.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, will the Senator from Minnesota yield to the senior Senator from Wyoming for his statement?

Mr. WELLSTONE. I am pleased to yield.

Mr. BURNS. I yield 2 minutes to the senior Senator from Wyoming, Mr. THOMAS.

Mr. THOMAS. Mr. President, I spoke some about this yesterday on the floor in terms of it being part of the Interior bill. Certainly I support this amendment. This is the only way we have to relieve the kinds of economic disasters that have occurred in the West and over the country, as a matter of fact.

One of the issues is going to be how this is administered and how it is divided. Certainly, often you read about so much an acre for the crops and so on. I want to make the point again, this is also for livestock. This is for cattle, sheep, for the people who have not had grazing either on their own lands or on the lands that are leased. As we look at this, agriculture includes livestock. We need to make sure that is the case and that the distribution be made fairly throughout.

I appreciate very much the opportunity for us to actually do something. Hopefully, the expenditures, even though not a formal offset, will be offset actually by the reduction in costs in the farm bill, and this makes it a little more practical in terms of the finances.

I am supportive of the bill and hope we can move forward with the amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will just take 1 minute for an observation, if I may.

I say to the Senator from Wyoming, this does include livestock producers, and it is extremely important. In our State, we are talking about livestock producers, but we are also talking about wheatgrowers, soybeans, all of the damage to the crops.

I thank colleagues on both sides of the aisle for coming out here, Republicans and Democrats, West and Midwest, and also Senators from the east coast who have not sustained this kind of damage but are willing to lend their support, knowing full well that if they need help they will get help from the rest of us.

This is sort of a definition of community and helping people, and I am so pleased to see the strong bipartisan support. I really believe if we get a huge vote, we have an excellent chance of getting help to people.

As a Senator from Minnesota, I am so pleased with the way this discussion is going and I thank my colleagues from both sides of the aisle for their support.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. I yield 3 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 3 minutes.

Mrs. CARNAHAN. Mr. President, I strongly support this relief package for family farmers needing immediate disaster relief in order to stay on their land.

Let me cite a few numbers to underscore the extent of the problem in Missouri. Just yesterday, the USDA rated 58 percent of Missouri's pastureland in poor or very poor condition; 53 percent of Missouri's corn is in poor or very poor condition; 49 percent of Missouri's soybeans are in poor or very poor condition. Though any additional rainfall would be welcomed, it will only be of limited assistance.

Much of the damage I cited is on land that was hit last year by an army worm infestation of record proportion. Many farmers are facing 2 years of devastation because of these unprecedented natural disasters. This legislation would provide real relief for crop and livestock losses over the past 2 years. Much of the damage to the crops and pastureland is irreversible. Just as we help the victims of floods, wildfires, and other natural disasters, so we must come to the aid of farmers victimized by Mother Nature.

Several weeks ago, I expressed my disappointment to the administration for declaring that drought relief must be offset by cuts to programs funded in the new farm bill. Such cuts would undermine the farm bill's safety net that we put into place only a few months ago. This safety net is key to farmers, bankers, and others who must make long-term planning decisions.

Tampering with the safety net would send a message to our farmers that the farm bill is not something on which they can rely. In essence, the administration is proposing to rob Peter to pay Paul. This stance is particularly troubling when recent USDA reports show farm income decreasing by 23 percent this year. That is a $10.5 billion decrease in net farm income. It is the wrong position. It is wrong for our farmers, and it is wrong for our communities that rely on an agricultural economy.

Missouri ranks second nationally for the number of farms within a State. Agriculture is a large part of Missouri's economic lifeline. Historically, what is good for our farmers is good for America, and I urge my colleagues to support our farmers by providing disaster relief that keeps the safety net intact.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I ask my colleague if I may have 5 minutes.

The PRESIDING OFFICER. There are 13½ minutes remaining.

Mr. BURNS. That would be fine.

I say to my friend from Montana, I am trying to protect those who oppose, but I have no problem with yielding 5 minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, I thank my friend and colleague from Montana, Senator BURNS, for cosponsoring this amendment with me. I deeply appreciate his work.

I point out this is truly a bipartisan effort to get agricultural and disaster assistance payments to farmers and ranchers across our country. This is not a partisan matter. This is a nonpartisan matter. Drought does not know whether a farmer is a Republican, a Democrat, an Independent, or whatever political affiliation he or she may have. Drought hits everybody relentlessly. It is clear that these last several years it has hurt a lot of farmers.

This amendment we are attempting to pass will help farmers across our country.

I also thank the numerous agricultural organizations that have demonstrated their support for the amendment by making an endless number of phone calls, writing letters, and tirelessly raising the need for agricultural assistance in the Halls of the Congress.

Drought brings the producers to their knees, not only poor producers but the best producers. The crisis in our agricultural community has absolutely nothing to do with poor planning. I want to make that very clear. In fact, the farm bill has nothing to do with agricultural disaster assistance. The farm bill we passed has to do with farmers generally. If and when disaster hits, and if it is persistent over several years, then there is no choice but to fold up one's tent, leave, or cut back dramatically in a way that hurts not only the farmer but the rest of the community.

According to the New York Times on May 3, 2002—not too many months ago—let me quote an article in that newspaper:

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

We today have the opportunity to help mitigate these drought conditions and keep our producers on the land. After consecutive years, drought harms not only producers but entire communities. I would like to share the words of Montana farmer Dan Debuff to illustrate the impacts of drought on his community of Shawmut:

> Our local John Deere dealer had sold seven combines last year at this time. This year he hasn't sold one. School enrollments are down 30 percent from 5 years ago and are still declining.

Remember, this drought has been going on for 4 or 5 years.

> Gross revenues for the local grain elevator and fertilizer plant have declined 33 percent from 2 years ago and they have eliminated two full-time jobs. The large elevator and fertilizer plant have cut 9 full-time jobs out of a total of 25.

The letter goes on to describe the adverse effects the drought has not only on farmers individually but also on communities.

I have a chart which shows the effect of the drought now in America. It covers almost the entire West. If one draws a line a little bit west of the 100th meridian, almost all of America west of that line is in drought. The chart shows by color the worst conditions. The red and orange are the worst, and that is almost all of the western United States. In fact, it is almost half of the geographic United States of America.

Without our help, without passing natural disaster assistance today, we will change the future of rural America forever. A large percentage of our hardworking producers will lose their land, lose their homes, their jobs, and their way of life. They will not be purchasing clothes, seed, fertilizer, or equipment in their local stores. They are going to have to move, take their kids out of school, go some place else, and try to make a go of it.

We now have the opportunity to do something about that. A vote for this amendment is a vote for America's family farmers and ranchers to provide us with a safe domestic food supply. A vote for this amendment is a vote for the future of rural America. A vote for this amendment is a vote for fulfilling our responsibility as a country to protect our citizens from natural disaster.

Rural America is resilient. Like them, I am not going to give up. We are going to keep trying until we get the disaster assistance we need. We give disaster assistance to people in the country for earthquakes, for floods, and for hurricanes. It only makes sense that we should give disaster assistance for our farmers.

I voted for disaster assistance for Americans for flood insurance, for hurricanes, and for earthquake disasters. I voted for those because it was the right thing to do, the American thing to do. It is also the American thing to do to help our farmers and ranchers.

I also ask the President to reconsider. I support the President many times and do not support him other times. This is one time I am asking the President to reconsider his opposition because our American farmers need all of America to help give them the assistance they need.

I very much thank the Chair and thank my colleague from Montana and thank the Parliamentarian. I yield the floor.

Mr. LEVIN. Mr. President, I would like to express my support for an amendment that is being offered by the distinguished majority leader. I am a cosponsor of this amendment, originally proposed as a bill by Senator BAUCUS which I also cosponsored. It now provides much needed assistance to our Nation's farmers.

While farmers across the country have faced tremendous losses during the past 2 years, those in my home State of Michigan have been among those who have suffered the most. Dramatic shifts in weather conditions throughout the growing season have devastated crops across the State. Some farmers faced early warm temperatures followed by freezing conditions while others saw torrential rains early in the growing season followed by long droughts; still others have faced drought conditions at the beginning of the crop year and heavy rains at harvest time.

These conditions have devastated many of Michigan's prime crops. This year, cherry farmers in Michigan lost upwards of 90 percent of their crops, a level that threatens to devastate Michigan and the Nation's cherry industry give that Michigan produces over 70 percent of the tart cherries in the Nation. Additionally, 80 percent of Michigan's apple farmers have lost upwards of 40 percent of their crop.

Earlier this year, I had the opportunity to visit with cherry growers in Michigan and listen to them as they told me how this year's crop losses were the worst on record. In addition, approximately 25 percent of apple growers in Michigan and across the Nation are in danger of going out of business in the next 2 years, and in Michigan that means that our cherry, peach, and asparagus crops, which are often grown on the same orchards, will be greatly decreased.

This year, USDA Secretary Ann Veneman recognized the atypical weather conditions that affected Michigan by designating 50 of the State's counties as disaster areas. Making matters worse, all of these counties were similarly designated last year, when Secretary Veneman designated 82 of Michigan's 83 counties as official disaster areas. While Michigan's farmers are some of the most innovative in the Nation, 2 years of statewide crop failure have threatened the continued viability of agriculture in Michigan.

No one, least of all America's farmers, likes the fact that emergency agricultural supplementals have seemingly become routine. However, we must provide this assistance for without it many of our Nation's farmers will cease to be able to continue farming. I thank the Senator from South Dakota and the Senator from Montana for their efforts in drafting, supporting, and helping to pass this amendment.

Mr. HARKIN. Mr. President, I strongly support this amendment to provide disaster assistance for our Nation's farmers and ranchers. Over the last several years, Congress has acted responsibly to provide help to those producers whose operations have been adversely affected by bad weather. I see no reason why this year should be different. This situation truly exemplifies an emergency in every sense of the word, and should not force us to deplete the long-term resources provided

by this year's farm bill in order to meet these short-term needs.

Already, this has been a devastating crop year for producers across the country. In the most recent assessment issued by the National Weather Service, nearly every State west of the Missouri River faces significant crop losses as a result of severe to exceptional drought conditions. A second region of the Eastern United States which includes most States in a block from Georgia northward to Maine and westward to Ohio is facing a similar situation. For many States, particularly in the West, this is only the latest in a series of droughts.

We have only begun to assess the magnitude of this year's disaster for agricultural producers. From late July, press reports cite losses in the Plains States of $822 million in South Dakota, $687 million in Nebraska, and $267 million in Minnesota from both drought and flooding. With little appreciable rain during August in most drought-stricken regions, it is likely that losses have increased since those estimates were made. We have serious drought in southwest Iowa, and also experienced uncompensated 2001 losses in Iowa, mostly from prevented plantings.

Other regions have also been hit. In Michigan, harsh spring weather caused USDA to declare 50 counties agricultural disaster areas, particularly affecting the cherry and grape crops. Hordes of grasshoppers are eating their way through pastures and fields in the Rocky Mountain West, including Colorado and Idaho. Rampant disease threatens Georgia and North Carolina crops. In mid-August, Maryland's Governor sought a disaster designation for all but two counties in his State.

As a result of field surveys in late July, USDA is now predicting the smallest U.S. corn crop since 1995, at less than 9 billion bushels, and the smallest wheat crop since 1972, driven both by poor yields and reduced acreage. Although some farmers will benefit from the increased prices, those farmers with little or no crop to harvest will not. Western cattle producers, who have seen their pastures burn up in the unrelenting heat, face a choice of either buying hay on the market or selling their animals into a depressed market. There are currently no programs to assist these producers.

It is true that many row crop farmers have crop insurance policies, which will offer them some relief, but the gravity of this situation demands further Federal action. These producers are facing the loss of their crops in the wake of several years of low commodity prices, thus pushing them deeper into a financial hole.

With higher crop prices now projected by USDA for the 2002 crop year, it is clear that farm program spending will be lower than was originally predicted by the Congressional Budget Office. It was estimated recently by CBO that the difference could amount to $5.6 billion in LDP's and countercyclical payments that will not now be made compared to the August baseline. That difference would exceed $6 billion when compared to earlier estimates of the farm bill's cost.

Floods and drought have been particularly hard this year not only on producers' bottom lines, but also on our soil, water, and wildlife resources. Unfortunately, the money needed to take care of our resources under the Emergency Watershed Protection Program wasn't included in this package. I intend to pursue adding the money needed for drought and flood relief through this program in conference, and hope that we will be able to address these needs in the final conference report.

I fear that unwillingness to act on this amendment could push many farmers to the brink of failure, and hasten the erosion of rural communities and small towns. If we truly want to assure economic security to our nation, then we must start with its backbone, our farm families and the rural economy they support.

I ask unanimous consent to print in the RECORD the text of the letter sent to the Senate leadership yesterday by Agriculture Secretary Veneman, reiterating the President's opposition to disaster relief legislation for which the cost is not offset by cuts in the 2002 farm bill. I am disappointed that the letter was sent. I hope that we will be able to bring the White House and the House of Representatives around to the realization that assistance is critically needed and that it cannot be funded by taking assistance out of the farm bill and away from other producers.

THE SECRETARY OF AGRICULTURE,
Washington, DC, September 9, 2002.

Hon. THOMAS DASCHLE,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. TRENT LOTT,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATORS DASCHLE AND LOTT: We appreciate your efforts to help farmers and ranchers who are suffering as a result of the 2002 drought. As you know, the Administration continues to take all action allowable under current law to assist struggling farmers and ranchers. This includes expediting emergency declarations and making emergency loans available to producers, the recent release of CCC-owned milk powder in order to provide a low cost feed supplement for cow and calf operations, and the opening of all CRP lands nationwide for haying and grazing. The President has consistently stated his support for additional drought relief provided it does not increase the deficit.

The Congress has already provided the tools for drought relief for crop farmers through the heavily subsidized Federal Crop Insurance Program. The crop insurance subsidy was increased dramatically in 2000 to avoid the need for disaster payments. The vast majority of the crop acreage in the drought regions is covered by crop insurance. Over seventy percent of the acreage in the U.S. is covered and over eighty percent in South Dakota. Our goal should be to maximize participation in this program. Additionally, we recognize that ranchers and livestock producers who have been severely impacted by this drought do not benefit from the same risk management tools available to other farmers.

The recently enacted Farm Bill provides $180 billion, an increase of $82 billion above the baseline. This $180 billion can accommodate funding for emergencies, economic assistance, rural development, and other purposes. One of the greatest benefits of the Farm Bill is that it ensures farmers have the resources they need. On May 24, Senator Daschle defended the farm bill spending levels, stating ''we're getting rid of those ad hoc disaster payment approaches''. The farm bill should break the bad fiscal habit of needing to pass emergency agriculture spending bills including drought, flood, or other supplemental payments that make it difficult for Congress to live within its budget.

We support providing immediate assistance to those who don't have access to risk management tools, encouraging greater participation in the crop insurance program and providing relief within the resources of the current farm bill. If legislation consistent with this approach were to be presented to the President, we would advise his support.

In the Senate, an amendment has been offered to the Interior Appropriations bill that would reestablish emergency payment programs for farmers and ranchers similar to those used for the 2000 crop year. We understand the cost of this amendment is likely to approach $6 billion.

The Administration strongly opposes this amendment and any agriculture spending in excess of the $180 billion in spending provided earlier this year. This proposal would add $6 billion on top of the already generous Farm Bill only a few months after the bill was enacted. This is unacceptable. The needs for the current drought must be met within the additional resources provided for in the Farm Bill.

We hope this information gives you the guidance you need in order to consider a prudent and fiscally responsible drought assistance package. I look forward to working closely with you through this process.

Sincerely,

ANN M. VENEMAN.

Mr. SPECTER. Mr. President, I have sought recognition to state my reasons for voting for the amendment offered to provide $5.9 billion in emergency relief to farmers due to flooding, drought and other natural disasters because I am concerned that numerous farmers across the United States and Pennsylvania may lose their livelihoods.

The Pennsylvania agricultural community has been particularly hard hit by natural disasters in recent years. On September 3, 2002, Pennsylvania Governor Mark Schweiker requested a Natural Disaster Determination from the United States Department of Agriculture on behalf of 54 of Pennsylvania's 67 counties that are suffering due to this drought. These counties have been and continue to be under a drought warning or drought emergency. Due to these adverse weather conditions, Pennsylvania farmers have and will experience significant crop damage resulting in reduced harvests. The losses to these counties are projected at over $321 million in Pennsylvania. I am informed that situations similar to this are occurring across the United States. The funding in this amendment will provide $5.9 billion in relief for farmers for the 2001 and 2002 crop years.

During consideration of the 2002 farm bill, I opposed the overwhelming costs

that came as a result of the House and Senate Conference, an increase of $10 billion over the levels passed by the Senate and the House. However, funds are now warranted to combat continued natural disasters that have become an acute problem for farmers in Pennsylvania and across the Nation.

The loss of crops that have come with these natural disasters have left grain farmers with a low yield. This low yield not only effects farmers producing grain but those who must use grain and account for the increased cost of production. The rising costs of grain to dairy farmers has created an intolerable situation where the costs of producing are increasing without the already low price of milk rising at a corresponding level. The addition of these increased costs to production is too much to be shouldered by the hardworking farmers of Pennsylvania and America.

Mr. HATCH. Mr. President, I rise to say a few words about the proposed drought relief package that I have cosponsored and to urge my colleagues to throw their full support behind this very important measure. Utah is in its fourth consecutive year of drought, and our farmers and ranchers have been hit particularly hard this season. If this body does not act now to alleviate some of the damage wreaked by this latest year of drought, many more farmers and ranchers will be forced to sell off their assets completely, as some have already done.

At this time, adequate feed and forage is simply not available for livestock producers in Utah. About 70 percent of Utah agriculture is in the livestock industry, and ranchers rely heavily on public grazing. However, in drought years many ranchers are kicked off public lands by the BLM and Forest Service in an effort to preserve the existing forage. Let me provide an example of how our ranchers have been affected by the drought and resulting expulsion from public grazing. Alarik Myrin is a rancher who I know from Duchesne County, Utah. Alarik has 600 head of cattle and each year relies on public lands to provide 500 of them with forage. Like many others in my state, he was forced off public lands and was not able to graze those 500 head even one day this year. This was a devastating blow in a drought year, because the meager harvest in the West has created a dramatic shortage of feed. While Alarik did receive a small alfalfa harvest on his private land, he was still forced to sell off 300 of his breeding cows along with their calves just to cut his losses. It is important to understand that, like most ranchers, Alarik Myrin makes his living from selling calves. Being forced to liquidate his producing cows without a profit was, in Mr. Myrin's words, like ''selling the factory,'' and he is now left without the resources to purchase a new herd for the next season.

In a normal rainfall year, adequate runoff from Utah's snowpack would help to offset drought conditions. However, this year, the lack of snowpack has combined with almost no precipitation and Utah's largest cricket infestation ever documented to make for an extremely difficult year for agriculture.

Utah has some of the toughest ranchers I know but some have literally been brought to tears by the hardships they are facing this year. Some of these families have been farming and ranching since before Utah was a state, and they know how to succeed in difficult conditions. But a fourth year of drought of this severity is too much to overcome.

One more example of the extreme nature of this year's drought is brought to light at the Salina Cattle Auction in Utah. Normally, this auction sees 500 head sold in the entire month of July. This year, however, the auction saw an average of 2,700 head sold per week in July. Ranchers are liquidating their cows often at less than half the average price. For too many, the result is complete bankruptcy.

I have gone into some detail regarding the difficulties of Utah livestock producers, but crop losses for our farmers have been just as severe. For instance, much of Utah fruit crop this year has been completely ruined. The lack of precipitation and ground water has resulted in unseasonable frosts that have wiped out many of our orchards. Across the board, we are losing key elements of our agriculture sector in the West. Mr. President, if we want to be a nation that feeds itself, we must take action to allow our producers to survive this long drought and live to produce next season.

I urge my colleagues to recognize the importance of this drought relief package. I believe it will help to rebuild an agriculture industry that is in dire need of assistance. It will take several years to recover for many of our producers, but this package will help rebuild herds and allow many farmers and ranchers to continue to provide our nation with the invaluable resources we rely on. Again, I urge my colleagues to support farmers and ranchers across the country by voting in favor of this measure.

I thank the Chair.

CROP DISASTER RELIEF

Mrs. CLINTON. Mr. President, I would like to recognize Mr. DASCHLE for his efforts and concern for the farmers, growers, and ranchers of this nation. His leadership on providing financial assistance to these farmers who have been stricken by the wrath of Mother Nature is to be commended.

Mr. President, my colleague from New York, Senator SCHUMER, and I would like to engage Senator DASCHLE in a colloquy.

Mr. DASCHLE. I thank my colleague for her kind remarks, and would be happy to engage in a colloquy with the Senators from New York State.

Mr. SCHUMER. Mr. President, spring freezes, frosts, and excessive rains have caused severe and permanent damage to specialty crops, such as apples, peaches, pears, grapes (including labrusca grapes), strawberries, stone fruits, onions and cherries in New York State. This damage will not only cause a major financial hardship for the farms, but as my friend from South Dakota has already mentioned, the impact will spread throughout the economy of rural communities that depend so heavily on the prosperity of their farms.

Mrs. CLINTON. Mr. President, these weather conditions have wreaked havoc on an industry vital to New York State. As their trees now stand, green leaves and no fruit, it is feared that a large percentage of these fruit farmers will be forced out of business. It is crucial that these farmers receive assistance along with the farmers and ranchers of the rest of the country who have suffered the devastating effects of drought.

Mr. SCHUMER. Mr. President, this season's farm losses only continue a string of bad luck during the past few years. Last year, New York grape farmers suffered losses of approximately $7 million due to poor fruit set. This year, the losses are expected to be even greater—over $10 million lost because of adverse weather conditions.

Mrs. CLINTON. Mr. President, this year has been the worst year in memory for many specialty crop farmers. In New York's Hudson Valley region, losses on specialty fruit crops total $65 million for 2002 alone. For the communities and the fruit growers in the region, crop disaster relief is much needed to sustain our farms through this difficult time.

Mr. DASCHLE. I appreciate the remarks of the Senators of New York, and assure them that we intend for specialty crop producers, including producers of the crops mentioned by my colleague from New York, to receive disaster assistance under this amendment.

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

Who yields time?

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

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.

Who yields time?

Mr. REID. Mr. President, the time has actually expired, has it not?

The PRESIDING OFFICER. Just under 6 minutes remain for the opponents.

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. DOMENICI. 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. DOMENICI. Mr. President, I ask the leader of the Senate if I may speak for 2 minutes.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Mr. President, I am happy to yield time from the leader's allocation, if we are out of time.

Mr. DOMENICI. I will maybe not even take that long.

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

Mr. DOMENICI. Mr. President, I rise to discuss the effects of a natural disaster that lingers across most of the West—drought. There is not a segment of the New Mexico population that will not be touched in some way, some form, or fashion by drought this year.

People in other parts of the country have turned on their television sets over the past few weeks and have seen the blazes of catastrophic wildfires that are again devastating the western United states. This may be the only effect of the drought that many are aware of. Let me tell you, the devastation is even more profound.

Ranchers, including ranchers on the Navajo Nation, are being forced to sell off livestock because they can't find enough water for them and can't afford the significant feed costs.

Other agricultural businesses are being forced to shut their doors because the agriculture sector as a whole is hurting. But this is not just a problem for the agricultural community.

Most of the national forests in New Mexico were closed to the public. This resulted in a decrease in tourism.

Let me mention a couple of specific examples. First of all, there is a small railroad, the historic Cumbres and Toltec Railroad, that takes people through a very beautiful part of the State. The railroad contributes to the tourism and economic stability of a very poor part of the State. That railroad was forced to close because it was so close to the national forest system lands that the fear that the railroad might spark and start a wildfire is a threat too imminent to risk.

A second example is the river rafting operations that have been forced to cease operations because of the drought conditions and lack of river flows.

Municipal and private wells are running dry. In the City of Santa Fe, emergency wells for municipal water use are needed because Santa Fe's water storage is at 18 percent capacity, the spring runoff is only at 2 percent, and current wells are pumping 24 hours a day.

The City of Santa Fe is at a Stage 3 water shortage emergency, which allows outdoor watering once a week, but the City Council is considering going to Stage 4, which would eliminate all outdoor watering. To put this in perspective, the last substantial rain for the area was in late January.

Santa Fe is only one of the numerous municipalities that have imposed restrictions on water use. These restrictions are enforced by ''water police'' and that violators face steep fines ranging from $20 for a first offense to $200 for a fourth offense and stay at $200 for each repeat violation.

While most livestock sales generally take place on the reservation during September and October, this year emergency sales were being held almost every weekend during July and August. Hundreds of cattle, horses and sheep have already died as a result of the severe drought conditions.

The article goes on to describe the severity of the conditions. ''Stock ponds have gone dry, fish have died in evaporating lakes, and grass has disappeared. Sand blows across reservation roads, and the stiff bodies of dead cattle litter the land.''

The seriousness of the water situation in New Mexico becomes more acute every single day. I reiterate that every single New Mexican will feel the impact of this drought in one way or another. whether they are selling off the essence of their livelihood—livestock, or losing daily revenues in other small businesses, or whether they are actually having to refrain from watering their own lawns and washing their cars, the drought and its devastation is very real.

There is a need out west and I stand ready to do what I can. It will be a monumental and expensive challenge, but one we cannot avoid.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Mr. President, I know we are about to vote. I will take whatever time I require from my leader time to make a couple of closing remarks with regard to this amendment.

I appreciate very much the great work done by so many of our colleagues over the course of the last several months on this issue. The Senator from Montana, Mr. BAUCUS, and the other Senator from Montana, Mr. BURNS, and my colleague from South Dakota, Mr. JOHNSON, and so many of our colleagues who have worked diligently to make the case to report to this body the gravity of the situation we now face, all deserve commendation.

As I traveled through South Dakota in August during my unscheduled driving, the comment I got most from people in every situation—people on Main Street, people in government, people on farms and ranches—was simply this: Help us with the drought. If you want to deal with the economy, help us solve this problem now.

The situation could not be any more grave than it is in the western part of my State. Statistically, this situation is the worst it has been in some counties since 1936. So, there is no other option than for us to answer the call made to us all as we traveled our States last month: Help us with the drought. Provide the assistance. Do what is right. Recognize that as we have dealt with crises and natural disasters in the past, we must now do the same. That is what this amendment does.

We would respond with generosity and we would respond with commitment if there was a hurricane. We would respond with generosity if there was a flood. We would respond with generosity it there was an earthquake. Let us respond with the same commitment and resolve in this drought as we would with any other natural disaster. That is what this amendment does.

We have actually saved a great deal of money because prices are higher than projected when the farm bill passed. We don't need an offset. We simply know these resources can be rededicated to rural America without the commitment of an offset per se.

This is an emergency. We must send a clear message that, without this help, we will lose many of those leaders in the agricultural community throughout our country that we rely on every day.

So I urge my colleagues to do the right thing and recognize the urgency of the need for this emergency disaster assistance, to support it on an overwhelmingly bipartisan basis this morning and send a clear message that help is on the way.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I understand there are only 58 seconds remaining on the side of the opposition. I still want to protect their right to speak for some time before the vote, and we are now passed the time limit now. If the Senators who want to speak can be allowed at least 5 minutes, then we will go immediately to the vote.

Mr. REID. Mr. President, I object to an extension. We have Condoleezza Rice and George Tenet waiting for a classified briefing. Our time is up. People have had all morning to speak.

Mr. BURNS. 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. 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.

Mr. DASCHLE. Mr. President, there are two Senators who have sought recognition prior to the time we vote. I ask unanimous consent that Senator GRAMM of Texas and Senator CONRAD of North Dakota both be given 2 minutes prior to the vote and that the vote occur immediately thereafter.

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

Mr. BURNS. I yield 2 minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, those who are in opposition to providing disaster assistance to our Nation's farmers and ranchers who have been hit by disaster have said it will cost money. Of course, that is true. It will cost

money, over $5 billion, to provide disaster assistance. It is something we have always done. It is something we should do now.

More than that, the Congressional Budget Office informed me yesterday that there will be savings from the farm bill of $5.6 billion. Let me repeat that: The CBO informed me in a letter yesterday there will be $5.6 billion of savings from the farm bill. That is not a direct offset for this disaster assistance. I urge my colleagues to keep in mind when we are looking at overall spending that it will be about a wash.

There are savings from the farm bill because production is down. That means prices are higher than anticipated, meaning costs under the farm bill will be less by $5.6 billion. That approximately pays for the disaster package.

If anyone wonders whether it is really needed, I urge them to visit southwestern North Dakota, which has become like a moonscape. In running a food bank in northern South Dakota, a Presbyterian minister reported that the wives of ranchers are coming in asking for food and they are very concerned that their husbands not find out because they are proud. They do not want public assistance, but they desperately need it.

Now is the time. Please help. We always have in the past.

Mr. DOMENICI. Could I ask the Senator a question?

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

Mr. DOMENICI. I listened carefully to the remarks, but the Senator did not say the Congressional Budget Office told you that a waiver is not necessary for this bill in that it will require a budget waiver or it will fall. Is that not correct?

Mr. CONRAD. That is absolutely correct.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. GRAMM. Mr. President, we have listened as over and over again our Budget Committee chairman, the majority leader, and others have talked about deficits and the alarm we have for rising deficits. Yet today we are in the process of adding $6 billion to those deficits. We have already passed a farm bill that cost a record amount—over $80 billion over 10 years—but that is not enough. We are now being asked to add roughly another $6 billion to that deficit.

We have to come to a recognition that deficits do not come from heaven. Deficits do not occur because God makes some decision. Deficits occur because we make decisions.

We have a budget process. The chairman of the Budget Committee is not willing to defend it, but we have it. We have a budget point of order that requires 60 votes for the Congress to go on record as saying we are willing to throw fiscal restraint out the door, that we are willing to add $6 billion to a deficit which is swelling daily.

I hope, first, that we sustain the budget point of order I will raise. But I hope those who are going to vote to waive this budget point of order and who will give us long lectures on many subjects will not include growing deficits among those subjects.

I think ultimately we have to start making decisions. We have to make a choice: Do we want these deficits to go ever higher or are we willing to make a stand now? I am not saying there are not people who need help. I think we can focus a narrower bill which is paid for. I think a source of paying for it can be some of the over $80 billion in the farm bill.

Mr. President, I raise a point of order under section 306 of the Congressional Budget Act against the pending amendment, No. 4481, because it contains matter which is within the jurisdiction of the Senate Budget Committee. That matter is, basically, setting aside the budget process.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. I move to waive the relevant portion of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to waive. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA) and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG), the Senator from North Carolina (Mr. HELMS), and the Senator from New Hampshire (Mr. BOB SMITH) are necessarily absent.

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

The yeas and nays resulted—yeas 79, nays 16, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—79

Allard	Crapo	Landrieu
Allen	Daschle	Leahy
Baucus	Dayton	Levin
Bayh	DeWine	Lieberman
Bennett	Dodd	Lincoln
Biden	Domenici	McCain
Bingaman	Dorgan	McConnell
Bond	Durbin	Mikulski
Boxer	Edwards	Miller
Breaux	Enzi	Murkowski
Brownback	Feinstein	Murray
Bunning	Graham	Nelson (FL)
Burns	Grassley	Nelson (NE)
Byrd	Hagel	Reed
Campbell	Harkin	Reid
Cantwell	Hatch	Roberts
Carnahan	Hollings	Rockefeller
Carper	Hutchinson	Sarbanes
Cleland	Inhofe	Schumer
Clinton	Inouye	Smith (OR)
Cochran	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Corzine	Kerry	Thomas
Craig	Kohl	Thurmond
Voinovich	Warner	Wellstone
Wyden		

NAYS—16

Chafee	Hutchison	Sessions
Ensign	Kyl	Shelby
Feingold	Lott	Snowe
Fitzgerald	Lugar	Thompson
Frist	Nickles	
Gramm	Santorum	

NOT VOTING—5

Akaka	Helms	Torricelli
Gregg	Smith (NH)	

The PRESIDING OFFICER. On this vote, the yeas are 79, the nays are 16. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to and the point of order falls.

The Senator from Nevada.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that Senator ENZI be recognized to offer a second-degree amendment to the Byrd amendment, that he have up to 3 minutes to discuss his amendment, and that following the use or yielding back of his time, the amendment be withdrawn.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I would further notify Senators that following Senator ENZI, Senator CRAIG is expected to offer an amendment, which would be a second-degree amendment—I have spoken to the managers of the bill; I have spoken to Senators DODD and CRAIG—and that following the offering of the amendment by the Senator from Idaho, he would speak for a period of time but not until 12:30, and that there would be sufficient time for that amendment to be set aside temporarily and Senator DODD be recognized to offer an amendment.

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

The Daschle amendment is agreed to.

The amendment (No. 4481), as modified, was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming is recognized.

Mr. BURNS. Madam President, reserving the right to object—and I will not object—I need a clarification, though, how that could be disposed of. Then would the Senator from Connecticut lay his amendment aside after it being offered to the main bill or to the underlying bill?

Mr. REID. The purpose of this is to have the Craig amendment laid down. As most know, we are trying to work out an agreement on this very contentious issue dealing with fire suppression. And staff is trying to work out a unanimous consent request that we could agree to later today. But until

that happens, Senator CRAIG's amendment would be the matter next before the Senate. But he has agreed to temporarily lay that aside to allow the Senator from Connecticut to offer an amendment. And that is not in the form of a unanimous consent request; it is just for the information of Senators.

Mr. BURNS. I withdraw my reservation.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 4517 TO AMENDMENT NO. 4480

Mr. ENZI. Madam President, I call up amendment No. 4517.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Wyoming [Mr. ENZI], for himself, Mr. GRASSLEY, and Mr. HAGEL, proposes an amendment numbered 4517 to amendment No. 4480.

Mr. ENZI. Madam 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 offsets through payment limitations)

At the end of the amendment, add the following:

SEC. 3___. PAYMENT LIMITATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENT NO. 4517, WITHDRAWN

Mr. ENZI. Madam President, this is a sorely needed offset for sorely needed assistance. I wholeheartedly agree with the need for the emergency agricultural assistance we just passed. It is an emergency in Wyoming and most of the United States. Another pending emergency is the increase in our national deficit. We have a readily available and appropriate offset for at least part of the expenditure. I am suggesting we use it.

By needing emergency agricultural assistance today—we have tacitly admitted that by passing Senator DASCHLE's amendment—we showed that we needed to add to the farm bill. So it has already been opened.

This is an emergency, which is why I cosponsored the emergency amendment. However, this body already wanted payment limitations. We voted on February 7 of this year, by 61 to 33, to include payment limitations in the farm bill. This isn't an issue of chopping programs to provide agricultural emergency money when we don't do that for any other emergency. This is an issue of providing agriculture with emergency money and helping pay for it with something on which this body has already voted.

There has been some discussion this morning to the effect that the lack of crops will lead to additional money anyway. The President has said he supports drought relief that doesn't increase the national deficit. We voted for agricultural assistance today. We should make every effort to keep it alive, and keep it in the bill until it is sent to the President, by showing our good will and intention to do what we can today to keep this desperately needed assistance from increasing the deficit.

It is ridiculous to consider that this body will reject an amendment that provides an offset for an appropriations bill while entertaining a host of amendments that increase spending. The arcane rule seems almost slanted to increased spending.

However, I recognize the importance of rule XVI. I really think this need for drought assistance, for an offset so that we aren't increasing the national spending, is entirely critical. But I will withdraw my amendment based on the Parliamentarian's ruling that rule XVI prohibits offering amendments containing general legislation on appropriations bills. I remain committed to funding a bill in which we offer my amendment that will offset the drought spending.

I yield the floor.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 4518 TO AMENDMENT NO. 4480

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself and Mr. DOMENICI, proposes an amendment numbered 4518:

(Purpose: To reduce hazardous fuels on our national forests, and for other purposes)

At the appropriate place in the amendment, add the following—

SEC. . EMERGENCY HAZARDOUS FUELS REDUCTION PLAN.

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

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

(1) wildland urban interface areas;

(2) municipal watersheds;

(3) forested or rangeland areas affected by disease, insect activity, or wind throw, or

(4) areas susceptible to a reburn.

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

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

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

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

(e) ADMINISTRATIVE PROCESS.—

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

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

(B) the Forest Service appeals process and regulations.

(2) REGULATIONS.—

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

(f) JUDICIAL REVIEW.—

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

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

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

(B) be completed not later than 360 days from the date such request for review is filed with the appropriate court unless the District Court determines that a longer time is needed to satisfy the Constitution;

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

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

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

SEC. . QUINCY LIBRARY INITIATIVE.

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

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

Mr. CRAIG. Madam President, I have just sent to the desk a second-degree amendment in my name and that of the Senator from New Mexico, Mr. DOMENICI, and a good number of other Western Senators who have grown extremely concerned about the fire situation in the Western States primarily, and especially the Great Basin States, where we have seen now wildfires raging since mid-June—some 66.5 million acres, 2,300 homes up in smoke, 28 lives lost, phenomenal wildlife habitat and watershed destroyed. Clearly, it is a time when we need positive action to resolve this issue.

Others have spoken to it. Our President, about 3 weeks ago, while in Oregon, spoke very clearly to the need for flexibility within forest policy in this country to deal with the fuel-loaded forests of our Nation, to thin them and to clean them, to restore their health, and to do so in an environmentally sound way.

The amendment we offer today—while we still work with my colleagues from Oregon and California and other States that have the same problem, but we are working with a variety of interest groups at this moment to see if we can resolve this in permanent policy—is an expedited process that does not lock the courthouse door, that recognizes the validity of expression and public participation to deal with this issue.

We have reached out to incorporate what the Western Governors proposed, along with the Secretary of the Interior and the Secretary of Agriculture, some months ago, to be a collaborative process that brings all of the parties together on a State-by-State basis to recognize these lands and to designate them for the purpose of cleaning up.

We have limited this approach to no more than 10 million acres. There are over 33 million acres in the class 3 status, which means they are severely bug-ridden, dead, dying, fuel-loaded forests. Even with that number, we have chosen to be limited, to target the most severe, and to deal with it directly.

We also are dealing with the wildland-urban interface, where these homes now in the Western States are, of which we have lost over 2,300 as of today. We are also dealing with urban watersheds. Many of the watersheds that yield the valuable water to the growing urban populations of the West have been devastated by fire this year or are in conditions where they are extremely fire prone. We have also set up a variety of other prescriptions as to how these lands would be dealt with.

I will talk no more in detail about it. My colleague from New Mexico is here to speak about it. We are still working with our other colleagues in the West and around the country to see if we can build a bipartisan approach toward resolving this issue.

The President, the Deputy Secretary of Agriculture, and the Chief are directly involved with us at this moment to see if we can bind together at least a policy that begins to step us forward into resolving what, in my opinion, is now a critical, if not a crisis, status in our U.S. forested lands.

We have now lost an unprecedented number of acres. We are still burning in the States of California and in other States. That could well go on for another month before the wet season hits. We could lose over 7.5 million acres this year, comparable to what we lost last year.

That is the intent of this amendment—to bring parties of interest together to resolve this, to bring Western States together to see if we can find a course of action and the shaping of a public policy that begins to return our great forests to a state of environmental health, watershed quality, and wildlife habitat of the kind we would expect.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I thank Senator CRAIG. It is a privilege to work with him on this entire matter. He is the chief sponsor, and I am here to help him. I started working on it very late compared to Senator CRAIG. When I say ''it,'' I mean this issue, the terrible status of the American forests.

Everyone in this Chamber, be they staffer or Senator, Democrat or Republican, has, over the last 3½ months, looked at their television in absolute awe, for they have seen hundreds of thousands of what seemed from a distance to be beautiful American forests that ought to be enjoyed by millions of people, owned by all Americans, burning up. Sometimes they move a little bit out of the forest and catch a house on fire. If they are burning in California, they burn a house, almost every time. We have fires in my State of New Mexico where they burn and no houses are affected, but the beautiful forest is burning to the ground.

You heard the numbers. It is absolutely incredible. What we are told is that there are, within this great forest, 33 million acres that, if you went and looked at it, they are not so beautiful, they are not so great.

If you drive through them for a few miles, you will probably ask the person you are riding with: Why are those trees still there? They may be stark, burned trees just standing straight up, black or dark brown from having been burned, but still standing up. If there is a big tree in the same forest—you may see a huge amount of acreage that has blown over. Nature knocked them over so they are not the beautiful forest that you think it is from a distance.

Or if you go to two or three forests, you will also find that there are infected forests with various kinds of bugs, to use a common word—insects that have eaten a forest away and what happens? It just stands. These dry, wooden trees just stand. Underneath all of this, or alongside of it all, are small trees that have fallen down, leaves that have piled up. In a nutshell, the forest is unattended and left, obviously, for years, with nobody doing what we all did many years ago. Nobody is cleaning it up; nobody is thinning it.

So we have acreage in America where there are so many trees growing side by side that we were shown yesterday

by one of our colleagues, who is helping with this bill, two pieces—a cut across a tree about this thick, about 14, 15 inches in diameter, and another one was this big, about 4½, 5 inches in diameter. But guess what. They can tell how old each one is. The little one is twice as old as the bigger one because of poor growing conditions, because they were all squashed up together, like you see American forests today. Instead of being separated, where the Sun can go down through and the forest can be happy—as we called a bill to clean up the forests last year, we named it the Happy Forest Act, hoping that we would start to clean up the forests.

But we have not. The American people have now heard on the local news media and the national news media that, for some reason, the process of trying to clean up some of these trees—I am speaking now of those categories to which my friend Senator LARRY CRAIG alluded—that almost anybody would say let's get those out of the forests.

The process of cleaning it up has been held up by a procedure that gets almost every desired cleanup into a court of law, into a NEPA statement, regardless of how little or ineffective it is against the forest. In fact, the process got so bad that, while most of us were totally unable to get a change so we could do fix it, the distinguished majority leader saw it coming. Senator DASCHLE saw it coming in his State. He must have gone there and saw what we see. He saw it in his forest in the Black Hills. In other words, he saw some acreage where his constituents must have been showing him and saying: Senator, why do we have to leave that here? It is just a target that will burn our whole forest down. Why are you not able? Because environmental groups, which are particularly concerned—rightfully so—with the forests of America, won't let you take it up?

So everyone should know that Senator CRAIG, Senator DOMENICI, and many other Western and Rocky Mountain Senators—hopefully, before we are finished we will be joined by many others—looked at the urgent supplemental that passed not long ago, and we noticed that the distinguished majority leader had put in language exempting fuels reduction projects on the Black Hills National Forest from NEPA appeals and litigation.

So from a distance, we said, thank you, Mr. Majority leader, you really did for us what ought to be done—except that you only did it for your State. No criticism. That is fine. We say if it is good enough for the majority leader in his State, then it ought to be good enough for us. We have many, many times more acreage of this kind in our respective States—Idaho, Arizona, New Mexico, Nevada, and I can go on. We have much, much more of that broken down, knocked over timber, burned but still standing, wind blown, bug-infested. We would like to have the same thing, or as close as we can, that Senator DASCHLE, quite correctly, gave to the citizens of his State. He did that a month and a half ago, or less, when we put amendments on an appropriations bill.

Again, I have no objection to his having done that. I praised him because the time had come when NEPA had to be changed. We were all operating under a blanket that said you can't do that, no matter what. When we read this, we said, if you cannot do it, it has just been done because the distinguished majority leader did it for the Black Hills in his State. And now I walked, during the last 25 days in my State, into about six or eight meetings with cowboys and people who used to work in lumber mills, with people who have farms up alongside the forests; they are at meetings and all they want to know, why can't we clean forests so they won't burn down. Anybody coming to see Senator DOMENICI puts up his hand and he wants to know why can't New Mexico do what South Dakota can do. All we can do is say Senator DASCHLE is a fair man. He did this for his constituents. We believe when he sees what should be done for ours, he will be helpful.

We do hope the amendment that we put down—the Craig-Domenici, et al—that many Senators will be on it. I have talked to Senators on the other side whose names have not yet been mentioned—even by Senator LARRY CRAIG, the prime sponsor. I am talking to all of them now, Democrats and Republicans. We can put a bill together that will work in California, where there are many houses and they are very valuable and, therefore, you need to clean up around each of them—all the way over to New Mexico where you have very open spaces and some houses. But you have to make sure the cleanup is not going to just be around buildings and houses. Some of it will have to be in other open spaces where the forest itself will be the victim, not necessarily a house in the fire's way.

So I urge that—as is the usual manner when we have a situation such as this—we not end up with one group calling the other group names—that one is pro-environment, or that one is pro-forest. I submit that we have a big problem. Senator DASCHLE tried to solve it for his constituents. We have observed that carefully. We would like to solve it for our constituents. We do not believe the distinguished majority leader is going to say: I got it but you cannot have it. It is fair and it must be done. Our forests will burn down before we ever get to clean them up.

Having said that, we worked very hard—not just Republicans, but a number of Democrats, and not just Republican staff, but a number of Democrat staff who know what they are talking about. We crafted this bill. We think from the standpoint of doing away with some of the litigation that environmentalists like to be in place so they think their interests are protected, we have left more court proceedings in our measure than the majority leader left in his. We have streamlined the process, no question about it. We have taken less of a proportion of the class III gambling acreage and put it in our bill.

Senator CRAIG said, out of 33 million acres that are so polluted as we described, they are going to burn down and carry all kinds of other trees with them. Ten out of 33 is what we provide for in our bill. We are willing to say, if they cannot do 10, because they don't have the equipment or the time, it can be altered. We are also in favor of adding the new money that the President pledged, and that can go to this. If there needs to be more, we can talk about it on the floor of the Senate.

I rose today not to speak of technicalities. We will do that. Our amendment is there and there are plenty of copies for the technicians to look at. In a nutshell, we have seen the forests of America and they are burning.

We think over time we must have a new forest plan. I have heard my good friend, Senator CRAIG, speak of a new forest plan, a new horizon for maintenance and upkeep that will keep these forests beautiful. We also speak of preserving these forests where they are subject to being burned down because of our failure to maintain them. We want to go in, within the next 18 months, and do as much maintenance as we can. In the process, we are not interested in lumber.

As soon as we decided we were going this way, 10 or 15 Senators got on television and we heard opposition: We do not want to do that, because they are all for big lumber.

What we are for is saving our forests. We do not have any new lumber contract language, that I am aware of, in this bill. I am not an expert, but I see the experts saying that is true. We have provisions that will permit the managers within the Forest Service and the BLM to proceed to maximum cleanup, and to do it now.

We do not have any new roadways, as I understand it. We do not have new roadways where there are none, because we are not interested in that; that is not our goal.

So once again, I say to our friends, Democrats and Republicans, these are days when we seem to try to come together as Senators. We are not getting a lot done because 9/11 is hovering over us. But I do think it would permit us, also under that attitude we have generated of being more friendly and more congenial, to consider what those who oppose it say; we will consider it to be a legitimate objection, if the other side will consider what we propose to do as legitimate and let us explain it carefully.

Let's see if we can get a bill so we can go home this year, whether we are running or whether we are just going home because it is our time to go home, and we can go to those meetings I described and say, Democrat and Republican, joined by our President, we

put more money into cleaning up the forests that you live by, live in, work with, and recreate in; we put money to do some real fixing up; and we also have agreed we do not have to take so long to go from weighing that forest and saying it is one of those that ought to be cleaned up to getting it cleaned up.

Should it take 5 years? Of course not. Should it take so long that everybody gives up? Of course not. We have provisions as to how fast it must go in terms of the events that occur in the courtrooms and other places.

This is one chance to make some real changes. They will be temporary, but we will be able to look at them and say we can now continue to do them; the forests may come out clean in 10 or 15 years, not next week, not next month.

I am hopeful our amendment, which obviously can be changed, will be looked at from the standpoint that we are not here to blame; we are not here to criticize; we are here to commend the distinguished majority leader for seeing that NEPA, the approach of the National Environmental Protection Act to cleaning up the forests, has to be modified in terms of its imposition of delay.

We ought to be able to do that in writing, where it is easy for everybody to understand and will not destroy, will not cause our forests to be logged in some way that is not good for America. We hope the public can look openly at our work in the next 3 or 4 days. And we want it to be open. We have nothing to hide. We want to be able to say within the next 6 weeks, across the United States on the nightly news and the newscasts of the day, the bipartisan Senate has decided to fix up the forests before they burn down, clean them up before they are no more. That is essentially what our bill is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I am going to be very brief because I am imposing on the time of Senator DODD. As chairman of the Senate's Subcommittee on Forests and Public Lands, I regret to say this morning I have to oppose the amendment that has been laid down by my colleagues.

I have enormous respect for both Senator DOMENICI and Senator CRAIG. I want to take a couple of minutes to talk about my concerns. I want to be clear, having lived this issue constantly with my constituents through the summer months, I am totally committed to the concept of expedited treatment when we are dealing with areas that are fire prone, when we are dealing with areas that are at risk for fire, as so much of the West is. I am committed to expedited treatment.

I will say, and I regret to have to do so this morning, I believe this amendment is an overreach. The history in the West, because things are so polarized, is that the surest way to taint an effort to try to bring the parties together is to overreach. Particularly, this analogy to South Dakota, I would say to my good friends, simply does not wash. The South Dakota example involved 800 acres. We are talking about millions and millions of acres in this debate. If there is one thing that we westerners have learned, it is that one size does not fit all.

I hope we can continue to talk about ways to really ecologically improve the health of fire-prone forests, work together to tailor our approach to deal with areas that are at risk for fire. I have made it clear I support expedited treatment there.

Let us not lock the doors to the courthouse. I believe people have a constitutional right to access the courts, but they do not have a constitutional right to a 5-year delay. Let us make sure all the stakeholders have a place at the negotiating table.

Senator CRAIG and I have an experience that has worked with the county payments bill, a bill that the Forest Service called the most important bill in 30 years.

Finally, it seems to me we ought to be sensitive to the ecological importance of the big old-growth trees.

So I am saddened that I have to oppose this amendment. I plan to continue to keep talking to my colleagues.

I thank Senator DODD again for his graciousness in giving me this time, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I will only take a minute.

I say to my good friend from Oregon, I thank him for his remarks. I am very hopeful that whenever we vote on this bill, the Senator will vote aye, because whatever it is the Senator thinks does not fit the bill in this amendment can be rectified.

I also say that my mentioning of the distinguished majority leader was with praise, with congratulations, and stating that he showed us how. I did not say we have to do it the same way, but he did change the effect of NEPA for his State once and for all on these forests. I am very proud he did. I want to do something close to that when we do it. I do not want to close the gates of the courthouse. In fact, we did less of that in this than with other bills. I think the Senator knows that.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I say to my friend, Senator CRAIG, who is in the Chamber, in conversations with the distinguished majority whip a moment ago the suggestion was that we might temporarily lay aside the Craig amendment so I could offer an amendment. I am not going to take a lot of time on this, I would say to the ranking member on this bill. I will lay down this amendment and explain briefly what I would like to do.

Since this involves the Bureau of Indian Affairs, Senator INOUYE, the chairman of the committee, is looking at the amendment, but I want to at least discuss this by taking a few minutes.

I ask unanimous consent that the amendment offered by the distinguished Senator from Idaho be temporarily laid aside for the purposes of offering an amendment I would propose, with the full understanding that, obviously, the amendment by Senator CRAIG would preempt any consideration of my amendment, at least under the present circumstances.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 4522 TO AMENDMENT NO. 4472

Mr. DODD. Madam President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 4522 to amendment No. 4472.

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

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

The amendment is as follows:

(Purpose: To prohibit the expenditure of funds to recognize Indian tribes and tribal nations until the date of implementation of certain administrative procedures)

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

SEC. 1___. FEDERAL RECOGNITION.

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

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

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

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

(A) the Governor and attorney general of—

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

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

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

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

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

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

(2) the Secretary—

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

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

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

(3) the Secretary shall—

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

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

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

Mr. DODD. Madam President, let me emphasize, I am offering this amendment now with the full understanding that my dear friend and colleague from Hawaii, the chairman of the committee, is reviewing this amendment to see whether it might be accepted. If it is, obviously we will deal with it in a different manner.

Since we have some time and we are about to leave the Interior bill to go back to homeland security, it may be another day or two before we get back to the Interior appropriations bill. So I thought I would take advantage of this pause in the consideration of the Craig amendment to lay out what this amendment is, why I am offering it, and why it is so terribly important that we adopt it, or something like it, if we can.

It is with some reluctance that I offer this amendment to address the process for recognizing Indian tribes in this country. I would have preferred to have the matter addressed at a different time and under different circumstance, but I raise it now because the matter has considerable urgency and importance in my State and other States.

Currently, there are 200 petitions pending at the Bureau of Indian Affairs by groups throughout our country seeking Federal recognition as Indian tribes. Nine of the petitions are in my State of Connecticut, a State 110 miles by 630 miles square. There are in addition to the two tribes that have been recognized in our State, with which I have a very close and warm relationship, the Pequot Tribe and the Mohegan Tribe, both of which have played a significant role in our State and with our citizens and have contributed to the well-being of our State. The two tribes have generated thousands of jobs in Connecticut and have provided much revenue for the State.

I offer this amendment which in no way deals at all with tribes that have been recognized. I strongly support them and have been deeply involved in both the Mohegan and Pequot issues, sometimes going back to my days when I served in the other body, when the Tribes were first considered for recognition. We went through an extensive process.

My concern has to do with the fact that the recognition process, by the admission of the Bureau of Indian Affairs, has broken down entirely. I will quote the former head of the Bureau of Indian Affairs, Kevin Gover, the Assistant Secretary for Indian Affairs:

> I am troubled by the money backing certain petitions and I do think it is time that Congress should consider an alternative to the [existing] process. [Otherwise,] we're more likely to recognize someone that might not deserve it.

That was the Assistant Secretary of Indian Affairs.

We are reviewing petitions that are almost hard to imagine. We just had a situation in our State where two tribes opposing each other sought recognition by the Bureau of Indian Affairs. The Bureau of Indian Affairs did not approve either application but rather came up with a third choice—no one asked for it—and recognized the third choice.

If that is not a system that is broken down, I don't know what is. All we are asking in this amendment is that communities, leaders, Governors, and the various States where the petitions are pending be notified of the petitions; that other tribes be notified as well as the petitions; that there be improved notice of petition to key persons who may have an interest in the petition, including the Governor and the attorney general of the State where a tribe seeks recognition; consideration of all relevant evidence submitted by a petitioner and other interested parties, including municipalities; require that a petitioner meet each and every one of the seven criteria for Federal recognition spelled out by the current Code of Federal Regulations; and require that a decision on a petition be published in the Federal registry that includes express written findings of fact and of law with respect to each of the seven mandatory criteria.

We had a case not long ago where the criteria of showing a continuity of relationship had been broken by more than 70 years. The Assistant Secretary, despite the findings of the technical staff that said this gap would be enough to deny recognition, overruled the technical staff and approved it anyway. So what we are doing is not writing new criteria. These criteria are part of the Federal Registry. We want to codify them to say if these criteria are important, they ought to be adhered to. If you go through the recognition process, you must meet the criteria, as well as inform affected communities.

Many States in the country have petitions pending. There are 200 pending. My State has nine. That is why there is a sense of urgency. Other States have petitions pending, as well. This is not about denying petitions. I happen to believe if criteria are met, these tribes ought to be recognized. In fact, I suggest the present process, as flawed and as broken as it is, devalues federal recognition so those that have been recognized, under stiff criteria, those who have gone through the process that took years in some cases, will see their recognition undermined in some sense if the future recognitions are granted where the criteria have not been met. That is what we are trying to avoid.

This amendment imposes a moratorium on any new recognitions until the Bureau of Indian Affairs applies these criteria. They can do it quickly and move forward, or they can delay it. And in that case, we hold up here.

We have also in this amendment provided some $1.9 million if funds are made available to the Bureau of Indian Affairs. There are some wonderful people working in this agency. But they do not have the resources needed when you have 200 applications pending, a relatively small staff, and if you are trying to do the historical research, the checking, all of the investigation that needs to be done, considering all the information that comes to you, you have to have the people who can help you do that.

I don't require this spending because that might subject the amendment to a point of order, but I merely point out that these funds, if available, should be made available to the Bureau of Indian Affairs to allow them to do the job they would like to do.

Again, I don't write anything new in terms of new criteria, new law, new hurdles. We take the existing criteria, we do say you must notify people and affected communities where this is going on so they can be heard and people have an opportunity to discuss what will happen if recognition is approved and we end up with a sense of community. I wish every single community could go through what we went through with the Mohegan Tribe in Connecticut when that Tribe was seeking recognition. The relationship with the surrounding communities that developed was not done under law. It was done because the leadership of the tribe and the leadership of the communities worked so closely together. As a result of that, today we have a wonderful relationship between a Native American tribe and the communities in which they reside.

Recently, I participated in the opening of a new hotel at the Mohegan facility, and had dinner with the tribal council. The tribal council invited

leaders throughout the State. Everyone was there to celebrate the remarkable event, this wonderful relationships that have emerged, and the contribution this tribe has made. With the Pequot Tribe, we have had a more difficult relationship with some of the communities, but they are working at it. There are still issues to be resolved and they are struggling to sort them out.

We need to bring some sanity and some sensibility to a recognition process that is just not working. I wish there was some other way to deal with this. I don't ever want to support legislation to undo recognition where recognition has been granted. We are not talking about anything that would undermine the recognition of existing tribes in the country. It merely says for those petitions that are pending, the criteria should be met; that notice should be given; that opportunity to be heard should be made. We do not think that is a tremendous amount to be asking. We are looking at, in some cases, tremendous additional burdens on surrounding communities, on transportation, housing, and the like. We need to take that into consideration with Federal recognition as part of the process.

Mr. LIEBERMAN. Mr. President, I rise in support of Senator DODD's proposed amendment, of which I am a cosponsor, to reform and strengthen the Federal tribal recognition process for American Indian tribes and their governments.

I am pleased to join with my respected colleague on this amendment, and concur with his sentiment that this amendment will further constructive dialogue on establishing a more fair and open Federal tribal recognition process. In 2001, I joined him in introducing S. 1392 and S. 1393, which were similarly designed to reform and improve the process by which the Federal Government recognizes the sovereign status of American Indian tribes and their tribal governments.

The Federal tribal recognition process has greatly affected the State of Connecticut and its local municipalities from a financial and physical infrastructure standpoint. Connecticut is one of our nation's geographically smallest states. However, Connecticut already has three federally recognized tribes, one of which is being appealed, and nine more recognition petitions are in the Bureau of Indian Affairs pipeline. That is why Connecticut has been so keenly impacted by the federal recognition process.

This Federal recognition process has been fraught with controversy. We shouldn't recognize additional tribes until the process is fixed and credibility in the BIA recognition process is reestablished. It is widely recognized that the process is both extremely lengthy and that towns and other interested parties feel that their views have been ignored.

I want to stress that this amendment does nothing to affect already recognized Federal tribes or hinder their economic development plans. Nor does it change existing Federal tribal recognition laws. What this amendment does, consistent with those laws, is ensure that recognition criteria are satisfied and all affected parties, including affected towns, have a chance to fairly participate in the decision process. It assures a system of notice to affected parties; that relevant evidence from petitioners and interested parties, including neighboring towns, is properly considered; that a formal hearing may be requested, with an opportunity for witnesses to be called and with other due process procedures in place; that a transcript of the hearing is kept; that the evidence is sufficient to show that the petitioner meets the seven mandatory criteria in Federal regulations; and that a complete and detailed explanation of the final decision and findings of fact are published in the Federal Register. Under the amendment, funding available under the Interior Appropriations bill to the Bureau of Indian Affairs for the recognition process becomes available when these fundamental due process procedures are implemented by the Secretary of Interior. The amendment dictates no outcomes, it simply tries to assure a fair process, accessible and more transparent to affected parties.

Mr. DODD. I see my wonderful friend, BEN NIGHTHORSE CAMPBELL. He and I have talked about this on numerous occasions, and he is aware of what I am doing with this amendment I drafted many months ago.

I have gone through it and have had numerous conversations with Native American tribes about this amendment, as to what I wanted to do and why I thought it was important. I am very grateful for the responses I have had, the understanding here that this in no way derecognizes—in fact I would vehemently oppose any effort to derecognize any tribe in this country that has received Federal recognition.

The point I am trying to make here is that the Bureau of Indian Affairs needs resources and it needs to follow a process so there is clarity; so everybody understands what happens and how it happens; so there is the information the people need; so there is an opportunity to respond; so the criteria will be met.

You have great technical staff, great professional staff at the BIA. It is disheartening for them to go through a process and make recommendations and have an Assistant Secretary veto their hard work, and that has happened in too many instances.

We have 200 applications pending—in my State nine of them—and a number of them are going to be decided in the next 7 or 8 months. If I could wait for the next Congress, wait for an authorization bill to come up, I would rather go that way. But next year the amendment I am offering would do little or nothing if recognition is granted in places it is not deserved.

What heightens this more than anything else are some of the most recent applications. I know my friend from Colorado is aware of this, but we actually had two tribes seeking recognition. They opposed each other's recognition. The Bureau of Indian Affairs essentially rejected both applications and approved a third application that was never filed. You can understand the utter amazement of my constituents under those circumstances. That is like two people applying for a Federal grant, both being rejected, and a grant being awarded to an agency that never sought it. My colleagues who think the system is not broken: Look at that example.

While your State may not be affected today, it could be, so we need to bring some order to this, provide the resources, make sure the criteria are met, and then we ought to accept and endorse and applaud when recognition occurs and not to undermine the recognition process when problems such as this arise.

Again, I will take some additional time if necessary. I am hopeful my colleagues can just accept this amendment. I am not interested in going through a unnecessary process here, a lengthy process of debate on this. I would like to see if we could agree. I am not adding anything new. I am just taking the criteria and codifying them, and setting a moratorium. The moratorium could last a month or less if the criteria would be applied, so it need not delay things inordinately.

I have tried every which way; I know of no other way we can get BIA's attention. We cannot get a bill up. We can't get things done, and the process goes on, and if a recognition comes through—I don't want to undo a recognition when it occurs. That would be outrageous. That would put in jeopardy every single recognized tribe, which would have to fear an act of Congress might somehow derecognize them. That is not the way to go. But if we don't bring in some sanity and we end up with circumstances such as those that happened in my State, I can see somebody passing legislation that might just do that, and it would not be because they are evil or bad but it would be because they see a system that is flawed and is providing recognition where it is not deserved, or worse, denying recognition where it was deserved because other financial interests objected to them reaching that status.

So both the petitioner that deserves recognition and the neighbors of petitioners that do not are in jeopardy as a result of the present process. It's unfair and wrong.

I am hopeful we can, as I say, adopt this and then convince the administration, convince the BIA to improve the process and go this route and straighten this out before we end up with a firestorm across the country that I

think could do great damage to our Nation and to those that deserve recognition that might otherwise be adversely affected by it.

I have not gone into the whole casino deal because I don't think that is the issue. If a tribe in my State deserves recognition and they go through the process, my State allows for Native American tribes to operate casinos. If a tribe deserves recognition and they open up a casino, if they deserve the recognition, then they deserve to go ahead with that. I may not be enthusiastic about it, but I don't believe we ought to be opposing recognition because Native American tribes all of a sudden have discovered a way to accrue some wealth. So my objection to this process is not grounded in the casino debate. I understand it. I am sympathetic in some ways.

Mine is a small State, smaller than Yellowstone National Park. It is smaller than some counties in California or Montana, geographically. When you end up with two of the largest casinos in the world and the possibility of nine more in a little State, you can understand some frustration being felt. But my argument is not grounded on that point. If recognition is deserved, it ought to be granted. My concern is that the recognition process is so broken and so flawed that even the Assistant Secretary has described it as such. It is incumbent upon us, it seems to me, to try to do what we can to straighten this out.

So this amendment is designed to impose a moratorium, take existing law, existing regulations, codify them so there is clarity in the process, there is a clear roadmap, so those petitioners seeking recognition and those opposing it for whatever reason can have a higher degree of expectation of what is expected of them and what the hurdles are that have to be met before recognition is granted or denied.

With that, I have taken more time than I said I probably would. I am grateful to Senator CRAIG and Senator DOMENICI for laying aside their amendment so I could lay this down for the purpose of letting my colleagues know my interests. Hopefully we can find some common ground.

My colleague from Colorado has an alternative idea. My concern is, if we don't get that done in the meantime, the recognition goes forward and obviously he is not going to offer a bill that is going to undo anything that has occurred already.

For those of us who sense urgency on this issue, I am looking for some temporary filler here until we get to a more elaborate, more established process. My concern is by the time we get that done, the horses may be out of my barn, in a sense, and there will be nothing more than a historical tragedy in a way where I have nothing more to say to my colleagues except we missed an opportunity.

It seems to me, if I do not try to do something here, then we are subject to the criticism that we knew a system was broken and we didn't make an effort to try to do something about it.

With that, let me sit down, yield the floor, and listen to the good words of my friend.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Colorado is recognized.

Mr. CAMPBELL. I ask a couple of minutes of time from Senator BURNS, if I can get some.

Let me tell my friend, Senator DODD, I think he has brought something forward that we have long neglected. We have dealt with it in the Indian Affairs Committee several times and have not been able to find a solution.

I know, as you said, the casino issue may not be the central focus point, but clearly it has driven the debate over the last few years. There are probably 60 or 70 or more on the drawing boards right now throughout America. In fact, there is a good number in California.

We have seen the advent of huge amounts of money. Actually it ended up dividing families, about who was going to control the tribe. We are dealing with that now in California, where part of the family has literally disenfranchised some other parts through some local decisions made by the agencies in California rather than even going as far as the Secretary's office or the Under Secretary's office. So we know there are some real problems with it.

I wanted to mention that I may very well join you. But right now I understand this is going to be laid aside for a while anyway. I tried to call Senator INOUYE, the chairman. I am the ranking member, as the Senator from Connecticut knows. He is not in yet, but we are going to sit down and talk about this.

I might say, in the past, my own feeling about codifying anything—in other words, taking regulations and turning them into law—without people whose lives are going to be affected, I have always been very careful about that, particularly in the Indian community. We hear very often in committee when Indians come in to testify, tribes come to testify, people say: We didn't even know you were going to do this. We had no opportunity to study it, to deal with it. I know, at least in my view, I do not think any of the national groups, for instance, the National Congress of American Indians, any professional group or any particular tribes, have had a chance to review this and try to be in on the discussion about how we fix something that is rapidly causing a lot of problems.

Mr. DODD. If my colleague will yield, I have, going back a number of months now, specifically transmitted this language, or language like it anyway, to one of the national tribal councils to get their input. I don't want to bring anything to the floor that in any way they would feel hostile about or toward.

Mr. CAMPBELL. I tell my friend, their national convention is going to be in San Diego after we get out, in November, with only 17 or 18 days of actual working time here. It might well be too late to do anything this year. But if we don't, and even if it does have the support of Indian tribes, it is certainly something we ought to review next year. I tell my friend I will be looking forward to trying to find a solution to this very difficult problem.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BURNS. Mr. President, will the majority whip yield for a second?

Mr. REID. I would be happy to yield to my friend for a question.

Mr. BURNS. Will he allow me to ask unanimous consent that the Dodd amendment be laid aside so the pending business would be the Craig amendment?

Mr. REID. Absolutely.

Mr. BURNS. I ask unanimous consent that the Dodd amendment be laid aside and that we return to the Craig amendment.

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

Mr. BURNS. I thank the Senator.

AMENDMENT NO. 4518

Mr. REID. Mr. President, I want to take just a few minutes to talk about the statements given by my friend—I say my dear friend from New Mexico, the former chairman of the Budget Committee, and someone I have worked with for many years on the Appropriations Committee and the Energy and Water Subcommittee—regarding the South Dakota forest settlement that was initiated and accomplished just a few months ago.

The amendment that was offered by my friend from Idaho simply doesn't meet the Black Hills test. There are others who can probably explain that better than I. But I think I have a pretty good knowledge of what happened in South Dakota.

First of all, the amendment offered by the minority doesn't offer any new wilderness in exchange for protecting the timber from appeals. In addition to the 10 million acres of trees that my friend from New Mexico wants to have the Forest Service and BLM cutting down and doing things of that nature, if my friend wants to include a wilderness part of that, that would be something maybe a lot of us could take a look at. As we know, wilderness comes in this body by inches. It is very difficult to accomplish.

Anytime we talk about what is happening in South Dakota, understand that a component of that was creating wilderness—in fact, about 4,000 acres of wilderness. I think that is something we have to understand.

We have to also understand that the amendment offered by my friend from the minority is sweeping in its scope, covering, as I understand it, about 10 million acres. The South Dakota proposal dealt with 8,000 acres.

The terms and conditions of the individual projects under this proposal that we have from our friend from

Idaho will not be subject to negotiations by environmental groups, States, and the industry. It also does not protect wilderness areas from new road construction. It will not retain large, green trees and snags—something that was in the South Dakota proposal.

I know it is an interesting ploy to say we want to do just exactly what South Dakota did. No one really means that. It is a totally different situation involving not 10 million acres but 8,000 acres.

There have been longstanding negotiations in South Dakota. It has been involved in the court system for a considerable period of time.

I think we have to get off that, and get off the fact that we only want to do what the majority leader wants. We want is to make sure that places such as beautiful Lake Tahoe, which is a lake surrounded by the States of Nevada and California are protected—a lot of people are living there. We are really afraid of a fire taking place there because lots of people now live in that basin.

During one of the trips that I remember taking with the supervisor of the forests in that area, he said: Senator, the thing we are worried about is fire, because of the downdrafts and updrafts that occur every day. If a fire starts in here, we will not be able to control it. We came very close this summer to having a fire burn into that basin. We were very fortunate. Nature was kind to us. It burned the other side toward Carson City. That was extremely important.

But what we want and what we hope to be able to have at a subsequent time is the Craig amendment and the amendment we will offer here. We will debate those two amendments and, of course, recognize that because we have the 60-vote threshold here in the Senate, we have been jumping through all of the hoops dealing with cloture. We would simply have the 60-vote threshold on both. We are in the process of seeing if we can work something out in that regard. That proposal was given to me by the Senator from Idaho earlier today. The staff is working to see if they can come up with the unanimous consent agreement.

What we want—and I will just lay out the broad outlines of that—is to protect Lake Tahoe.

What does that mean? We think 70 percent of the money should be spent protecting urban areas—not 70 percent creating new places to cut down trees where there are no people. Lake Tahoe is a perfect example of that. If we could have the trees thinned and, in effect, urban areas protected there for a quarter to a half mile, then it wouldn't matter what happened; we would be able to protect those properties and those people in that basin. The same applies around the rest of the country. We have to protect these urban areas.

We are not asking that 100 percent of the money be spent on these urban areas, but 70 percent. Now it is turned around. Now only about 30 percent is spent in urban areas and 70 percent spent outside these urban areas.

As I indicated, the Black Hills settlement agreement creates thousands of acres of new wilderness in the Black Elk Wilderness Area. The Black Hills settlement is an environmentally responsible thinning in two areas in the Black Hills National Forest. The Black Hills settlement has conditions of sales negotiated among various parties, including environmental groups. The Black Hills settlement agreement allows negotiated sales to go forward without further appeal or lawsuits. The Black Hills settlement agreement contains large green trees and snags, and it protects endangered species and habitat.

We can get into more debate in that regard with this amendment offered by Senator CRAIG and the one we will offer at a subsequent time. But I just wanted to outline the two basic proposals and how we can't keep harping on the fact that we want to do what was done in South Dakota. Nobody really means that. It is just an effort to try to create an atmosphere where the rules we play by and have been directed by for so many years dealing with forests be done away with. It wasn't done in the settlement in South Dakota. We don't expect it to be done here.

It is my understanding we have a number of amendments that have been cleared and that have been approved by both Senator BYRD and Senator CONRAD. I suggest the absence of a quorum so we can make sure that is the case.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I apologize to my friend from New Jersey. I sat right by him for 6 years, and it was always hard for people to see me. I apologize. I thought Senator BURNS was the only Senator on the floor.

Mr. CORZINE. I appreciate that.

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

Mr. CORZINE. Thank you, Mr. President.

UNANIMOUS CONSENT REQUEST—S. 2845

Mr. CORZINE. Mr. President, I appreciate the distinguished Senator from Nevada giving me the opportunity to speak on an issue that I am really quite sad about, in all honesty. This is a human issue that I bring to the floor today that I think is an oversight on the part of the Senate and actually all of us in public life.

I want to speak about families of lawful noncitizens whose loved ones perished in the World Trade Center. They are about to be put into a position where, on a legal basis, they are deportable as of September 11, 2002, and this at the same time as they are taking on that incredibly difficult task of dismantling their lives here in the United States and returning to their country of birth.

This legislation would extend by 1 year the relief we provided in the Patriot Act to allow noncitizens whose parent or spouse was murdered in the terrorist attacks of September 11.

Today is September 10, just 1 day shy of the 1-year anniversary of the most significant terrorist attack on the United States in history.

The United States lost some 2,800 lives, as you know, but in the past year we have forgotten, in my view, to take into consideration the 504 nationals from 86 foreign countries who were a part of that. Many of these victims were in the United States as guest workers, contributing their technical expertise in helping the U.S. economy be the strongest in the world, be the engine of the world's economy. When they died, their hopes to provide a better life for themselves and their children in the United States died with them.

Tomorrow is September 11, and deportation proceedings could very well begin, if the INS were to proceed this way, for the grieving families of those temporary workers. While those families watch the media coverage of the anniversary—coverage that will no doubt extol the bravery and the sacrifice of so many of their family members—their presence in the United States will be in jeopardy.

These families were admitted to the United States 100 percent lawfully. They had all of their papers. They were admitted because we invited them here to help drive our economy. They did not sneak across any border or overstay their visas. They are lawfully present in the United States because work visas were provided to their loved ones. They paid taxes and submitted all appropriate paperwork. They were active in our communities in New York and New Jersey and very productive members of our society. Yet on the 1-year anniversary of the death of their loved ones, the INS could begin making arrangements for their removal from this country. Fortunately, the INS said they are going to turn a blind eye. But folks have to live with the risk that this is a possibility.

The challenges faced by these brave families were anticipated by those of us in Congress. In fact, the Patriot Act appropriately allowed them an additional year to remain in the United States. But it is becoming quite clear an additional year for families who have had to suffer so much is not adequate. This legislation is a response to the very real challenges of these families.

For example, many of these families are participating in September 11 support groups, groups that simply would

not exist in the countries to which they may be returning. Many of them are eligible for awards from the Victims Compensation Fund, but, as you know, many of the awards have not been processed, or even begun to be processed in many instances. Much work remains to be done.

Although they have been in mourning for nearly a year, many widows and children are waiting patiently for DNA analysis of the remains of their loved ones. Without closure, the grieving process has been prolonged considerably. Because of this delay, many necessary and unfamiliar financial matters have not been adequately addressed. There are homes that need to be sold and other business affairs to be settled before these folks should be returning home.

Also, there are children to consider, many of them in American schools, who have begun their lives. Many of them are American citizens, the children themselves. In fact, I think some of these children could potentially be separated from their parents as we go forward with this whole process. So it is a real issue at a human level on the ground, where people are trying to work their way through this tragic series of events.

While it is difficult to define the precise number of survivors who would be eligible for relief under my legislation, it is safe to say it is under 200. I think it also reflects some problems in the INS. The books and records are not exactly clear on how many folks there are involved. We have identified, in my office, about 80 of these people with whom we are working to try to provide special attention to them. The thought is, it would be close to 200.

Yet despite the fact that this legislation is sculpted very narrowly to address only the most immediate humanitarian considerations for this population, and despite the fact that the number of people included is a narrow 200 or fewer, each time I have attempted to get this legislation cleared, an objection has been raised. Generally, it has been one individual who has used their ability to quietly veto this legislation.

So at this time, with September 11 just 1 day away, Mr. President, I think it is time to pass this legislation. I think it is important. I think it speaks to the nature and the quality of who we are as a nation.

Therefore, I ask unanimous consent that the Senate take up and pass S. 2845, legislation to extend for 1 year procedural relief provided under the USA Patriot Act for individuals who were or are victims or survivors of victims of a terrorist attack on the United States on September 11, 2001.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. Objection.

The PRESIDING OFFICER. There is objection.

Mr. CORZINE. I appreciate the responsibility of the Senator from Wyoming to carry out the objection.

I continue to have serious concerns that if the facts of this issue were known broadly, they would not be resisted. I personally sought out the assistance of a number of folks who have typically objected to legislation dealing with immigration: Senator BYRD, Senator NICKLES, and particularly Senator HATCH, and they have been very helpful on this—and the Senator from Montana; excuse me. The distinguished Senator from Montana. I apologize. I am tied up in this sense of—

Mr. BURNS. I say to the Senator from New Jersey, I have lived on both sides of the line.

Mr. CORZINE. It is all a beautiful part of the country.

But I must say, of all of the issues that get at human interests, I consider it extraordinarily unusual that we have chosen to put a group of people—a limited group of people—at such risk.

I think this idea of having people be able to secretly hold legislation is a troubling one. I hope we can move on with it. I think this is an important piece of legislation.

I thank the Senator from Montana for his graciousness, and also the Senator from Nevada. I appreciate the opportunity to speak on this important issue.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the time for working on this bill be extended past the hour of 12:30, until Senator BURNS and I can clear these amendments.

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

AMENDMENT NO. 4523 TO AMENDMENT NO. 4472

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator BOXER.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report.

Mr. REID. Yes. I failed to ask that. I appreciate that, Mr. President.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, proposes an amendment numbered 4523.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding 36 undeveloped oil and gas leases in the Southern California planning area of the outer Continental Shelf)

At the appropriate place, add the following:

SEC. . SOUTHERN CALIFORNIA OFFSHORE OIL LEASES.

(a) Congress finds that—

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

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

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

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

Mr. REID. Mr. President, the pending amendment, which I have offered at the request of Senator BOXER, is a sense-of-the-Senate amendment regarding southern California offshore oil leases. The amendment notes that several leases have not been developed and that the leaseholders are negotiating with the Government to retire those leases. During these negotiations, the amendment urges that no funds be spent on development of the leases.

The amendment has been agreed to by Senator BURNS.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I would normally object to any amendment that would withdraw any lands from energy development or consideration. However, this one is just a little bit different. This is already tied up in litigation. I think anytime we shield land from energy exploration, we do not do this country a great favor, nor do we help our situation in the Middle East.

So I think should it be in any other form—there are litigation discussions now ongoing that could possibly expose this Government to a massive takings litigation. However, the way it is worded, it is only a sense of the Senate, and I do not object.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4523) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 4524 TO AMENDMENT NO. 4472

Mr. BURNS. Mr. President, on behalf of Senator BENNETT, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for Mr. BENNETT, proposes an amendment numbered 4524.

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

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

The amendment is as follows:

(Purpose: To set aside forest legacy program funds for the Castle Rock Phase 2 project and Chalk Creek (Blonquist) project, Utah)

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

Mr. BURNS. Mr. President, the amendment reallocates funding provided in the bill for Forest Legacy projects in the State of Utah. The amendment is fully offset, and both sides have agreed to it. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 4524) was agreed to.

Mr. BURNS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4525 TO AMENDMENT NO. 4472

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I send an amendment to the desk on behalf of Senator CLELAND and Senator THOMPSON.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. CLELAND, for himself and Mr. THOMPSON, proposes an amendment numbered 4525.

Mr. REID. 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 express the sense of the Senate concerning adequate funding for the National Park Service)

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

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

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

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

Mr. CLELAND. Mr. President, I would like to thank Senator BYRD and Senator BURNS, along with their staffs, for the hard work they have put into the Fiscal Year 2003 Interior Appropriations bill. I know that, with the current budgetary constraints, it was not easy task to craft a bill which would fund all of the agencies and programs which fall under this legislation. The FY 2003 Interior Appropriations bill includes close to $.6 billion for the National Park Service. This is an increase of nearly $100 million above the FY 2002 funding level and I know it will go a long way in helping the National Park Service meet their responsibilities to maintain our National Park system. However, the National Park Service currently has an estimated $600 million annual shortfall in operations funding which has significantly contributed to a backlog of unmet needs, threatening the natural, historic, and cultural treasures that the National Park Service was established to protect.

The National Park Service is charged with managing 83 million acres of land, 385 sites, habitat for 168 threatened or endangered species, more than 80 million museum objects, 1.5 million archeological sites, an 26,000 historic structures. Park Service employees do a remarkable job of preserving our heritage and welcoming park visitors, nearly 300 million each year, however, it has become clear that if the Park Service is to continue the good work they do, the Congress must provide substantial increase in funding so as to alleviate the maintenance backlog which is contributing to the physical deterioration of our parks and cutbacks in services provided.

The Chichamauga and Chattanooga National Military Park, located in Georgia and Tennessee, has more than 1,400 monuments and plaques, most erected during the 1890's and early 1900's to honor those who lost their lives during the Civil War. Many of these historic monuments have been vandalized or otherwise damaged over the years and have not been repaired due to a lack of funding. Another National Park Service site in Georgia, the Ocmulgee National Monument, was established to preserve the cultural remnants of 12,000 years of human habitation in the Southeastern United States. While Ocmulgee boasts the second-largest museum collection in the park system, there is no museum curator on site to monitor the artifacts. Funding limitations have also impaired the Park Service's efforts to teach visitors about the park's cultural resources. Most recently, a week-long program introducing local youth to the park was discontinued, and instead of receiving a guided tour of the park as in the past, visitors are fortunate if there is a ranger available to hand them a brochure upon entering the park.

Earlier this year, Senator THOMPSON and I were joined by 26 of our colleagues in requesting that the Senate Interior Appropriations bill include increased funding for the National Park Service. While the Committee did not increase funding as much as we had hoped for, we are most appreciative for the increase of nearly $100 million. Today, Senator THOMPSON and I have again worked together to introduce an amendment expressing the Sense of the Senate that the National Park Service is of tremendous importance and value to the American people and that the Congress should significantly increase operational funding and eliminate the deferred maintenance backlog by 2007. I thank Senator AKAKA and Senator GRAHAM for their leadership on this issue and appreciate their co-sponsorship of this amendment.

Mr. THOMPSON. Mr. President, as we debate the Interior Appropriations bill, I would like to take this opportunity to focus attention on underinvestment in our national parks, an issue of particular importance to me and the millions of Americans who visit our national parks each year. Earlier this year I joined 27 of my colleagues in writing to Chairman BYRD and Senator BURNS to request a $280 million increase above the fiscal year 2002 level for the National Park Service's operating budget. While the bill before us does not reach that goal, it is a step in the right direction and provides almost $98 million more than last year's funding level. I thank Chairman BYRD and Senator BURNS for their leadership, and especially for their commitment to continue working to increase operational funding for the National Park Service and to eliminate the deferred maintenance backlog by 2007.

Our national parks are a precious resource that we have a responsibility to protect. I have seen first hand the important role that our national parks play in conserving our natural resources and shaping our national heritage, and I have also witnessed the problems associated with a lack of resources for our parks. The Great Smoky Mountains National Park, located in my home State of Tennessee, is the Nation's most visited national park, welcoming more visitors each year than the Grand Canyon and Yosemite combined. Unfortunately, the Great Smoky Mountains National Park, like so many other parks across the country, is struggling to cope with an increasing number of visitors, a deteriorating infrastructure, and a general lack of resources. While Congress has regularly increased funding to operate and maintain the National Park

System, we need to do more. The Federal Government has a fundamental responsibility to ensure that the Nation's 385 national parks are preserved for the enjoyment of current and future generations.

Since 1980, park visitation has grown by more than 40 percent and Congress has added more than 60 new park units. More visitors means more stress on roads, campgrounds, and trails, and requires higher staffing levels to ensure that visitors are kept safe and resources are protected. One might say our parks are being loved to death, and Congress must make it a priority to provide the funding necessary to keep pace with increasing needs. The threats facing the parks can no longer be ignored, and each year of delay only compounds the problem.

The amendment I am offering with Senator CLELAND makes clear the Senate's commitment to meeting our responsibility to our national parks. The amendment expresses the sense of the Senate that Congress should, to the maximum extent practicable, continue efforts to increase operational funding for the National Park System and to eliminate the deferred maintenance backlog by 2007. The President has promised to address the maintenance backlog, and I commend his efforts. The deterioration of our national parks did not happen overnight, and a solution is going to require a long-term commitment from both the administration and Congress.

The national parks exist for the use and enjoyment of all Americans and teach us important lessons about ourselves and the natural world in which we live. At a crucial time in our Nation's history, Americans should able to visit our national parks and experience them as they were meant to be enjoyed. A neglected and underfunded National Park System is not the legacy that I want to leave to our children and grandchildren. I am pleased that the Senate has recognized the importance of adequately funding our national parks, and it is my hope that Congress will continue to provide increased funding in the years to come.

Mr. GRAHAM. Mr. President, I join my colleagues, Senator CLELAND and Senator THOMPSON, in offering an amendment to the Interior Appropriations bill that shows the Senate's support for funding our national parks.

I am cosponsoring this amendment after hearing comments from park employees, park supporters, and park visitors about the importance of providing adequate funds to maintain our nation's natural treasures during my Third Annual National Parks Issues Forum, held at Zion National Park in Utah.

Tomorrow marks one year since the horrific terrorist attacks on our Nation. Events such as these remind us of the importance of having places of refuge were we can go to refresh and renew our spirits. John Muir wrote in his book Our National Parks, ''Thousands of tired, nerve-shaken, overcivilized people are beginning to find out that going to the mountains is going home; that wildness is a necessity; and that mountain parks and reservations are useful not only as fountains of timber and irrigating rivers but as fountains of life.''

John Muir's thoughts still ring true. Our national parks, be they mountains, deserts, or rivers of grass, are critically important places for Americans to go and escape the trials of civilized life.

Our Nation's cultural and natural heritage are preserved in our parks. We have demonstrated our initial commitment to preserving this heritage by setting aside these special places as national parks. We must now continue to demonstrate our commitment to these special places by providing a level of funding adequate to operate and maintain them.

Throughout the park system there are historic structures and buildings that require rehabilitation; there are utility systems that require repair or replacement; there are roads that require paving. In addition there are units that are woefully understaffed. Given our current fiscal constraints, we must be sure to invest each of our dollars in those places that will do the most good and make the biggest impact in our parks.

I also want to take this opportunity to acknowledge Senator AKAKA's leadership on this and other issues of critical importance to the national parks. Senator AKAKA is the Chairman of the Subcommittee on National Parks and I have long enjoyed our work together to improve our parks.

Like Senator AKAKA, I believe that our national parks are worthy of our investment—worthy of our commitment. I urge my colleagues to help provide our parks with an adequate level of funding.

Mr. HELMS. Mr. President, God blessed this Nation with an abundance of natural resources and places of unmatched natural beauty. I am so glad that as a Nation we have set aside portions of our land for the enjoyment of the American people and have preserved our heritage by the restoration and maintenance of dozens of historic sites around America.

However over the course of my nearly thirty years in the Senate, I have seen the Federal Government fumble year after year its stewardship over the lands it holds as a fiduciary for the American People.

The Federal Government has continued to add acre after acre year after year, when it has been demonstrated that it cannot maintain what it already has. This has placed an enormous burden on the National Park Service and other Federal agencies who manage and hold in trust land for the American people.

The Park Service is charged with managing 385 sites which comprise 83 million acres of land drawing 300 million visitors per year. The Service is also responsible for, among other things, the care of more than 80 million museum artifacts that trace American history.

According to a report from the Congressional Research Service, the National Park Service estimated that its national maintenance backlog was $4.9 billion when it submitted its fiscal year 2002 budget request to the Congress. Let me say this again, $4.9 Billion.

The Appropriations Committee has recognized this and recommended an increase of $97,990,000 above the fiscal year 2002 enacted level, and $500,000 above the budget request, and I'm glad the Committee included an additional $20,000,000 in to meet these needs. Included in that is a 2.9 percent increase for base operations of National Parks in North Carolina. That is encouraging but the Federal Government needs to catch up.

According to the figures supplied to me by the National Park Service the total amount for ''deferred repair/rehabilitation construction for the National Park Units in North Carolina is $65,231,974.

My friend from Georgia, Mr. CLELAND, and my friend from Tennessee, Mr. THOMPSON, have offered a ''sense of the Senate'' resolution that calls upon the Federal Government to catch up on the hundreds of maintenance and repair projects in our national parks which I support.

Clearly, the Federal Government is behind the eight ball on its fiduciary duty to maintain and operate the National Park System.

In my State of North Carolina there are 9 sites within the State and three other parks service units that we share with other States, including the Great Smoky Mountains National Park we share with Tennessee, the Blue Ridge Parkway that we share with Virginia and the Appalachian National Scenic Trail that we share with the states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, West Virginia , Virginia, Tennessee and Georgia. There are a total of 416,620.1 acres of land that the National Park Service manages for the federal government in North Carolina.

The Federal Government needs the resources for proper management and catching up on the backlog of maintenance and construction projects on the Blue Ridge Parkway, Appalachian Trail, Cape Hatteras National Seashore, Carl Sandburg Home and National Historic Site, Fort Raleigh National Historic Site, Great Smoky Mountains National Park, Guilford Courthouse National Military Park, Moores Creek National Battlefield, and the Wright Brothers National Memorial.

These parks and historic sites are among the most visited in the nation and these units in North Carolina are among the most beautiful, spectacular and historically significant in the Nation. The first powered flight occurred

at the site of the Wright Brothers Memorial on December 17, 1903. Next year America will gather at the Wright Brothers National Memorial to celebrate the Centennial Anniversary of flight and I am grateful to the Appropriations Committee for providing needed funding for this event.

The Revolutionary War battle at the site of the Guilford Courthouse National Military Park that was fought on March 15, 1781 is where General Nathanael Greene and his army of 4,400 patriots severely crippled Lord Cornwallis's professional troops of 1,900 men. Lord Cornwallis lost a quarter of his army and almost a third of his officers.

This was the largest and most hotly contested battle in the Revolutionary War's Southern Campaign and led to the American victory and British surrender at Yorktown seven months later.

The beauty of the Great Smoky Mountains National Park, Cape Hatteras National Seashore, Appalachian Trail and Blue Ridge Parkway are unmatched.

Our National Parks are like the front porch of America, they need to be swept and keep clean and well maintained at all times because it is a reflection of the America people. I do hope the Senate will pass this resolution and that the Federal Government will do a better job in the months and years ahead managing and maintaining land in the National Park Service system for our children and grandchildren.

Mr. REID. Mr. President, this amendment, proposed by Senators CLELAND and THOMPSON, is a sense of the Senate amendment pertaining to funding for the National Park Service. While noting that Congress has substantially increased funding for the Park Service over the past few years, the amendment urges Congress to continue that effort and to try to eliminate the maintenance backlog by fiscal year 2007. The amendment has been cleared by both sides. It is my understanding Senator BURNS has agreed to the amendment.

Mr. BURNS. Mr. President, there is no objection on this side. In fact, we support the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4525) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4526 TO AMENDMENT NO. 4472

Mr. REID. 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 Nevada [Mr. REID] proposes an amendment numbered 4526.

Mr. REID. 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: Q02

(Purpose: To make a technical correction to the conveyance of land to the city of Mesquite, Nevada)

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

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

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

''(iv) Sec. 7.

''(v) Sec. 8.''.

Mr. REID. Mr. President, this amendment relates to a community about 90 miles outside Las Vegas on the Utah border. We have conveyed land to them on a previous occasion. This is a technical correction. It corrects a subsection number in Public Law 99–548. This has the clearance of Senator BURNS.

Mr. BURNS. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4526) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4527 TO AMENDMENT NO. 4472

Mr. BURNS. Mr. President, I send an amendment to the desk on behalf of Senator STEVENS of Alaska.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for Mr. STEVENS, proposes an amendment numbered 4527.

Mr. BURNS. 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:

At the appropriate place in the bill insert the following:

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

Mr. BURNS. Mr. President, this simply changes the administrative cost cap for the Northern Pacific Research Board, an entity that was created by Congress in the fiscal year 1998 Interior bill to conduct marine research. The amendment has been cleared by both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4527) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4528 TO AMENDMENT NO. 4472

Mr. REID. 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 Nevada [Mr. REID] proposes an amendment numbered 4528.

Mr. REID. 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 set aside additional funds for permitting of geothermal energy applications, the processing of wind-energy rights-of-way, and Bureau of Land Management realty and ownership management in the State of Nevada)

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

Mr. REID. Mr. President, in Nevada, which is growing so rapidly, 87 percent of the land is owned by the Federal Government. There are a number of land applications dealing with all kinds of activities in public lands, and the BLM has not had money to process those applications. What they have done, in an effort to try to speed things up, is they have had people who are actually moving the land applications come and help them in the offices. It just does not work good, even though it may be right. Even though I hate to do this, we have clarified the expenditure of funds so they will have more money to hire BLM people to do this rather than look to the outside sector, which is an obvious, apparent conflict of interest. I should not say an obvious or apparent; I should say it appears to me it is a conflict of interest.

This amendment has been agreed to by both sides.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 4528) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4529 TO AMENDMENT NO. 4472

Mr. BURNS. Mr. President, I send an amendment to the desk on behalf of Senator CRAIG Thomas of Wyoming.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for Mr. THOMAS, proposes an amendment numbered 4529.

Mr. BURNS. 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:

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

Mr. BURNS. Mr. President, this amendment earmarks funds for a comprehensive financial study of the operations of the Yellowstone National Park. Given that this piece of Yellowstone Park lies in my own State of Montana, I am very familiar with the park and the issues that concern the Senator from Wyoming. I support this amendment and understand it has been cleared on both sides.

Basically what this amendment does, it gives a little extra money to look into the books and the financial situation at the park. We have heard some disparaging stories. The way we take care of those, as the saying goes, is to look into it. It is going to take a little money to do that.

Mr. THOMAS. Mr. President, recently ABC ran a series of stories about the National Park Service and discussed the $4.9 billion backlog of deferred maintenance nationwide in our National Park System. One segment mentioned that some operations and park programs may need to be curtailed or discontinued as a result of budget shortfalls at Yellowstone National Park.

To be absolutely fair, over the past few years both Senator BYRD and Senator BURNS have been very generous to the National Park Service and to Yellowstone in particular.

Yellowstone is the world's first national park, created in 1872, and one of the biggest. It stretches across volcanic plateaus in northwest Wyoming and into southern Montana and Idaho, and contains more than 2 million acres of geysers, lakes, waterfalls, forests, bison, bears, and tourists. But more than that, Yellowstone is very rich in cultural, historical and natural resources, and in fact, represents—in one part—the multiple facets of park operations and programs found in the individual 285 units of the System.

My amendment would use Yellowstone as a demonstration project for business transformation. The National Park Service depends upon several sources of revenue to sustain operations and modernize facilities, including but not limited to, appropriations, fee income and revenue from concessioners, lease holders and permittees. These funding sources need to be managed in the most cost-effective and efficient manner possible to ensure improvement of services to the park visitor and for the protection of natural and cultural resources. Toward this end, I believe that improved state-of-the-art business practices need to be established in the National Park Service.

This amendment would require the Secretary of the Interior to contract for an independent and comprehensive management, operational, performance, and financial review of Yellowstone National Park. As I have already stated Yellowstone National Park has a wide range of a natural and cultural resources, programs and visitor services and provides an optimal environment in which to identify and make recommendations for improved management and operational practices that can be proliferated throughout the National Park Service and transform management to provide cost-effective, efficient and responsive programs. I know, the lessons that we will learn from Yellowstone will have application to the rest of the units within the System. I would suggest that the eventual cost savings, redirection of expenditures, and cost efficiencies will more than pay for the cost of this study.

We all are aware that there is a backlog of maintenance, and Congress has attempted to address the situation. But, I have to say that throwing money at the problem does not guarantee that there will not be a deferred maintenance backlog ten years from now. Unfortunately, we have never systematically evaluated the management programs that contributed to the backlog in the first place.

I believe this is a compelling need to establish new and better modern business practices within the National Park Service. With the passage of this amendment we can take advantage of the expertise that the private business sector has to offer so that we can redirect funds to address the backlog where we can, and more importantly, ensure that measures are taken to prevent a re-occurrence of programs and policies which led to the backlog we face today. I believe we can achieve these goals while maintaining important park program and operations.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 4529) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, we have nothing further to bring before the Senate at this time.

Mr. BURNS. Mr. President, I see no one else seeking recognition. I would suggest we recess the Senate for the party caucuses.

Mr. REID. There is already an order in effect.

Mr. BURNS. I move we recess under the previous order.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:36 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

HOMELAND SECURITY ACT OF 2002—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Thompson/Warner amendment No. 4513 (to amendment No. 4471), to strike title II, establishing the National Office for Combating Terrorism, and title III, developing the National Strategy for Combating Terrorism and Homeland Security Response for detection, prevention, protection, response, and recovery to counter terrorist threats.

Mr. FEINGOLD. Mr. President, I commend the chairman of the Governmental Affairs Committee, Senator LIEBERMAN, for recognizing early on that a major government reorganization should be considered in light of the tragic events of September 11th and for his leadership in putting together a basic structure for a new Department of Homeland Security. I also praise President Bush for supporting the existing congressional effort to elevate the authority and the status of the Office of Homeland Security to a Cabinet level position that will be responsive to the needs of the American people.

As we approach the anniversary of September 11th, Congress has been diligently working to insure that America has a Department of Homeland Security that can be responsive to the challenges of the post September 11th world. The Senate has spent the past few months exploring the bureaucratic obstacles that limited our capacity to identify and prevent the terrorist attacks of September 11th. We have considered in hearings whether the steps that have been taken to advance our country's safety and security since September 11 have been effective, and whether they adequately protect our most fundamental civil liberties.

The Congress has always responded to the challenge to protect this nation against any and all threats, including terrorism. I am committed to ensuring that as we build this new agency, we do so in manner that guarantees that basic fundamental rights are not lost or forgotten in a rush to be seen as doing something.

As the Senate moves forward in considering this new government structure, I have been guided by two simple questions: Will this reorganization make all of us safer? And will it preserve our liberties as Americans? That inquiry should continue to guide our consideration for a Department of Homeland Security.

So as we move forward toward establishing a Department of Homeland Security, it is important for all of us to examine and discuss both the strengths and weaknesses of the pending proposal.

All of us know that local law enforcement stands at the front line for security in our neighborhoods and communities. The new Department should be organized in a manner that helps and doesn't hinder local law enforcement. The Department of Homeland Security needs to insure that federal, state and local law enforcement work together with the necessary information, tools and resources that are required to adapt and respond to the evolving challenges our first responders are facing.

I am pleased that my bill, the First Responder Support Act, is part of the present proposal we are now discussing. I certainly want to thank my colleague from Maine, Senator COLLINS, for her work in making our responsibility to first responders a priority in this bill.

The First Responder Support Act will help first responders get the information and training they need from the Department of Homeland Security. I am also introducing the First Responder Communication Support Act to help communities who need communication systems to enable police, fire, EMS, and relief agencies to speak to one another in a time of crisis without overwhelming existing communication lines. Whether people face an act of terrorism or a tornado, in a time of emergency our first responders need to be able to communicate with one another.

I am also concerned about our efforts to protect the public from the use of weapons of mass destruction. The emerging chemical and biological weapons of the 21st century present new challenges to our military and to local first responders. The Weapons of Mass Destruction Civil Support Teams play a vital role in assisting local first responders in investigating and combating these new threats. The September 11 terrorist attacks emphasize the need to have full-time teams in each State.

I have filed an amendment that would require the Secretary of Defense to establish at least one Weapons of Mass Destruction Civil Support Team in each State by September 30, 2003. The cost of establishing, training, equipping, and operating these new teams would be paid for from existing fiscal year 2003 Department of Defense resources, thus requiring no additional spending while providing a critical level of protection. As we rethink the security needs of our country, we should support the creation of an additional 23 full-time Weapons of Mass Destruction Civil Support Teams. Establishing these additional full-time teams will improve the overall capacity and capability to prepare for and respond to potential threats in the future. I look forward to working with Chairman LEVIN and Chairman LIEBERMAN on this effort.

We must remember that not every law enforcement purpose makes sense. The administration's proposal to create the TIPS program appears to be a way to begin domestic Government surveillance in our communities with a motto not of ''love thy neighbor'' but ''spy on thy neighbor.'' I am concerned that if some trained police officers have a difficulty distinguishing between the proper and improper use of race in law enforcement activities, we are asking for real trouble if we ask untrained and fearful ''citizen'' volunteers to report on their neighbors.

Workers in the Department of Homeland Security who will have the awesome responsibility of protecting us should have the basic job protection their fellow Federal workers are granted. No one, including the President, has shown how simple and basic job security will jeopardize our national security. I believe we can protect our country at the same time that we protect our workers. In fact, we can better protect our country if our workers' rights are well-protected, too.

I am concerned that the administration appears ready to use the creation of a new Department of Homeland Security as an opportunity to eliminate or weaken the civil service protections currently in place for the Federal employees who would be transferred to the new Department. The civil service system was put into place in order to end the corrupt patronage system that had permeated Government hiring. The creation of a new Department should not be used as an excuse to roll back these protections.

In addition, I support the right of Federal workers to join a union and am troubled that the administration wants to strip existing union representation and collective bargaining rights from many of these workers. I also am troubled by the implication that union membership is somehow a threat to our national security.

In light of September 11, there has been a tremendous amount of discussion about the FBI's ability to effectively gather intelligence information. It has become clear that federal intelligence gathering agencies, such as the FBI, need to do better in collecting, organizing and presenting basic information about domestic terrorism. I believe that important first steps have been taken. In our desire to move agencies under one roof, however, we should not be afraid to ask if the move will actually improve intelligence gathering or simply confuse us.

I also want to take a moment to lend my support to the immigration provisions in the Lieberman substitute. There has been considerable debate in recent years, and especially since September 11, on how best to re-organize the Immigration and Naturalization Service, so that we can protect our Nation from those who would seek to enter the U.S. to do harm, while we effectively and efficiently address the needs of businesses, families, students, and visitors who seek to enter our Nation for lawful purposes.

The Lieberman substitute would wisely keep the service and enforcement functions of INS together in one Department; elevate the INS to a separate division within the new Department; keep visa approval authority within the Department of State; maintain the adjudication authority for immigration matters within the Department of Justice; and include a civil rights monitoring and oversight provision for the important purpose of holding INS enforcement functions accountable.

I commend Senator LIEBERMAN for including the ideas of Senators KENNEDY and BROWNBACK, the distinguished chairman and ranking member, respectively, of the Judiciary Committee Subcommittee on Immigration. These Senators came together to create a bipartisan INS reorganization plan. Immigrant advocates have long believed that in order to be effective and efficient, INS requires a strong leader with authority to coordinate and balance the complementary functions of services and enforcement. The Lieberman substitute does just that. While we seek to secure our Nation, we cannot ignore the importance of the flow of immigrants and visitors to our Nation. They provide the nutrients of new ideas, labor, and money that grows our economy and our Nation. I urge my colleagues to support the carefully crafted immigration provisions contained in the Lieberman substitute.

I am especially pleased that the Lieberman substitute contains an important provision to ensure that the new Department complies with the Nation's civil rights and privacy laws. As I have said, I believe that our consideration of this legislation should be guided by two principles: will this proposed re-organization make our country safer, and can we do so while respecting fundamental constitutional rights and protections? Many Federal agencies have designated offices and personnel to monitor agency policies and practices to ensure that they comply with the Nation's civil rights laws. This new Department of Homeland Security, with its unprecedented array of law enforcement powers, should be no different.

It is absolutely critical that the new Department include civil rights and privacy monitoring and oversight functions. I support the Lieberman substitute's requirement of a civil rights officer and privacy officer. The civil rights officer would be Senate-confirmed and would have responsibility to oversee and review Department policies to ensure that they do not violate the Nation's civil rights laws. The civil rights officer would refer matters that warrant further investigation to the new Department's inspector general. The Lieberman substitute would require the inspector general to designate an official to receive and review complaints alleging civil rights abuses

and submit reports on a semi-annual basis to Congress that detail any civil rights abuses by employees and officials of the Department. Like the civil rights officer, the privacy officer would have responsibility to oversee and review Department policies to ensure that they do not violate the Nation's privacy laws.

I was pleased to join Senator KENNEDY in urging that these civil rights and privacy oversight provisions be included in the bill. I thank Senator KENNEDY for his leadership on this issue. I also want to thank Senator LIEBERMAN for his recognition of the importance of these accountability provisions and his willingness to work with us. These provisions are an important step toward ensuring that the policies and practices of the new Department will be consistent with the rights and protections guaranteed by our Constitution. I look forward to continuing to work with Senator LIEBERMAN to ensure that the new Department includes appropriate and effective civil rights and privacy oversight provisions.

Finally, notwithstanding our desire to move rapidly to address the Nation's safety, I believe we still have to ask ourselves if the cost of the Department is reasonable. I do have budget concerns with regard to the creation of this new Department. Safety for all Americans isn't inexpensive, but I don't want this new Department to unnecessarily aggravate our budget problems.

When the President first announced his proposal for the creation of a Department of Homeland Security, he indicated that the reorganization of the existing agencies would not increase costs and in fact should actually realize savings.

That promise of net savings stands in contrast to the analysis of the proposal by the Congressional Budget Office, which estimates that the new Department as proposed by this bill will add about $11 billion in new costs over the next 5 years on top of the projected net spending for the ongoing activities of the transferred agencies. And that $11 billion in new costs does not include the cost of developing the integrated information and communications systems authorized by the bill—systems with a price tag CBO states could exceed $1 billion.

I am told that when the Education Department and the Energy Department were created, they both exceeded their initial budgets by at least 10 percent, and I don't want that to be the case with this new Department of Homeland Security.

We need an effective, responsive and efficient Department of Homeland Security. I believe we can do this in a manner that protects the citizens who will depend on the Department and is fair to the employees who will be in the agency. In the coming weeks, I look forward to the debate on the shape and size of the Department with the belief that at the end of our discussion a better and stronger plan for a Department of Homeland Security will emerge.

Mr. HOLLINGS. Mr. President, the disturbing thing to this particular Senator—incidently, Senators are always disturbed—but in all candor, the best way to recognize 9/11 of last year is to make certain that a 9/11 does not occur again and that we correct the intelligence failure that brought about 9/11.

With respect to actually assuring us that a 9/11 would never occur again, we had that debate last Thursday relative to securing the cockpit of airplanes. We are depending on the White House to weigh in now with their particular view. In my view, once that cockpit door is secured, never to be opened in flight, a 9/11 could never happen again.

I speak advisedly. In the month of September of last year, I had the privilege of meeting with the chief pilot of El Al, the Israeli airline. That is the one airline in the world—particularly, of course, in the Mideast, where you have suicidal terrorists—that would be subject to a hijacking and people taking over the plane and running it into a building.

They determined years ago the only way to prevent a hijacking was to not give responsibility to the pilots for law and order on the flight itself—namely, a pistol and so forth to overpower any kind of attempted hijacking. Instead, they wanted the pilots to assume the responsibility that the plane would never go into a building or never be hijacked or taken to another country.

Over the last 30 years they have shown this is the right rule: Once the door has been secured, it has never opened in flight.

I can hear the chief pilot of El Al. He said: Senator, I can tell you here and now, if they are assaulting my wife in the cabin, I do not open that door. I go straight to the ground, and law enforcement meets me. And whoever is causing the trouble is off to jail.

As a result, they have not had a hijacking in 30 years. Yes, they have attacked the ticket counter of El Al in Los Angeles. But terrorists don't even hardly make an attempt to hijack an El Al plane because they know that, yes, they could cause trouble with the passengers but not with the crew, not with the plane itself. There is no way to take it over.

Let me embellish on that thought because we had a debate with respect to arming pilots with pistols. Many pilots wanted Congress to allow pistols in the cockpit. The House has passed that, and the Senate on last Thursday voted for that overwhelmingly.

What should be understood is, you have to remove the responsibility from that pilot. In other words, let's assume you have that pistol on the pilots as they walk to and fro; that is another danger. And as they get in transatlantic flights, that is another forbidden practice—those kinds of things need to be considered. But more particularly, if a flight attendant is crying out: They are choking me, they are killing me, open the door. In my opinion, once that door is cracked open, the pilot with the pistol might get off a shot or two. But as we saw on 9/11, there are now teams of suicide terrorists, five-member teams willing to sacrifice one, two, or three people. The pilot might be able to kill three of them, but the other highjackers would still be coming into that cockpit. They would take over that plane once that door is cracked, with pistols, machine guns, whatever else they have up there.

So it has to be categorical and clearly understood. People have criticized me for saying this, but as I come into Reagan National Airport and see the sign, ''Welcome to Reagan National, Washington, DC,'' I would rather have a reflective sign saying, in Arabic: ''Try to hijack, go to jail.''

People will say: Why are you saying that in Arabic? I use Arabic numerals regularly. I invaded Morocco, Algeria, and Tunisia. Incidentally, I have the highest esteem for the country of Tunisia because I traveled there not too long ago, and they have some 65 percent literacy and 80 percent home ownership. And the Foreign Minister told me, when I asked: How in the world did you ever do this? He said: The secret is to let the women vote.

He said: As soon as we allowed women to vote in Tunisia, they wanted better schools for the children. They wanted nice homes for their families.

In World War II, I was one of the first in the African campaign with Colonel Anderson and the 178th Field Artillery. I wasn't in the frontline unit. I am not trying to fudge on his bravery. But we went into Tunisia. Now you can go into the city of Tunis itself and what was the Dust Bowl during the war, looks like a golf course. They have turned the country around.

But the fact is, it was Muslim extremists who overtook the barracks in Lebanon, and who blew up barracks in Saudi Arabia. They blew up our Embassy in Dar es Salaam in Tanzania. They blew up our Embassy in Nairobi, Kenya. They blew up the USS *Cole*. Almost nine years ago they tried to blow up the World Trade Centers. All of those were Islamic teams that came and caused the blowing up.

So I am justified in saying this. I want those who are blowing us up to understand: try to hijack and go to jail.

As I relate all these particular incidents, I come right to the point of my amendment in the second degree to Senator THOMPSON. I was working, and my staff was working with Senator THOMPSON's staff, to see if it was acceptable to him. He is not with us this afternoon, but we will be glad to talk to him tomorrow and on Thursday because he and I have the same intent. I think we have to fix the responsibility.

There is none better in the history of the United States of America than old Harry Truman. He said: The buck stops here. He put that little sign on his desk.

That has been the trouble. I don't fault President Bush. He didn't know anything before 9/11. He was not properly informed. And having not been properly informed, he could do nothing to have prevented it. So it is not my role this afternoon, on the floor of the Senate, to find fault with the President himself.

But I think we have to fix that responsibility for national security with him. In 1947, and later, as a Presidential directive, and then later in statutory language, the National Security Council was instituted. It says: ''the function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.''

The problem is the make-up of the National Security Council. On it are the Vice President, Secretary of State, and the Secretary of Defense. It has been in bed some with the Secretary of Treasury. But there are some others, like the Attorney General who should be included. The Attorney General has oversight of the Drug Enforcement Administration, and we know that terrorism is financed by drugs. He has the Border Patrol and the Immigration Service under him. He has all of these entities. He would be the chief Cabinet officer as of this minute for security, unless you get that Secretary of Homeland Security. But it still is going to be his professional teams that ensure security and provide the domestic intelligence that the Council needs.

So that homeland security intelligence, wherever you have it—if you have it at a Bureau or an office of homeland security in the White House, or a Department of Homeland Security with a particular assimilating and analytical role of intelligence, or as a department in Congress itself—wherever you have it, you still are going to have to take whatever analysis, whatever finding, and fuse it at the National Security Council level.

If you were President of the United States, or I were President of the United States, I would only have one particular briefing, one report on my desk. Every hour the President gets them now with respect to political intelligence. He knows what the polls show in Nebraska and what the trends are in South Carolina. He has political polls on November given to him every hour just about. So they are constantly taking that.

I want intelligence polls taken and reported to the President of the United States and fused at the National Security Council. The National Security Council has that responsibility. The particular Department of Homeland Security does not amend that particular statute. In fact, we could pass a Department of Homeland Security in the next 10 minutes and you could have a 9/11, because the very things that went wrong on 9/11 would go wrong again. The very Departments that failed, starting with the CIA is not included in the new Department. The Central Intelligence Agency knew about all of these things I have related. An article in this week's Newsweek says that they knew they had persons who roomed with the suicidal terrorists of 9/11 who commandeered the planes themselves. We know of attempts made to run a plane into the Eiffel Tower.

We know from the Philippines incident that the CIA knew they had planned to run a plane into the CIA building. You can go down the litany—all of this was known before 9/11. The CIA didn't even correlate it, didn't pay attention to it, and certainly didn't pass it on and give it in the briefings to the National Security Council. I can hear Condoleezza Rice, the Director of the National Security Council, saying, ''We never got anything specific.''

I want to be sure they get something specific. The Department of Homeland Security bill, now being debated on the floor of the Senate, could pass and you would not have any of the Departments included that failed on last September 11.

The CIA failed. The FBI had reports from the field that something is wrong. The field teams said people were coming in and getting flight training, and we ought to be looking into it. It didn't get past the second level. You have Coleen Rowley, from Minneapolis, saying in her memo that they could be flying a plane into the World Trade Towers. We knew the World Trade Towers were vulnerable. They had already attacked them in 1993. Here was a memo again that they didn't pay any attention to. She came all the way to Washington and talked to the folks in the FBI. Nothing was done. We know, of course, the National Security Agency had something that said ''Tomorrow is zero hour.'' That was in Arabic.

People tell me that I will hurt somebody's feelings if I put up a sign in Arabic that reads: try to hijack and go to jail. They say that is typecasting, profiling. Well, I mean to profile. I want it understood. That is exactly what occurred—in Arabic, ''Tomorrow is zero hour.'' They got that on September 10 of last year, but they didn't translate it at the National Security Agency until September 12—after the tragedy.

Here we have everyone running up and down saying we are going to make sure 9/11 never happens again. Not with this bill. You might tinker around with what we already have on course.

Incidentally, of the 170,000 proposed staff for this Department, we already have 110,000 of them together in one Department—the Transportation Department. We had a hearing this morning with Admiral Loy of the Transportation Security Administration. It is a blessing we have him, because he knows what he is doing. He is moving and working. He has the airports, the authority, Republicans and Democrats—everybody pulling together. He solved the biggest problem we have had with respect to airline security. But he has the seaport security, the rail security, and Amtrak—the rail stations, the tunnels, and everything else of that kind; they are all in one Department. We haven't been waiting.

If you had just the homeland security bill and it had an up-or-down vote this minute, without any amendments, I would have to vote against it. I don't want to mislead my constituents and say that I have voted for homeland security, because I know with that bill I have not voted for homeland security; I haven't done anything about the intelligence failures of 9/11 of last year.

So, Mr. President, that is the attempt of my particular amendment—to get the National Security Council beefed up. By beefing up, I mean the President did put out an order in February after he took office last year. You ought to see that particular order. It has included in various forms of the Council, the Overseas Private Investment Corporation, the Peace Corps, and everybody else. It was so inclusive as to really confuse rather than fix a responsibility, that the buck stops here.

I want to make it absolutely certain that this particular National Security Council needs to be beefed up, irrespective of whether we pass a Department of Homeland Security, irrespective of whether they put an Office of Homeland Security in the White House, as is presently constituted with Governor Ridge, or whether they call it a bureau—and I certainly would go along with Senator THOMPSON with respect to the matter of confirmation. I know if I were President, I would not want my staff subject to the confirmation and to have to respond to the Congress. You elected me the President, you have given me the responsibility, and the buck stops here. My Chief of Staff, head of my Security Council, and everything else like that, are my choice, and I have my team, and I don't have to worry about the politics over in the legislative branch as to confirmation and being responsible to subpoenas coming over. We cannot subpoena the Director of the National Security Council. We should not be able to just subpoena willy-nilly. They can say we just have to plead executive privilege.

Be that as it may, I think the distinguished Senator from Tennessee is off on the right track. He wants to make sure we don't have all this bureaucracy; in other words, if you are going to have a Department collecting intelligence, you have the CIA collecting intelligence, you have the National Security Council collecting intelligence, and you have got domestic intelligence collected by the FBI.

You have the office in the White House trying to correlate and work with it, but even that correlation has to be fused with international threats,

with foreign policy. There is only one place, and that is the National Security Council, as the Congress has already determined and as determined by none other than President Truman himself back in 1947, ''The buck stops here.'' I do not want to have another buck stop in an office here and a department here and another agency there and a CIA agent and a defense intelligence agent over here. We have intelligence coming out of our ears. The reason this is not understood is we do not have an independent Presidential commission investigating 9/11.

I was moved the other evening when we heard former Vice President Mondale emphasize the need for that particular initiative. I joined in that some months back, and I did so advisedly. The reason I do it is when you have the House and the Senate investigate intelligence, you have a political split. It is 50 Republican and 50 Democratic. Having served for 8 years on the Intelligence Committee I can tell you that we had categorical sworn testimony to a certain effect, that was known by the White House, and we had it on two occasions to verify it, but we never could make that public because of 50 percent being Republican. They just did not want it to surface because it was critical.

Incidentally, that same Intelligence Committee staff is not subject to a polygraph. I want to emphasize that for the simple reason that one cannot get a job with the Secret Service unless they are polygraphed. They cannot get a job with the Central Intelligence Agency unless they are polygraphed. They cannot get a job with the FBI unless they are polygraphed. More particularly, they cannot get a job out there as a Capitol policeman unless they take a lie detector test.

I was told that certain information was not revealed to me by the CIA, as a member of the committee, because my staff—not my personal staff but the staff of the Senate Intelligence Committee—had not had the proper clearance.

I will never forget I had a constituent who was arrested in another country, and I was trying to get him out of that arrest. I had to struggle to do it. The country involved said he was an agent of the CIA or had gotten briefings from the CIA. They categorically denied it. It was a year and a half to 2 years later, I went into one country and talked with the station agent. He said: Oh, Senator, you are from South Carolina.

I said: I certainly am. How is that?

He said: Well, I debriefed so and so. He was one of the best we ever had.

That is how I found out about the lie saying that they never knew anything about him.

I served on the Hoover Commission in 1954 under GEN Mark Clark and President Herbert Hoover investigating the intelligence activities of the United States of America. It was the Joe McCarthy days. We went into the CIA, the CID, the Army, Navy, air intelligence, Secret Service, Q clearance, and the Atomic Energy Commission, and all the rest of the intelligence divisions.

I have a slight background in intelligence. There is a lack of coordination. In addition to having the buck stop here, you have to have that coordination, and only the President of the United States can get that coordination. He has to get those involved on the Council. I have talked to Director Mueller of the FBI because I oversee his appropriation. He says he has gotten CIA fellows over there. But then I hear reports that they are not always exchanging the information.

That information exchange and getting it all to the one Commander in Chief to make a decision as to whether or not we have intelligence, for example, with respect to a need to invade Iraq, that has to be centralized, not at the Department of Homeland Security, not at an Office of Homeland Security, but fused at the level of the National Security Council, reporting directly to the President of the United States.

I have included in this amendment, in an advisory capacity to the Council, the Director of the FBI—as is the Director of the Central Intelligence Agency. He is also in an advisory capacity. But that one summary intelligence report that is put on the President's desk early every morning has to have the fused intelligence of domestic as well as foreign intelligence.

There is this idea now that we can beef up and fix that responsibility. I am very much concerned, as I have tried to point out with respect to this particular amendment—I am in step with the distinguished Senator from Tennessee. He is trying to avoid further bureaucracy and further politics with respect to confirmation. You never have the Director of the National Security Council confirmed or the chief of staff. The Presiding Officer of the Senate or this particular Senator would never have our chief of staff or administrative AA assistant confirmed by the Senate. That is just more bureaucracy. I agree with Senator THOMPSON on that. But it still does not fix that responsibility of the buck stopping there and that has to be at the National Security Council level with the President of the United States, and nowhere else. There has to be one place in case we ever have anything that is even like 9/11, instead of people running around finger pointing, saying: This Department said, no, but the CIA did not do it, but the FBI, well, the National Security Agency guy, no, we did not find out from defense intelligence.

They knew. They should have told. We have intelligence, tens of billions of dollars according to what I read in the newspapers. We have all kinds of entities running around with intelligence. Here we are going around and saying we are going to avoid a 9/11 by the institution of a Department of Homeland Security.

So this particular Senator has been working in that field. Namely, we passed 100 to 0, all Republicans and all Democrats, airport security. We got together and we reported out of the Commerce Committee, and it passed the Senate 100 to 0, all Republicans and all Democrats, seaport security. It is hung up over in the House with respect to the conference. I have at the desk rail security in an Amtrak bill by a vote of, I think it was, 20 to 3 out of the committee. So I have been working in this field. I sat down last fall with the new Director of the FBI, Bob Mueller. We gave him $750 million. We said: Straighten out your computers, get those all working, reorganize your department, institute domestic intelligence.

We never wanted to do that. We shied away from domestic intelligence. With the McCarthy days and the witch hunts, the un-American activities and all, we do not want to go down that road. But the terrorism war requires an intelligence effort at the domestic level. Fine, you can have a Department—we have it going right now, to tell the truth, and we are trying to reorganize it under a new Secretary.

According to GAO, it is going to take 5 to 6 years to get it organized right, so we are going to have to depend on what we have.

I have been working in that particular field and just got through with a hearing this morning with the new Administrator of the Transportation Security Administration in the Department of Transportation, and I think we are on course. But we are behind the curve with respect to seaport security. We are behind the curve with respect to rail security, with respect to actual intelligence security and correlating it. This bill absolutely leaves out all of the failures of last year, 9/11, and includes therein all of the good operative entities; namely, that there was nothing wrong with the Coast Guard that would be included in the new Department, there was nothing wrong with FEMA or the agriculture office that would be included in the new Department.

As they said in the Navy during World War II: When in danger, when in doubt, run in circles, scream and shout.

We are running around here. We have a Department going, and it is supposed to govern. I voted for homeland security. You did not. This bill could pass in the next 10 minutes and it would not correct the failings of September 11. My amendment to the Thompson amendment would fix that responsibility at the National Security Council, so the buck would stop there. The President of the United States would have to know what is going on. If he could not find out, this President would get rid of him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I listened very carefully to the comments of my

friend and colleague from South Carolina. Once again he makes a great deal of sense. I look forward to being supportive of his effort.

My colleague from Connecticut, Senator LIEBERMAN, is doing a remarkably fine job managing a very complicated piece of legislation. He deserves great deal of credit for taking on that responsibility. I have not had a chance to speak on the bill as of yet, but I don't want to miss the opportunity of congratulating him and thanking him, and all of our colleagues, for the work he has done and to thank Senator HOLLINGS for his tireless efforts on related matters.

The PRESIDING OFFICER. The Senator from Nevada.

MORNING BUSINESS

Mr. REID. I ask unanimous consent we proceed for a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

Mr. REID. If the managers will come back and want to yield more, we will be happy to consent to that.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

MENTAL ILLNESS PARITY

Mr. WELLSTONE. Mr. President, the Washington Post on September 9 had an editorial titled ''Equity for Mental Illness.'' I ask unanimous consent this editorial be printed in the RECORD.

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

[From the Washington Post, September 9, 2002]

EQUITY FOR MENTAL ILLNESS

Last spring President Bush announced a new commitment to improving mental health care for Americans. He cited unfair limits on treatment as one major obstacle to effective care and pledged to seek legislation by year's end to require that insurance plans treat mental illnesses in the same way they treat other medical ailments. Now time is getting short and the calendar is crowded, but Congress still should approve a parity bill, and Mr. Bush, recalling his pledge, should help make it happen.

This isn't the position we took when we last examined the subject, last year, and many of the issues that troubled us then haven't disappeared. Parity legislation is not a panacea. It won't help the uninsured. There's a risk that, by raising costs, it could cause some employers to weaken or abandon existing coverage or charge employees more for benefits. Congress tends to be much more interested in providing benefits than in dealing with their costs: That's especially true for a mandate like this, in which the costs would be borne almost entirely by the private sector. Businesses wrestling with double-digit increases in health care costs are fighting any move that would add even marginally to the problem.

But two factors now seem to us to outweigh those concerns. The first is practical: Experience in both the federal employees' insurance system and in states that have enacted their own parity laws argues that, by managing care, insurers can move toward equal treatment without crippling cost increases. The Congressional Budget Office has estimated that enacting the parity bill now pending in Congress would add just less than one percent to the overall national cost of insurance premiums, though specific costs will vary from business to business depending on what benefits are offered. Insurers, CBO noted this spring, still will be able to exercise the management tools that have been used in the past to decide what treatments are appropriate and warranted, and to hold down expenses. The right response to the gathering health care crisis is to fix the system, not make the mentally ill bear a disproportionate burden.

The second factor is one of fundamental fairness, and of removing the stigma that for too long has shrouded mental illness. Many mental disorders can be clearly diagnosed and effectively treated; some can't. The same can be said of cancers. The pending legislation would require large employers who offer coverage for mental and other illness to handle all disorders in essentially the same way: You can't put treatment limits or financial requirements on mental health benefits that are not imposed on physical ailments. Insurers would not have to pay for what is not medically effective. It's not a huge step, but it would help some people get the treatment they need. It's right to level the field.

Mr. WELLSTONE. I will read the opening paragraph:

Last spring President Bush announced the new commitment to improving mental health care for Americans. He cited unfair treatment as one major obstacle to effective care and pledged to seek legislation to require the insurance plans to treat mental illness in the same way they treat other medical ailments. Now time is getting short and the calendar is crowded, but Congress still should approve a parity bill, and Mr. Bush, recalling his pledge, should help make it happen.

This isn't the position we took when we last examined the subject.

As a coauthor of this legislation with Senator DOMENICI, I am gratified and moved that the Washington Post has come out with a very strong editorial in favor of parity in mental health coverage. This legislation is called the Mental Health Equity Treatment Act, with, by the way, 67 Senators, two-thirds of the Senate, and 243 Representatives, including authors MARGE ROUKEMA and PATRICK KENNEDY, bipartisan in both the Senate and the House, in support of it.

The Washington Post says it is not a be-all or end-all. The Washington Post is absolutely right. But it at least is a huge step toward ending the discrimination. And more or less, I argue, once we have the coverage in the plans, the care will follow the money. And there will be more of an infrastructure of care for people who do not get any help.

I don't know what has happened with the negotiations. There is no stronger advocate than my colleague, Senator DOMENICI. I was excited when the President announced his support. I thought the White House would bring people together and we would have agreement in the House and the Senate and we would pass legislation. Frankly, I have not seen a lot of negotiation take place. It has been a huge disappointment to me. I hope the White House will become fully engaged. It is not too late.

The President went on record as saying: I want to see this legislation passed; I want to see this discrimination ended. We need to see those words backed by action.

What we call the Mental Health Equity Treatment Act has tremendous support. If the White House would become engaged in this, we can pass this legislation. There are any number of different vehicles we still have this month. I believe we can attach this legislation to one of those vehicles and one of those appropriations bills or other pieces of legislation. This legislation will pass. It will pass for a couple of reasons. It will pass because all of the families that have been affected by this illness—and there is not anybody in the Senate or the House who does not have a member of the family who has not been affected one way or the other—have stepped forward. They have become their own leaders. They have become their own citizen lobby. They basically say it is time to end this discrimination. This is major civil rights legislation.

It will pass. Last time, this became part of the Education, Labor, Health and Human Services appropriations bill. Both Senator HARKIN and Senator SPECTER were strong advocates of this matter when it went to conference committee. We had near unanimous support in the Senate. Then it was blocked last session by the House Republican leadership and the White House. But there were a number of Republicans who said: We are very uncomfortable voting against this. Several of them, I believe, have their own personal experiences in their own families or with friends with mental illness. Several of them said: Look, if this comes back a year later and nothing has been done, we do not want to vote against this.

I come to the floor to include this very important editorial in the Washington Post in the Senate RECORD to bring this to my colleagues' attention. This is a change of position on the part of the Washington Post. The Washington Post points this out in their editorial.

Second, I remind the President that he has made a commitment to helping pass this legislation this session, not to put it off year after year after year. I hope he will back his words with the deed, the good Hebrew word, ''mitzvah.''

Time is not neutral. We do not have a lot of time yet. There is a lot of good will in the Senate, both by Democrats and Republicans. Certainly, one of the key leaders is Senator DOMENICI. Nobody has done more. I mention MARGE ROUKEMA and PATRICK KENNEDY on the House side. Senator REID has done so much work. I could go on and on. The White House has been semi-missing in action. We need them to become engaged. I have no doubt we can pass this

in the Senate either on its own or as part of this appropriations bill or another bill. I worry there would be an effort to block it.

I think the President can do something wonderful. I think he can do something very positive. I think not only would he get a tremendous amount of support in the Senate and the House, but he would get a lot of support from families and people all across the country.

For my own part, working with my colleague, Senator DOMENICI, I am ready to put this amendment on to a bill. I am ready to do that. Certainly, we are going to do that in the Senate. We are going to get this into a conference committee. If we get the support from the President, we will pass this legislation. It would be win-win-win.

The insurance industry will not love it. That is true. They will not be in love with it. But it will be a win for the White House for doing something very good for people. It will be a win for both Democrats and Republicans, Republicans and Democrats. Most important of all, it will make a positive difference in the lives of many families and many people across this country.

Let's get this done. Let's get the support from the White House. Mr. President, you said you were all for this. We need you. We need you to be engaged. We need you to exert leadership. We need your support. If we get your support, we will pass this legislation.

As we look toward September 11, and commemorate this tragic day in America's history, we can be proud of the way in which the American people rallied to support those who suffered such unspeakable losses in their lives. Many of us still feel the shock and the fear of that day, and while we can take great pride in the ways in which our country has recovered, we know that for many, the grief and the trauma is still sharp and constant. We know more about how such events can leave scars on the psyche of a country, as well as individuals. We know that many who had suffered from mental illness prior to September 11 may find they need treatment again. We know that many in New York and other parts of our country are suffering from post-traumatic stress disorder. We show our strength as Americans when we respond not only with our strength and outrage toward the perpetrators of this horror, but also with compassion and support toward the victims.

I was pleased to sponsor support for programs that provided emergency mental health care for survivors and emergency workers and their families in the Senate's bioterrorism bill and other legislation. But we know that more is needed to improve the overall infrastructure of mental health care in our country's response to terrorism. People with mental illness are routinely denied decent mental health care. They are required to pay more for their care, and are given less access, simply because their illness is located in the brain, and not in another part of the body. While we can be proud as a country for our ongoing fight to reduce stigma against the mentally ill, we here in Congress should not be so proud. Nor should the President. We have not yet done our job in truly helping those with mental illness by ensuring full mental health parity in insurance coverage.

The Mental Health Equitable Treatment Act, which I have sponsored with Senator PETE DOMENICI, is poised to pass in this congress. This bill is more than ready to move forward and to be signed by the President. S. 543 enjoys the support of two-thirds of the Senate, 67 Senators, the majority of the House, 243 Representatives, and about 250 organizations representing health care, education, law enforcement, disability, religious organizations, and many others. On June 6, more than 2,000 people rallied at the Capitol in 100 degree heat to demand that this legislation move forward. On April 29, President Bush publicly proclaimed his support for full mental health parity and vowed to work with Congress to make sure he signed a full mental health parity bill this year.

And today, the Washington Post, which has historically questioned the value of mental health parity, reversed its position in support of full mental health parity. The Post states on its editorial page, ''Now time is getting short and the calendar is crowded, but Congress still should approve a bill, and Mr. Bush, recalling his pledge, should help make it happen.''

Throughout this Congress, I have continued to work with Senator DOMENICI, and with Senator KENNEDY, who, as Chair of the HELP committee, has been so helpful in moving this bill forward. Senator DASCHLE has stated many times that this legislation is one of the priority issues for the Senate floor. I have worked with White House staff to help clarify the intention of Congress in shaping this legislation—that we expect it to be a comprehensive bill that does not discriminate against people by diagnosis. We have been open and available to discussing issues of concern to other members and the White House. But we are still waiting? Why? Because the opponents of this bill—the insurance industry—continue to try to influence their friends at the White House and on Capitol Hill to either kill this bill, or weaken it so much that it would provide very little help to those who are praying for its passage.

Every argument the opponents have tried to put forward—whether it is cost, or science, or treatment effectiveness—every one of these arguments has been fought and won by the supporters of this bill. Opponents have challenged the CBO cost estimate of this bill not once, not twice, but three times, to no avail. The cost of S. 543 is low: the estimated increase in premiums for full mental health parity, covering all diagnoses, is 0.9 percent.

The opposition also distorts the purpose and intention of the bill by trying to limit it to only 5 percent of mental illness diagnoses. They know there is no scientific or even economic basis for restricting coverage in this way, but they continue these destructive methods as one more way to try to kill the bill. They resort to ridicule by trivializing the pain and reality of mental illness and the toll it takes on the lives of those with this illness and their families. This is an outrage, and we cannot allow such tactics to destroy the democratic process.

We all are very aware of how much work is remaining on our Senate calendar, much of which is so important to our country. But here, in this piece of legislation, we can show true bipartisan support, along with solidarity with the President, for those with mental illness. This bill will help those with chronic mental illnesses, those with acute depression, anxiety, or PTSD resulting from the trauma of September 11, children with autism or eating disorders, and the millions of other Americans with mental illness. Without treatment, mental illness can worsen, and can even lead to death. We cannot as a country allow people with mental illness to be treated as second-class citizens any longer. As the Post said today,''The right response to the gathering health care crisis is to fix the system, not make the mentally ill bear a disproportionate burden.''

When President Bush spoke in support of full mental health parity, we in the Senate had already done our job. We had invested many months in bipartisan meetings to shape a bill that respected the business community, the insurance industry, and the needs of those with mental illness. This is why this bill has the support of the majority of Congress and about 250 organizations who represent millions of Americans.

It is time for President Bush to speak again, to publicly support this bipartisan, bicameral bill that clearly has the support of the American people. The House has finally held hearings on this, and I want to thank those committees for doing so. The hearings made it possible for witnesses to expose the arguments of the insurance industry for what they are. The opposition is based on nothing more than discrimination and protecting the corporate bottom line.

I want President Bush to be confident that he has my continued support to do everything possible to pass this legislation. But I ask him now to follow through on the promise he made in New Mexico to support full mental health parity. This legislation is ready to move forward. The President asked to sign a full mental health parity bill. There is nothing stopping this bill except the politics of the insurance industry. I ask President Bush to put the needs of those suffering from mental illness first, to help prevent further suffering and deaths, and to ease the

pain of those scarred by September 11 by helping to make treatment available to those who need it. I ask him to urge Republican Congressional leaders to support this legislation. I ask him to endorse S. 543/H.R. 4066.

Within the constraints of the Senate calendar, this bill may move forward independently, or we may again attach it to an appropriations bill, as we did last year. With the tremendous support for this bill on and off the Hill, we have these options. However, when the bill moved forward on LHHS appropriations in 2001, 10 House members voted to kill this bill, and President Bush wrote a letter to Senator DOMENICI promising to help pass it this year. I ask the President to follow through on that promise. I ask him to prevent the insurance lobby from killing this bill again. Our country needs this legislation, and the majority of Americans have made it clear that they want it now.

I look forward to the day when people with mental illness receive decent, humane, and timely mental health care. It will be a good day for our country. I ask the President to make sure that this day comes soon.

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.

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, I know there are Senators who wish to travel to their States to accommodate the remembrance ceremonies with which many are involved tomorrow. As a result of that understanding and in appreciation of the need for travel, it is my expectation to withhold scheduling any additional votes today and then to announce that there will be no votes tomorrow.

So Senators who have an interest in traveling are welcome to do so. We have had a number of requests from Senators on both sides of the aisle. To accommodate those requests, that will be the decision.

There will be votes early, at least I should say midmorning, on Thursday. Senators should be prepared to come and participate in debate and be prepared to vote as early as 10 or 10:30 on Thursday.

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

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

ASSESSING IRAQ'S MILITARY CAPABILITIES

Mr. DURBIN. Mr. President, as we approach the anniversary of the September 11 tragedy, our Nation is in the midst of a national debate about war with Iraq.

I am sure the presiding Senator recalls, as I do, graphically, that day just a year ago, on September 11, when the Capitol Building was evacuated. During the course of that evacuation, it finally hit me, as I stood on the grass outside the Capitol and was looking at this building, I was looking at the last building ever invaded by a foreign army on the continental United States soil, when the British attacked the Capitol during the War of 1812. That struck me as I stood there and reflected that once again an enemy had struck the United States home.

I never would have imagined, when I came to work that week, that by the end of the week I would be voting unanimously with my colleagues in the Senate, Democrats and Republicans, to give to the President of the United States the authority to go to war and the resources to go to war. It happened so quickly, but it was the right thing to do. We understood that the United States was in peril, was in danger—and still is—from the forces of terrorism around the world. We stood as one, in a bipartisan way, to back the President, to fight this war on terrorism, to go after those who were responsible for the September 11 tragedy which struck the United States.

Now, here we are a year later. The war on terrorism continues. Few, if any, would say that it is resolved or that we have won it. And we are debating the possibility of another war against another enemy. Osama bin Laden has not been captured or accounted for. The major leaders in al-Qaida are still on the loose somewhere. We believe al-Qaida still has a network of sleepers in 60 nations around the world. Afghanistan, the first battleground in the war against terrorism in the 21st century, is still not a stable and safe country. Hamid Karzai, the President of Afghanistan, barely survived an assassination attempt last week. We have thousands of American troops still on the ground there. I had the honor to meet with some of them last January; our hearts and prayers are with them every single day. But that war on terrorism still continues.

Yet the administration comes forward and tells us we still have to think about the possibility of another war, in this case a war against Iraq. Indeed, it is possible that within a few days or maybe a few weeks the people of the United States of America, through their Members of Congress, will be asked to vote on whether to go to war against Iraq. It is hard to believe the events are moving so quickly that we would be declaring a second war within little more than a year of the September 11 attack.

Last Sunday on ''Meet the Press,'' Vice President CHENEY indicated that the administration would like the Congress to vote on Iraq prior to adjourning this October. Do you realize that is a matter of weeks—weeks, before we would be called on to make this momentous decision? Because this is not a matter of high-altitude bombing when it comes to Iraq. We wouldn't have the luxury of that type of warfare. We are talking about, in the President's words, ''regime change.'' We are talking about removing Saddam Hussein from power, not peacefully but with force. That would involve, I am afraid, land forces invading, the type of war we have not seen in many decades in the United States.

We recall the Persian Gulf war. It was a much different situation, a little over 10 years ago, precipitated by Saddam Hussein's invasion and occupation of Kuwait: The formation of a coalition led by the United States but also with the United Nations and allies around the world, including many Arab States who joined us.

We fought to remove Saddam Hussein from Kuwait. We were successful in doing that. We had logistical support. We positioned our troops in Saudi Arabia and nearby. We had a broad coalition. We were forcing Saddam Hussein out of a territory he had occupied.

This is a far different challenge if we invade Iraq—different in that the coalition today consists of England and the United States, and no others. Logistical support is hard to find because the countries surrounding Iraq have basically told us they will not support us in this effort. Frankly, we would be fighting Saddam Hussein on his own territory, which gives him a home field advantage, which most military experts concede. Would we be successful ultimately? Yes—at some cost and at some price over some period of time. I have no doubt the American military—the very best in the world. Hussein would be gone. I can't tell you what it would cost.

In the midst of the Kuwait situation, Saddam Hussein didn't use chemical and biological weapons, which we believe he has, but instead he decided to fire Scud missiles on Israel—kind of a third party to this conversation—hoping, I am sure, that he would destabilize the Middle East and cause such an uproar and consternation that the United States would withdraw. It didn't work. Sadly, Israelis died in the process.

This time, we are not talking about moving Iraqi troops out of Kuwait but actually killing and capturing Saddam Hussein. To what lengths would he go in response? What victims would he seek? He doesn't have missiles to reach the United States, but he has the capacity to train what missiles he does have on nearby neighbors such as Israel.

Vice President CHENEY said that before the October adjournment, Congress would be asked to ''take a position and support whatever the President needs to have done in order to deal with this very critical problem.''

By most definitions, that is article I, section 8, clause 11, of the Constitution

which gives the Congress, and the Congress alone, the power to declare war. The people who wrote that Constitution—the Founding Fathers—had seen a king in action, a king who had dragged his country into wars, and said that the United States would be different. We will never have a President to take us into a war. The American people will make that choice through Members of Congress—Members of the House elected every 2 years, and the Senate every 6 years. They will make the call, and do it very explicitly.

Vice President CHENEY is saying to Congress: It is your turn to make this decision.

The decision to go to war is the most significant decision any government can make, and Congress plays an essential role. We and the executive branch need to have all the relevant facts analyzed as thoroughly and objectively as possible before making the decision to put America's military men and women in harm's way.

Senior administration officials publicly identified Iraq's development of weapons of mass destruction and the potential of Iraq's transfer of these weapons to terrorist groups as the primary threat to our Nation. Ultimately, our Government must rely on the intelligence community to make the most thorough and unbiased analytic assessment of the current and projected status of Iraq's weapons of mass destruction infrastructure, regardless of whether the analytic judgments conform or conflict with stated U.S. policy. In other words, we are saying that the intelligence community should give us the unvarnished truth, tell us what Iraq has and its likely capability.

It is interesting, if you look at the countries that the Bush administration designated as part of the axis of evil—North Korea, Iran, and Iraq—of the three, the military capabilities of North Korea and Iran far surpass the capability of Iraq. We know that in the case with North Korea, and probably Iran as well, they have nuclear weapons today. We also know they are working on developing long-range missiles. We believe North Korea is the closest to developing missiles which could make it to the shores of the United States. But we think Iran is trying to do the same thing.

All that I am telling you is a matter of public information. We know this. We know what their capability is. When you look at the status of the three countries which the President said are the axis of evil, Iraq clearly ranks third. If all three are threats and enemies to the United States, why is it that the administration has focused in on Iraq, which to our knowledge does not have nuclear weapons today nor the ability to deliver any type of long-range weaponry against the United States?

As a member of the Senate Select Committee on Intelligence, I am deeply concerned that the intelligence community has not completed the most basic document which is asked of them before the United States makes such a critical life-or-death decision.

It is within the power of the Director of the CIA, George Tenet, to order a national intelligence estimate, known as an NIE. National intelligence estimates bring together all the agencies of the Federal Government involved in intelligence, sits them down, and collects and coordinate all of their information to reach the best possible conclusion he can come up with.

I was stunned to learn last week that we have not produced a national intelligence estimate showing the current state of weapons of mass destruction in Iraq. What is incredible, with all of the statements made by members of this administration about those weapons, is the fact that the intelligence community has not been brought together.

If we learned anything from September 11 of last year, we learned, when it came to the intelligence out there at the FBI and the CIA and other agencies, that no one ever brought it together. Had we been able to bring it together by September 10, could we have avoided September 11? I am not sure. I wouldn't say that. But we certainly would have appreciated the threat a lot better, and perhaps we would have been prepared a lot better. Maybe—just maybe—we might have avoided some or all of the tragedy. But we didn't do it.

Time and again since then as we looked back on last year, we have said we have to be better prepared, with better communications and better coordination of information from outside the country and inside, and bring it all together so we can make the best decision.

When we are talking about a possible invasion of Iraq and a war against Iraq, why haven't we really created the most basic document that we have the power to create in this Government—the national intelligence estimate—so we know exactly what we may be up against in Iraq? It has not been done.

This morning, I handed a letter to the deputy to Director Tenet asking that he give it to the Director personally, asking that they move as quickly as possible to establish and create this national intelligence estimate. Once it is established, I think we should meet on Capitol Hill—the Senate and the House Intelligence Committees. We should have classified hearing on things that can't be discussed publicly about this NIE, and then a public hearing as well to share with the American people, without compromising in any way the safety and security of the United States, as much information as we possibly can about the current state of affairs in Iraq.

National intelligence estimates are the Director of Central Intelligence's most authoritative written judgments concerning national security issues. They contain the coordinated judgments of the entire intelligence community regarding the likely course of future events. They provide not just a snapshot of a particular national security problem today but a coordinated assessment of how that problem might evolve over the next several years. This is the vital policy planning tool for our Nation's policymakers.

Let me tell you the many components of the U.S. intelligence community are worthy agencies. Each and every one of them does a good job of intelligence collection—the Central Intelligence Agency, the Defense Intelligence Agency, the Department of State Intelligence and Research Bureau, and the Department of Energy's Intelligence Office which is critical to doing an assessment of nuclear capability, and the National Security Agency, just to name a few. They provide analytic assessments on an hour-to-hour, day-to-day basis. They can tell us better than any other group the current situation in Iraq. We need to know what their consensus opinion is before we decide in advance whether or not this war should be undertaken. I firmly believe that policymakers in both the executive branch and the Congress—the President, the White House, the Department of Defense, the Department of State, and the Congress—would benefit from the production of a coordinated consensus document produced by all relevant components of the intelligence community on the current and projected status of Iraq's weapons of mass destruction.

The letter I sent to Director Tenet asked him to initiate this process as quickly as possible and to produce the NIE within several weeks. I requested that an unclassified summary of it be produced, as has been done in the past, so the American public can better understand this vitally important national security issue.

Let me tell you that during the time I served in the Congress—the House and the Senate—there is no moment I recall with more pain in my heart than the debate a little over 10 years ago about the Persian Gulf war. After we persuaded President Bush's father to follow the Constitution, to come to Congress and to seek the authority of the American people and the permission and approval of Congress before initiating that war, we then engaged in a debate—a long debate. I think virtually every Member of the House of Representatives took the floor over a 2- or 3-day period of time. The House met continuously. In that period of time, each of us stood in the well of the House of Representatives—as we did in the Senate Chamber here—and spoke our hearts about the challenge we faced and the vote we faced. We knew that if a vote were cast to go to war, innocent people would die and that American soldiers and American sailors and marines and airmen would have their lives on the line.

It meant a lot to me personally because of a friend of mine, who was a Marine at the time—I knew his parents well. They were from Springfield, IL. I

had known his mother and father for many years. They came to me early on when the debate got started and said: We are worried to death about our son. Really, our hope for the future of our family is in the Marines. He is there in the Persian Gulf, and we sure don't want to see anything happen to him.

I assured them that I would think about him constantly as I made my decision on the Persian Gulf war. Of course, we all recall what happened. Finally, after the approval was given, the war was initiated. The land war did not take but 2 or 3 days and it was over. And I thought, at the time, what a great relief it was to be able to call his parents and tell them that it had ended so quickly and so well.

Little did I know that Christian Porter of the U.S. Marine Corps from Springfield, IL, was one of the several hundred American casualties in that war. This young man, whom we all worried about so much, was the victim of friendly fire.

I went to his funeral service in Springfield and to the veterans cemetery afterwards. My heart was broken for that family. But it was a good reminder for this Member of Congress—now a Member of the Senate—to remember what war is all about. It is about the potential loss of life of many innocent people. It is about being in harm's way for many Americans in uniform.

We have to take this responsibility very seriously. And if we are going to take it seriously, we must insist, in Congress, that the administration produce the clear and convincing evidence that an invasion of Iraq is the only option available to us to bring this potential threat under control.

If this administration cannot produce a National Intelligence Estimate which comes to that same conclusion, then, frankly, those of us who have listened to the heavy rhetoric over the last several weeks will understand that, when it comes to the evidence, there is something lacking.

It is time for the administration to rise to the occasion, to produce this evidence, as has been asked for and been produced so many times in the past when America's national security was at risk. We cannot accept anything less than that before any Member of the House or the Senate is asked to vote on this critical question of going to war.

We have to say to the administration: Bring forward your best evidence and your best arguments so that, ultimately, when we make this momentous and historic decision, we can go back to the States and people who we represent and say that we have dispatched our responsibility in a credible, good-faith manner, that we have done everything possible to understand the nature of the threat, and the best response of the United States.

War is the last option. We have to know every element before we make that decision. We have to exhaust every other opportunity before we reach it.

On Thursday, the President will be at the United Nations in New York. I am certain he is going to remind them that Saddam Hussein is a thug, that he has been a threat to his own people, to the region, and to people around the world with his weapons of mass destruction. He will, undoubtedly, remind them of his cruel invasion of Kuwait, which mobilized the United Nations to defeat him and to displace his troops from Kuwait. He will, undoubtedly, remind them of what has happened since: when the United Nations resolution, which condemns and prohibits Iraq from ever having weapons of mass destruction, has been ignored by Saddam Hussein; how the inspectors, some 4 years ago, were pushed out of his country; and how this man has literally, as a thug, ruled this nation in a manner and form that most civilized countries in the world find reprehensible.

All of those things, I will concede, are true. But the next question facing the United Nations and facing the United States and its people, through its elected representatives in Congress, is: Is it the right thing for us to do?

We cannot make the right decision without the best information. And the production of the National Intelligence Estimate will give us that information.

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

The PRESIDING OFFICER (Mrs. CLINTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

STAYING IN TOUCH WITH THE AMERICAN PEOPLE

Mr. BYRD. Madam President, the President talks a lot about the coffee shop in Crawford, TX, which brings to mind Uncle Josh and Aunt Nancy's Smokehouse in West Virginia where I have been talking with people for a long time. You ought to come down to that shop sometime—Uncle Josh and Aunt Nancy's Smokehouse. I talk with those people quite often. We have one of those in every State, I suppose. I suppose each of the Senators here has a coffee shop such as the one in Crawford, TX, or like Uncle Josh and Aunt Nancy's Smokehouse in their State. So I have one of those.

It is good to get back home and kind of get the feel of the people and ''press the flesh'' a little, as Lyndon Johnson used to say, and know what they are saying back there in that coffee shop.

But, Madam President, despite all of his talk about staying in touch with the people at the coffee shop in Crawford, TX, the President seems to have lost touch with the needs of the American people. I worry that the extra caffeine must have affected the President's ability to take the pulse of America. After looking at some of the administration's actions over the past few weeks, I am almost certain of it.

At almost every turn, the President seems to be a day late and a dollar short. Let me just give a few examples. On July 16, the House added $700 million of supplemental funding to the Interior bill to fight fires that are raging across this Nation. The administration, through the Office of Management and Budget, wrote to the Congress and strongly objected to that funding. Yet on August 28—just 6 weeks later—the President requested $825 million for emergency firefighting funding. It is a complete about-face.

In mid-July, the White House, through the Office of Management and Budget, again pressed Congress to reduce the size of the supplemental that was then in conference. The OMB Director, Mitch Daniels, recommended that conferees on the bill reduce funding for the Transportation Security Administration by $219 million. The conferees acceded to the administration's request. Yet on September 3—just 6 weeks later—the President requested that $219 million and an additional $327 million for the Transportation Security Administration. That is $546 million that, 6 weeks earlier, the administration did not think was necessary.

In late July, Congress approved $200 million for economic assistance to Israel and $50 million of disaster assistance for Palestinians, which was not requested by the President. The President had until September 1 to designate the funds as emergency and, thus, make the funds available to spend. The President rejected the funding on September 1. He could have had it then. All he needed to do was sign his name. No, he rejected it on September 1. But 2 days later, on September 3, the President requested—you guessed it—$250 million for the very same purpose. Are we seeing a pattern here? It is as plain as the noonday Sun on a cloudless sky. On September 4, the administration wrote Congress to stress its desire for Congress to restrain spending by keeping spending for the fiscal year that begins October 1 to a level of $759 billion, and yet on August 2 and September 3 the President requested $1.3 billion of additional funding and proposed no offsets for that spending.

The Congressional Budget Office now estimates that the President has requested $760.5 billion for the fiscal year that begins October 1, and yet the President insists we spend only $759 billion—that far and no farther, $759 billion. This President seems to rely on the same types of accounting techniques with regard to homeland security that are causing such problems in corporate America.

The President and his administration love to tell Americans that we are constantly at risk of new terrorist attacks. The President's Cabinet members have been out in great force time

and time again putting the country on alert for a possible terrorist attack. We have been told to watch the bridges, watch the fuel trucks, watch the banks. Remember the little boy who cried wolf too often, too many times?

So we are constantly at risk, the administration says. In fact, just this afternoon the administration raised the Nation's level of alert from yellow to orange, believing there is a high risk for a terrorist attack.

I have been thinking that, too. I suppose most people in this country have been concerned about that as well. Apparently, security concerns have grown by such an extent in the last 24 hours that Americans at home and around the world are being told to be extra vigilant and alert. Specifically, the Attorney General pointed to new threats aimed at embassies overseas, at our Nation's transportation network, and at the symbols and monuments of our country. That is why Congress overwhelmingly included in the emergency supplemental package $10 million for embassy security. That is why Congress passed $17.7 million for security at the Washington Monument and the Jefferson Memorial. That is why Congress approved $150 million for airport security. That is why Congress approved another $42 million for security at air traffic control towers.

Congress has not been asleep at the wheel. Congress has been acting like Paul Revere in saying: Alert, rise, for the day is passing, and you lie sleeping on. Others have girded their armor and forth to battle have gone. So Congress has been sounding this alert. That is why Congress approved $150 million for airport security and another $42 million for security at air traffic control towers, but the administration rejected those items and labeled them as wasteful spending.

Wasteful, my foot. There is nothing wasteful about investing in the security of the American people. Hear me down there at the other end of the avenue. Hear me, Mr. President. There is nothing wasteful about investing in the security of the American people who send us to Washington, whose taxes pay the bills, whose sons and daughters give their blood in wars—the American people.

The only thing wasted by the President's rejection of these funds is time, time necessary to put these dollars to work and put them to work rightly, prudently, carefully, to put these dollars to work and to protect American lives.

The administration is right to warn America when it learns of new, credible terrorist threats, whether at home or abroad. However, Americans must have the tools to secure our homeland. The homeland defense problem cannot be solved simply by moving boxes around on an organizational flowchart or by ''now you see it, now you don't'' funding shenanigans.

A few weeks ago, Congress approved $2.5 billion for homeland defense programs, $2.5 billion that was put into legislation by this Senate through its Appropriations Committee, in a bipartisan display of support; $2.5 billion for homeland defense programs to secure our ports, our river ports, our seaports, to secure our airports, to secure our nuclear facilities, to train and equip our Nation's police and firefighters. Those are the people who ran up the steps, those are the people who sought to protect the lives of others, and those are the people who gave their own lives to save the lives of others. Those are the people who have now left widows and orphans, happy dreams forever gone. That is what Congress was thinking of when we put that money in the bill. This funding would have addressed the very security concerns the administration outlined this very afternoon.

The first question that was ever asked in the history of the human race was, ''Where art thou?'' When God came in the cool of the day, walking in the Garden of Eden looking for Adam, Adam was in hiding. God said, ''Adam, where art thou?'' That was the first question that was ever asked in the history of the human race: ''Adam, where art thou?''

I say, where were you? The people will say to the administration, where were you? Where were you when the Congress passed that measure providing $2.5 billion for the security, for the welfare, and for the protection of the American people? Where were you, Mr. President? Where were you? It was up to you. Just the signature of a name would have given the $2.5 billion to the firefighters, the policemen, the health emergency people, would have given you that money for the protection of our nuclear facilities, for the protection of our ports of entry, for better border security to the north, for better border security to the south, for more food inspectors. Why did you turn your back on that money for the security of the American people?

I say again, that funding would have addressed the very security concerns the administration outlined this afternoon. Yet on September 1, the President chose to cancel those funds, turn his back on those funds, push them away. I wonder what goes into that coffee in Crawford?

Today, the Senate passed a drought relief amendment by a 79-to-16 margin. This amendment would provide disaster assistance to our Nation's farmers and ranchers in the face of unprecedented drought. That ought to be pretty easy to understand. I have lived in northern Virginia now for 50 years, the same number of years that I have served in Congress. In those 50 years, I don't recall ever such a drought as we have experienced and such weather as we have experienced as this year. I have been accustomed to pulling up my tomato plants, cutting up the stems, and putting them in the trash bags to be hauled away by the garbage truck. And I have been accustomed to doing that in mid-September or late September. This year, forget it. I did it in mid-August. Those vines were dying. The blossoms that had come earlier had never flowered into tomatoes. Don't think I am a great tomato producer. I only have three or four vines. I have planted as many as seven or eight during the years I have been in McLean, but that is just from a wee tomato farmer.

This is a drought. I have lived now 85 years, lacking a very few days—85 years. I have seen something happening out in the heavens as we witnessed pestilences and droughts, floods and fires. Something has happened. This was an unprecedented drought as far as I am concerned. I am probably not going to put out any tomato plants next year. The country will not miss my tomato plants, but the country misses the signature on that $2.5 billion that would have been turned loose, that would have been there for the country, for the protection of the people, for all these items and more that I have mentioned.

Yet the President has told our farmers and ranchers that he opposes this funding. How about that? He has told the farmers and ranchers he opposes this funding. But he did not oppose a $1.3 trillion tax cut that goes for the most part to the wealthiest in this country. Those people never lived on my side of the tracks, the people who are going to be the beneficiaries of most of that tax cut. They did not come from my side of the tracks. No, the people on my side of the tracks have not reaped any benefit from that tax cut. My side of the tracks, yes, had a coffee shop on that side, too, but not many people could afford 5 cents for the cup of coffee.

So when the President tells our farmers and ranchers he opposes this funding, without this help many farms and ranches will dry up and disappear. Congress knows how to take the pulse of the Nation and to respond to the needs of the people. There are people in this Congress who may have lived on the other side of the tracks, mingled with people not just in the Crawford coffee shop but in Uncle Josh's and Aunt Nancy's Smokehouse from where the common people, the ordinary people come.

If we wait for the President to change his mind, there may be no pulse to take for our farmers and ranchers. Once again, the President seems to be a day late and a dollar short. It is time for the administration to wake up and smell the coffee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

Mr. SPECTER. Madam President, I understand that on my call for regular

order, we go back to the pending bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Then I do call for the regular order.

HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER. The Senate resumes consideration of the pending bill.

Mr. REID. Was there a unanimous consent request, Madam President?

The PRESIDING OFFICER. The Senator from Pennsylvania asked for the regular order.

Mr. REID. What is the regular order?

The PRESIDING OFFICER. The bill, H.R. 5005.

Mr. REID. If my friend would allow me to speak, it is my understanding that we were in a period of morning business with Senators allowed to speak for up to 10 minutes each. Would it not take consent to get out of that?

The PRESIDING OFFICER. Morning business occurs by consent. The regular order was the legislation.

Mr. SPECTER. Madam President, I think I have the floor. If I might just comment, what I would like to do is speak on the bill.

Mr. REID. We would like to hear you speak. But I say to my friend, there would be no amendments. We have the Thompson amendment pending, and we would have to have consent to set that aside, or I guess you could offer a second-degree to Senator THOMPSON's amendment. But you are not planning to offer an amendment?

Mr. SPECTER. Madam President, I don't plan to offer any amendments or anything unusual. I want to make some comments on the pending bill. I don't plan to do anything that would require the presence of anybody here to safeguard their interests. I don't wish to do anything that would be construed as contrary to anybody's interest. I would like to have people here who are on the bill.

Mr. REID. I only say I am sorry I have to leave the floor because I would love to hear the statement of the Senator from Pennsylvania. I say this as affirmatively and sincerely as possible. The Senator always makes statements that are good and direct, and I am sorry to have interrupted him, but I didn't know what was going on.

Mr. SPECTER. I am sorry the Senator from Nevada will not be here to hear my presentation, but there are 97 other Senators who could come. Counting the Presiding Officer and myself and the Senator from Nevada, that leaves 97 others. That is probably more people than are watching on C-SPAN 2, as a matter of fact, Madam President.

AMENDMENT NO. 4513

The pending amendment seeks to speak to the provisions of the bill relating to a National Office for Combating Terrorism, and I believe the thrust of the provisions for this national office are well founded as a coordinating mechanism. But after discussing the matter in some detail with the author of the bill, the distinguished senior Senator from Florida, and considering the views of the President, who does not want to have a confirmed officer in the West Wing but is looking for an adviser, as former Governor Ridge who is now his adviser, as Dr. Condoleezza Rice is the National Security Adviser—it seems to me there are strong reasons for us to avoid this legislation to have a Secretary of Homeland Security who will be confirmed and then have a Director for the National Office for Combating Terrorism, because all of these duties, in my opinion, can be handled by the Secretary of Homeland Security. So the objectives which the senior Senator from Florida seeks to accomplish can be accomplished without adding this additional office. I know the President does not want another officer confirmed by the Senate. He didn't want one in the first place, and didn't want a Department of Homeland Security, but now has acceded.

Senator LIEBERMAN and I introduced the legislation for a Department of Homeland Security and a Secretary of Homeland Security last October, and eventually the President acceded to that necessity, and there is now a bill on the floor.

But as I look over the responsibilities which the senior Senator from Florida has assigned to the Director of the National Office for Combating Terrorism, it is my view that these duties can be handled by the Secretary of Homeland Security. The responsibilities which are set out in section 201(c):

To develop national objectives and policies for combating terrorism.

I think that is an appropriate function for the Secretary.

To direct . . . [the] assessment of terrorist threats and vulnerabilities to those threats . . .

Again, I think that is something that can be handled by the Secretary.

To coordinate . . . the implementation . . . of the Strategy by agencies with responsibilities for combating terrorism . . . .

Again, I think that is something the Secretary can do.

To work with agencies, including the Environmental Protection Agency, to ensure that appropriate actions are taken to address vulnerabilities identified by the Directorate of Critical Infrastructure Protection within the Department.

Again, that is something which the Secretary can handle.

To coordinate, with the advice of the Secretary, the development of a comprehensive annual budget for the programs and activities under the Strategy, including the budgets of the military departments and agencies within the National Foreign Intelligence Program relating to international terrorism . . . .

That can be handled by the Secretary. In fact, this provision calls for coordination with the Secretary.

The provision does exclude military programs, projects or activities relating to force protection. This is a controversial item, as to whether there ought to be somebody with budget authority. I think it is a good idea. Right now there is diverse budget authority with a larger share of it on the intelligence agencies coming out of the Department of Defense. I believe it would be very useful to have that centralized.

When I chaired the Intelligence Committee in the 104th Congress, I proposed legislation which would have brought all of the intelligence agencies under one umbrella, the Central Intelligence Agency. Now I think there is an opportunity to do that with the new Department of Homeland Security since we are taking a fresh look at this area. I know there are objections to giving budget authority to anyone on an overall basis, but it would be my hope that this provision would stay—but it would stay under the dominion of the Secretary of Homeland Security.

The other responsibilities of the Director of the National Office for Combating Terrorism are:

To exercise funding authority for Federal terrorism prevention and response agencies . . . .

Stated simply, all of the functions of the Director of the National Office for Combating Terrorism, in my view, can be handled by the Secretary of Homeland Security. I think those objectives are sound.

It is my hope that we will legislate here to put under the umbrella of the Secretary of Homeland Security the necessary authority to protect against terrorists. It is my judgment that had all of the dots been under one umbrella, there would have been a veritable blueprint for what happened on September 11 and that September 11 might well have been prevented. This is the time, with the new Department of Homeland Security to be established, that we have a chance to implement what so many people have proposed.

My idea to bring all of the intelligence agencies under one umbrella in the legislation, which I proposed in the 104th Congress when I chaired the Intelligence Committee, is an idea which has been proposed by many. At the moment, there is on the President's desk a comprehensive proposal to accomplish just that. But the reality is that the turf wars involving the various agencies are so fierce that this is never accomplished. Now we have a chance to do it.

Had the one umbrella been present to identify the FBI Phoenix memorandum—where there was a flight student with a big picture of Osama bin Laden and indicators of potential terrorist activity—had that, combined with the two men identified, who were later hijackers on September 11, in Kuala Lumpur where the CIA never told the FBI or the INS—had that been added to the records—the National Security Agency got it on September 10; it wasn't translated as a threat that something would happen the next day, perhaps later, until the 12th—especially with the information which

could have been obtained, had a warrant been issued for the computer of Zacarias Moussaoui and for the search of his premises—there was a virtual treasure trove of information linking Moussaoui to al-Qaida.

We have learned a very different lesson from 9/11. Now is the time for the Congress to change it. We simply have to override the various Federal agencies that are fighting for their turf. The stakes now are too serious.

We have an enormous responsibility in the Congress to do everything we can to see to it that there is no recurrence of 9/11. We have action to be taken if there is a biological attack. We have worked on various antidotes for various biological weapons—smallpox and anthrax. But if we have to respond, it is a 99 percent loss. What we have to do is prevent it.

The intelligence agencies that want to maintain their own sovereignty just ought to change that attitude. The legislation which has been proposed would put all of these analysis sections under the Secretary of Homeland Security. That is what ought to be done. That can be done in this bill.

There was a meeting on July 31 with the President, Governor Ridge, and Members of Congress, where we talked about these ideas.

I ask unanimous consent that the full text of this letter be printed in the RECORD at the conclusion of my statement.

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

(See Exhibit 1.)

Mr. SPECTER. Mr. President, there is a critical line on the letter I have written to Governor Ridge. I will read just a little bit of it.

Dear Tom:

I was very pleased to hear the President's affirmative response yesterday to the proposal to have analysts from every intelligence agency (CIA, FBI, DIA, etc) under the umbrella of the Department of Homeland Security with the Secretary having the authority to direct those intelligence agencies to supply his Department with the requisite intelligence data.

This doesn't mean that Homeland Security will have authority over CIA agents. They will remain with the CIA. It doesn't mean the Secretary of Homeland Security would have the direction of the FBI agents or any other agents. They will all remain in their Departments. But the analysts will all come together under one roof. There will be nothing to stop the CIA from having analysts under the CIA roof. But they will have to be CIA agents under the roof of the Director of Homeland Security so that all of the analysts are there and can put the dots together in one place.

The critical paragraph in the letter set forth is:

Responsibilities.—The Directorate of Intelligence . . . . On behalf of the Secretary, subject to disapproval by the President, directing the agencies described under subsection (a)(1)(B) to provide intelligence information, analyses of intelligence information and such other intelligence-related information as the Directorate of Intelligence deems necessary.

That is the critical part of it.

The other way of articulating the idea would be to say that the President approves the Secretary having this authority. But it is unrealistic to expect the President to come in and make an analysis and take affirmative action. But it is effective to get the same job done if the problem is sufficient to have the matter disapproved by the President.

I don't think you really have to have statutory language because the President directs anybody as he chooses. They are going to be bound to carry out his orders. But this would give the Secretary of Homeland Security umbrella authority, as I say, subject to disapproval of the President.

Although I do think the senior Senator from Florida had a good idea and purpose in the National Office for Combating Terrorism, the better policy is to leave these responsibilities to the Secretary of Homeland Security, a separate Department. The President is then free to have an adviser on homeland security—as he currently does, a position filled in the West Wing by Governor Ridge.

EXHIBIT I

U.S. SENATE,
Washington, DC, August 1, 2002.

Hon. TOM RIDGE,
Director of Homeland Security,
Washington, DC.

DEAR TOM: I was very pleased to hear the President's affirmative response yesterday to the proposal to have analysts from every intelligence agency (CIA, FBI, DIA, etc.) under the umbrella of the Department of Homeland Security with the Secretary having the authority to direct those intelligence agencies to supply his Department with the requisite intelligence data.

As I said in the meeting in the Cabinet Room yesterday, I think that had all of the intelligence information known prior to September 11th been under one umbrella, the terrorist attacks of September 11th might have been prevented.

Senator Thompson, as I understood him, did not disagree with that ultimate approach except to express the view that he thought that changes in the structure of the intelligence community should await further studies. My own strongly held view is that we have a unique opportunity to make the changes in the intelligence community now because of the imminent terrorist threats; and, if we don't act now, we will go back to business as usual.

As you and I discussed in our meeting of July 29, 2002, there have been many proposals to place the intelligence agencies under one umbrella, including legislation which I introduced in 1996 when I chaired the Intelligence Committee, and the current proposals which have been made by General Scowcroft.

I suggest that Section 132(b) of the bill reported by the Governmental Affairs Committee be modified by adding at the beginning a new paragraph (1) to read as follows:

(b) RESPONSIBILITIES:—The Directorate of Intelligence shall be responsible for the following:

(1) On behalf of the Secretary, subject to disapproval by the President, directing the agencies described under subsection (a)(1)(B) to provide intelligence information, analyses of intelligence information and such other intelligence-related information as the Directorate of Intelligence deems necessary.

I am sending copies of this letter to Senator Lieberman and Senator Thompson so that we may all discuss these issues further.

My best.

Sincerely,

ARLEN SPECTER.

Mr. NELSON of Florida. Mr. President, while our troops have had enormous success abroad, the war on terror, obviously, is not over. We are just beginning. We must do everything we can to prevent future attacks on the homeland.

Tomorrow is going to commemorate that awful experience. My attention over the weekend was riveted to an article in one of the country's major newspapers that reported on a debriefing of one of the al-Qaeda detainees who had indicated that the fourth airplane, the one that crashed in Pennsylvania, had as its target the U.S. Capitol.

How many of us on that day were working in the U.S. Capitol? I was in a meeting on the west front of the Capitol, only 30 paces from where I am now standing in the Chamber of the Senate. It was a meeting attended by about 15, chaired by the majority leader. We had already seen the television images of the World Trade Center, but we continued our meeting.

Someone burst in the door and said: ''The Pentagon has been hit.'' We leapt to the windows overlooking the west front of the Capitol, overlooking the mall in the direction of the Pentagon, and saw the black smoke rising on the other side of the Potomac.

Interestingly, my immediate reaction was to leap to a telephone to try to get word to my wife, Grace. Only 5 days earlier, we had moved into an apartment overlooking the southwest corner of the Pentagon. My message to her was—and we didn't even have a telephone in the apartment, since we had just moved in—to get into the basement garage because, of course, I didn't know what was happening on that side of the Potomac.

In the meantime, Grace Nelson is getting dressed in the apartment. She hears the airplane. She said it sounded so loud, as if it was going to hit the apartment. And the line of flight was very close to the apartment. She heard the impact. She ran to the window and saw the whole thing.

When she saw the people streaming out of the Pentagon, her immediate response, which is the great patriotic instinct of my wife, was: What can I do to go down and help those people?

That, of course, was a riveting experience, like any that you have had in your adult life. I was in college at the time of the assassination of President Kennedy. I can tell you exactly where I was when we received the word. So, too, on any other tragic event, such as the destruction of the space shuttle *Challenger*. And so, too, Americans will remember exactly what they were doing and where they were at the time of receiving the news that the Nation was under attack a year ago.

This war is going to be a long one, and it is going to be very difficult because it is a new kind of war. We don't have the luxury we have had for two centuries of two big oceans protecting us from our enemies, for now the enemies have figured out a way to infiltrate within. Of course, all of the U.S. interests and assets around the world, including our ambassadors, are targets we have to protect.

It is appropriate that this legislation is being considered at this time. What do we have to do to help protect future attacks on U.S. soil?

Clearly, there was a colossal intelligence failure on September 11. That is primarily what we need to address. The inexcusable bureaucratic inefficiencies and inability of one hand of the bureaucracy to know what the other hand was doing, all of that has to be ironed out. In the briefings that we have had, I have some degree of confidence that it is being ironed out. It better be. We have no choice. For the only way to thwart the terrorists is to find out what they are going to do before they do it and stop them.

Combining this new threat also requires a more agile government. What we are about to do is undertake the largest governmental reorganization in the last five decades. This new department will combine 22 agencies, 170,000 people, with an annual budget of $38 billion. But considering the seriousness of the threat and the scope of the restructuring, I must say that I am surprised by the administration's demands that this new Department of Homeland Security be run with minimal accountability to the American people, which includes accountability to this Congress.

There is something that we all swore to uphold when we took office: the Constitution of the United States. The political geniuses who gathered over 225 years ago fashioned a document that had checks and balances so that power could not be concentrated in any one branch of the Government.

So as we start to create this new, vast reorganization of the executive branch, we have to make it accountable to the American people by having it accountable to the Congress, with our oversight functions, with our appropriations functions, with our authorization functions, with all that has served this Nation so well since the beginning of our constitutional government in 1789.

I am concerned and a little bit surprised that the administration demands that they have it their way without the accountability, which is the checks and balances of the Constitution, necessary to the functioning of our constitutional government.

Many of us on both sides of the aisle believe this is an issue of great importance, involving such a massive reorganization of the Government that we must ensure that there are checks and balances. The American people deserve to know how this new department will be managed and how the resources allocated to the war on terror are going to be used.

Transparency is essential to ensure that this new department is working. I am not sure that is the message that has come from the administration. It is going to be up to us, particularly those of us who feel so strongly about this.

We have heard a number of people talk about the great leadership of Senator LIEBERMAN, the chairman of the Governmental Affairs Committee, and, clearly, the man who not only believes daily and recites daily the U.S. Constitution but carries that Constitution with him wherever he goes, a man who has been in Congress for over 50 years, Senator BYRD, who has expressed his concerns. And there will be more, including mine that I am registering today.

I am afraid that the administration's bill—which, in essence, is the House of Representatives-passed bill—fails to adequately protect the nonhomeland mission of the Coast Guard. Think of that. The Coast Guard overseas a number of important maritime missions, which save countless lives each year, including search-and-rescue operations, Marine safety, and recreational boating safety initiatives.

Am I sensitive to this? You bet. Look how much coastline Florida has. I have not actually measured it against the California coastline, but I suspect ours is greater if not equal to the California coastline.

So is the search-and-rescue operation, Marine safety, recreational boating safety—a non-homeland-defense mission of the Coast Guard—important? Of course, but so is the Coast Guard's mission on law enforcement, which includes drug interdiction, and alien migrant interdiction, and general maritime law enforcement.

Would it not be nice if we in Florida were not sensitive, as we are, to drug interdiction and to alien migrant interdiction? Waves of people try to come to Florida's shores illegally—some with just cause, but of which the Coast Guard plays a very important role. As resources are transferred to the war on terror, we should not forget about protecting people from the nonterrorist threats that can be harmful to our communities.

The final plan to transfer the Coast Guard to a new Department must ensure, in my judgment, that law enforcement safety and transportation missions are not unreasonably compromised. That is why I think we have to adopt the Senate language and protect it then in the conference committee—ironing out the differences between the Senate and House versions.

In addition—and very importantly—the administration's language in the House bill completely undermines workers' rights. Guaranteeing the basic civil service rights of people hired to keep us safe does not and will not jeopardize national security.

What are we trying to protect? We are trying to protect the civil service of this Federal Government from being politicized, which is the reason why the Hatch Act was passed years ago, decades ago, saying that there was going to be a barrier put up so that any administration, after the Hatch Act, was not going to be able to use the Federal bureaucracy for their political ends; thus, the Hatch Act was enacted.

What the administration's language does is take away those worker rights, those basic civil service rights, and that is not healthy, because it has been healthy, as we have seen how the Federal bureaucracy operates under those protections in the Hatch Act.

The House bill would grant the President a blank check to take away the civil service protections of nearly 170,000 employees of the new agency. I don't think that is in the interest of the country. That is not going to affect the national security. The vague authority granted to the President would exempt employees from traditional labor laws if he determined, without any explanation, that the workers' rights somehow adversely affect the Department's homeland security mission. That is not right for the workers of the new agency, and it is not right for the country.

Finally, the administration bill hangs consumers out to dry by limiting the liability of firms providing new antiterrorism technologies and devices because damages caused by untested technologies that fail to work would be restricted even in cases of gross negligence in the manufacture of those new technologies and equipment and apparatuses. This limited liability provision gives carte blanche then to fly-by-night companies looking to profit from 9/11 by selling products that, at best, do nothing and, at worst, could cause direct harm. I don't think we want to hang those consumers out to dry—indeed, much more than that, we don't want to harm those consumers.

As the clock ticks, the time becomes increasingly somber as we reflect back on what we were doing 365 days ago, what happened to us personally, and how we have changed not only as a nation but individually. I think it is important for us to look at the big picture and that as we fashion a bureaucratic response that is more flexible to protect our homeland, we do so in a wise and cautious fashion.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, in the absence of any other Senator on the floor seeking recognition on the bill or, for that matter, any other purpose, I ask unanimous consent to proceed as if in morning business for 10 minutes.

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

CONGRESSIONAL MEDALS FOR CREW AND PASSENGERS OF FLIGHT 93

Mr. SPECTER. Mr. President, I have sought recognition to proceed as if in morning business to discuss legislation I have pending, S. 1434, a bill which has 69 cosponsors, which would give the Congressional Medal to all of the crew and passengers on flight 93 which crashed in Shanksville, PA, on September 11, 2001.

As we know from cellphone conversations from passengers on that plane, the passengers took over the plane from the terrorists, at least to the extent of depriving the terrorists control where the terrorists, as was widely suspected, were headed for the Capitol of the United States. And the plane crashed in Shanksville, PA, killing all of those on board.

It seems to me this is a unique place for the Congressional Gold Medal, because those passengers saved the Congress. Had that plane reached the Capitol, this Chamber would not now be in existence, nor the Rotunda, nor the House of Representatives. It is hard to say in the morning, perhaps midmorning, how many Members of the Congress of the United States and staff would not be here today. In seeking this recognition, it is a very unique opportunity to acknowledge those passengers.

This bill has languished because it has gotten tied up, as it is not uncommon for legislation to be tied up for a variety of other reasons. There are some who want to give medals to everyone who died on September 11, which I think is a fine idea. There are some who want to give medals to all of those who were in the rescue squads from the police precincts or fire stations or the Port Authority. And there, again, I think that is a commendable idea. And all the ideas to recognize other people may be fine, but they can take their turn on legislation.

But this legislation ought to be enacted before sunset tomorrow, before September 11, 2002, expires. I am now working with some of my colleagues in the Senate to accomplish that. If we cannot accomplish that, then I am going to ask unanimous consent to call up S. 1434, which has 69 cosponsors. It should have been discharged from committee a long time ago. With 69 cosponsors, that is 18 more votes than necessary to pass legislation in the Senate.

There is a bill in the House of Representatives which approaches the issue slightly differently. The proposal in the House is to leave the decision up to the Attorney General of the United States. Well, that might be a good idea if there was something for the Attorney General to determine that we do not now know. But all of the knowable facts as to what happened on flight 93 are now known.

The Attorney General cannot conduct an investigation and pinpoint any specific individuals. And it is doubtless true that some individuals were more responsible for taking control of the plane away from the terrorists than others. But all were present. And all of those who were present were accessories to heroism. They lent their support by their presence. Of course, they could not go anywhere else, but the passengers brought down the plane. And the passengers saved the Capitol of the United States.

Interestingly, just yesterday, The New York Times published a release which contains confirmation from key al-Qaida operatives that flight 93 was, in fact, headed for the Capitol. That has been a fairly accepted conclusion, but this is what the New York Times story of yesterday, September 9, says:

Yosri Fouda, correspondent for the satellite station Al-Jazeera, told The Associated Press that he was taken, blindfolded, to a secret location in Pakistan to meet Khalid Shaikh Mohammed and Ramzi Binalshibh in a June interview arranged by al-Qaida operatives.

The thrust of the story is that the al-Qaida operatives said that flight 93 was headed for the Capitol. So, in essence, I think we have waited long enough. I think this action ought to be completed before sunset on September 11, 2002. And I hope we can work out an accommodation from the Members who are now with varying points of view. But, as I say, I will ask unanimous consent that the bill be acted upon before sunset tomorrow.

Mr. President, I ask unanimous consent that the full text of this New York Times report identifying from al-Qaida operatives the fact that this plane, flight 93, was headed for the Capitol, be printed in the RECORD.

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

[From the New York Times, Sept. 9, 2002]

REPORT: CONGRESS WAS ON 9/11 LIST

(By the Associated Press)

DUBAI, United Arab Emirates—The U.S. Congress was the fourth American landmark on al-Qaida's Sept. 11 hit list and the terror group also considered striking U.S. nuclear facilities, according to a purported interview with two al-Qaida fugitives wanted in the terrorist attack.

Yosri Fouda, correspondent for the satellite station Al-Jazeera, told The Associated Press that he was taken, blindfolded, to a secret location in Pakistan to meet Khalid Shaikh Mohammed and Ramzi Binalsshibh in a June interview arranged by al-Qaida operatives.

Founda said he has waited until now to air the audiotaped interview—it is scheduled to be broadcast Thursday on the pan-Arab satellite station—because he wanted to include it in a documentary marking the first anniversary of the Sept. 11 attacks.

In an article in London's Sunday Times, Fouda wrote that he learned during the interviews that the U.S. Congress had been al-Qaida's fourth Sept. 11 target. Two hijacked planes slammed into the World Trade Center, another into the Pentagon, and a fourth went down in a Pennsylvanian field.

U.S. counterterrorism officials, speaking on condition of anonymity, said many of Mohammed's statements about the origins of the Sept. 11 plot are plausible, but they have no information that would verify those claims.

The officials could not corroborate Mohammed's statements that the U.S. Capitol was the intended target of the fourth plane or that nuclear power plants had also been considered as potential targets for the Sept. 11 attacks.

Abu Zubaydah, a top al-Qaida leader in U.S. custody since March, told interrogators that the White House was the fourth plane's target, U.S. officials have said.

U.S. officials regard Mohammed as one of the highest-ranking al-Qaida leaders still at large and believe he is still planning attacks against U.S. interests. U.S. officials say Binalshibh belonged to a Hamburg-based cell led by Mohammed Atta, an Egyptian suspected of leading the Sept. 11 hijackers.

''I am the head of the al-Qaida military committee and Ramzi (Binalshibh) is the coordinator of the 'Holy Tuesday' operation,'' Fouda quoted Mohammed as saying. Sept. 11, 2001 fell on a Tuesday.

Mohammed said planning for the attacks began 2½ years before Sept. 11 and that the first targets considered were nuclear facilities.

We ''decided against it for fear it would go out of control,'' Fouda quoted Mohammed as saying. ''You do not need to know more than that at this stage, and anyway it was eventually decided to leave out nuclear targets—for now.''

Fouda, an Egyptian reporter and host of al-Jazeera's investigative program ''Top Secret,'' said he flew to Islamabad, the Pakistani capital, and from there to Karachi on al-Qaida instructions. In Karachi, he was taken blindfolded and via a complicated route to an apartment where he met the two men.

Fouda, speaking by telephone from London, said al-Qaida operatives told him not to bring any electronic equipment—including a camera or recorder—to the interview. The al-Qaida members videotaped the interview but instead of sending a copy of the video as promised, sent him only the audiotape, he said.

At one point while being led to the meeting, Fouda said he thought he was going to meet bin Laden. Speculation has been rife that the al-Qaida leader may be in Pakistan after fleeing U.S. attempts to kill or catch him in neighboring Afghanistan.

Fouda said during the two days he spent talking to the two, Mohammed once referred to bin Laden in the past tense, leading him to believe bin Laden could be dead.

The U.S. officials said they do not consider Mohammed's use of the past tense to refer to bin Laden as any sort of definitive evidence that he is dead.

Fouda said he also learned that Atta, the chief hijacker, had been a sleeper operative in Germany since 1992 and started detailed planning with a 1999 meeting in Afghanistan with other sleepers.

Once in America, Atta communicated with higher ranking al-Qaida officials via e-mail, Fouda wrote. But when he had determined everything was ready, he telephoned Binalshibh in Germany to tell him the date, suing a riddle that referred to the shapes of the numbers 9 and 11.

Al-Jazeera, the Qatar-based satellite broadcaster, has drawn world attention with its broadcast of interviews with and statements by bin Laden and his top lieutenants.

Mr. SPECTER. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF BUSINESS

Mr. REID. Mr. President, this has been an unusual day. Earlier today, the majority wanted to vote on the Thompson amendment. We were led to believe, not wrongly, that the minority did not want a vote on that today. So we decided we would not vote on that today. We learned, later in the day, that Senator THOMPSON wanted a vote on his amendment today. By then, people had gone home for September 11 occurrences.

So now we are in a position where Senator THOMPSON thought there would be nothing happening on his bill today, and he left to do other things.

We have learned that the distinguished Senator from South Carolina, Mr. HOLLINGS, now wishes to offer a second-degree amendment to the Thompson amendment. I have not been able to speak to Senator THOMPSON. I have spoken, on a couple of occasions, to the Senator from South Carolina.

It would be my suggestion, therefore, that the Senator from South Carolina speak on his amendment, and that on Thursday, when we come back on this homeland security bill again, the Senator from South Carolina be recognized to offer his amendment.

We would be taking no advantage of the minority because, as everyone knows, the majority leader has the right of first recognition. And we have indicated to the Senator from South Carolina that he would be in order to offer that amendment, unless we can work something out with Senator THOMPSON that it need not be offered.

MORNING BUSINESS

Mr. REID. So I ask unanimous consent, Mr. President, that we go to a period of morning business, now, until 6 o'clock today, with Senators allowed to speak therein for a period of up to 10 minutes each. I hope that we would have consent that Senator HOLLINGS could offer the amendment; otherwise, we would, of course, have Senator DASCHLE come and offer that on Thursday.

Is the Senator from South Carolina satisfied with that?

Mr. HOLLINGS. That I be allowed to offer it at what time on Thursday?

Mr. REID. We have not decided what time Thursday, but we do not go to the bill until Thursday afternoon because——

Mr. HOLLINGS. If I could at least get an hour of debate, or whatever it is, on my amendment before we vote on the Thompson amendment.

Mr. REID. Yes. On the Thompson amendment itself, we were planning to do an hour and a half to 2 hours of debate prior to voting on it. That was the plan. Now, with you offering this second-degree amendment, I don't know what the pleasure of Senator THOMPSON would be. But we will work on that today, and tomorrow if necessary, with your staff and his.

Mr. HOLLINGS. I thank the distinguished leader. I think he has certainly accommodated the Senator from South Carolina. I definitely understand Senator THOMPSON is not here. I wanted to offer it while he is here so we can talk about it. But we will offer it at that particular time on Thursday.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

Without objection, it is so ordered.

SEPTEMBER 11, 2001, ANNIVERSARY

Mr. DODD. Mr. President, I rise this afternoon to share a few thoughts on the eve of tomorrow's anniversary of the terrorist attack, September 11, 2001. Tomorrow, a lot of our colleagues, both in this Chamber and the other body, will be expressing themselves, with many Members attending memorial services at the Pentagon. The Senate, as a body, plans to come together late tomorrow morning to meet as a body and to share our thoughts with the country about the events of a year ago. I take this opportunity to remember and to honor the nearly 3,000 of our fellow citizens and others who had come to this country to work—not all were Americans; the majority were—but lost their lives 1 year ago tomorrow in one of America's darkest of days.

I also join all of America in paying tribute once again to the countless men and women whose acts of bravery and heroism so inspired us on that day and the days that followed the tragedy of September 11, and continue to serve as a solemn reminder that the American spirit shines as bright as ever despite the events of that day, that horrible day a year ago.

Thousands of families across this great country of ours, including families in my home State of Connecticut—families in my State lost some 149 people, most of whom lost their lives in the World Trade Center—these families and their loved ones have endured a year of unimaginable grief and unimaginable bravery. Every American grieves with them as many of our fellow citizens the world over from around the globe have shared with us the sense of grief and horror of a year ago and have continued to relate to us and to share their thoughts and prayers with all Americans as a result of our commemoration of the events of 12 months ago.

Over the past 12 months, I have heard countless stories, tragedies that were once unthinkable. In Connecticut, I know of a man who lost both his wife and his only child on that day a year ago; of parents who lost their young children in their twenties, just beginning their lives as young adults, with professional careers; of wives who had received the last phone calls from their husbands before the Twin Towers fell.

Every American will always remember where they were when the Twin Towers were attacked and collapsed. Every American will always remember where they were when they heard a hijacked plane had crashed into the Pentagon, only a few blocks from where I am sharing these thoughts this afternoon. Every American will always remember how they felt upon learning that a group of passengers fought back against the terrorists who hijacked their plane before it crashed in the field of Pennsylvania. September 11, 2001, is a day that will be etched in all of our memories for the rest of our lives and etched in history forever.

Although all Americans went through that day together, we will always share its memory. Last September 11 was also a deeply personal day for each and every one of us. We each had our own highly personal experiences during those horrid hours that began in the early morning—that wonderful clear, bright, cloudless sky over the eastern part of our country.

For me, the hours and days and weeks following the terrorist attacks were filled with immensely mixed emotions, as most of my colleagues know. I see my friend and colleague from Texas on the floor. We shared the great joy last year of having children come into our lives. My first child, my daughter Grace, was born just 48 hours after the attacks, born on September 13, at a hospital right across the river in Virginia. From the window of the maternity ward, my wife Jackie and I watched the smoke rising from the still-burning Pentagon as we held our newborn child in our hands.

I can still vividly recall trying to balance my feelings of incredible, intense joy with this new beautiful life, mixed with the powerful feelings of horror and trepidation over what kind of a world my daughter Grace would grow up in, in the 21st century.

Something heartened me that day. I have told this story on numerous occasions. In the hospital as my wife held our newborn daughter, many of the doctors and nurses, several of them who held her shortly after she was born, came from places outside of America to become citizens. Three of them came from Afghanistan, Pakistan, and Lebanon. Here we are, 48 hours after the events, those countries had been the places of refuge for those engaged in the attacks on our country, and here were people from that very part of the world, United States citizens today, nurturing and caring for my newborn daughter.

That was all the evidence I needed at that particular moment that America was attacked not for who we are, but for what we stand for: Freedom, liberty, and community. And we shared something very powerful in common: We were devastated over the attacks, and we were never prouder to be Americans, almost simultaneously.

Word was already out that the terrorist attacks were the work of al-Qaeda, a fanatical group which hijacked planes, but also an otherwise

peaceful religion, Islam, to perform their evil deeds.

Word was out that Osama bin Laden and his minions of hate thought that by attacking us, our buildings, our Pentagon, and our planes, they could somehow divide our great Nation and somehow weaken our resolve to be a global power, to be a force for freedom and democracy around the globe.

Word was out that those who hate the United States simply for who we are, for our freedoms, our prosperity, and our diversity, thought that by murdering thousands of innocent Americans and shattering the lives of thousands of families, our Nation would somehow lose its ability to function as a great democracy.

They were wrong. We are today stronger, I argue, than ever.

September 11 changed America forever. At one level, the attacks made us aware of our vulnerabilities and forced us to realize there is no such thing as the unthinkable. Yet at another level, the way in which the entire Nation came together, in the days and weeks and months after the attacks, has served as a profound and inspirational reminder to strengthen the American people and the breadth and depth of the American spirit.

So as we mark this historic day, a day of sadness, we look back and remember September 11, not just for the tragedy it evokes but also in renewing our faith in the greatness of the wonderfulness of our Nation, in which we are charged temporarily to be custodians, as Members of this body, to see that that daughter of mine and the children of our colleague from Texas grow up in a world far safer than what we witnessed a year ago. That becomes our collective responsibility as public officials: To put aside differences and, wherever we can, to work together as one people to make our country stronger and better, to achieve that sense of perfection that the Founders of our Nation envisioned more than 200 years ago.

With those thoughts in mind, I extend my deepest sympathies, my thoughts, and prayers to the families in my State and across our Nation who still grieve terribly for the loss they suffered a year ago.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Before Senator DODD leaves the floor, I appreciate so much his beautiful remarks. We do share something very special, and that is that each of us had a new baby—mine through adoption, yours with your wife. It was right during that very sad time. I think it was so helpful to have this new life I knew then we were fighting for, to make sure that my young son and my young daughter would have the same kind of life as I did.

I know you feel that way about Grace, and to look out from her birth to see the Pentagon smoldering must have been an emotional experience beyond any ability to describe.

So I am so proud that I have two babies born in 2001, and I have the firmest commitment to make sure we do everything in our power to assure that they have the freedom and the love of this country and the diversity we champion and the tolerance we have shown to the world. That is the way people should live. I thank the Senator for his remarks. I just wanted to say how their lives will be intertwined forever.

Mr. DODD. I thank the Senator.

NATIONAL AMBER ALERT NETWORK ACT OF 2002

The PRESIDING OFFICER (Mr. MILLER). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the Senate immediately proceed to Calendar No. 566, S. 2896.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2896) to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part printed in black brackets and insert the part printed in italic.]

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 ''National AMBER Alert Network Act of 2002''.

[SEC. 2. NATIONAL COORDINATION OF AMBER ALERT COMMUNICATIONS NETWORK.

[(a) COORDINATION WITHIN DEPARTMENT OF JUSTICE.—The Attorney General shall assign an officer of the Department of Justice to act as the national coordinator of the AMBER Alert communications network regarding abducted children. The officer so designated shall be known as the AMBER Alert Coordinator of the Department of Justice.

[(b) DUTIES.—In acting as the national coordinator of the AMBER Alert communications network, the Coordinator shall—

[(1) seek to eliminate gaps in the network, including gaps in areas of interstate travel;

[(2) work with States to encourage the development of additional elements (known as local AMBER plans) in the network;

[(3) work with States to ensure appropriate regional coordination of various elements of the network; and

[(4) act as the nationwide point of contact for—

[(A) the development of the network; and

[(B) regional coordination of alerts on abducted children through the network.

[(c) CONSULTATION WITH FEDERAL BUREAU OF INVESTIGATION.—In carrying out duties under subsection (b), the Coordinator shall notify and consult with the Director of the Federal Bureau of Investigation concerning each child abduction for which an alert is issued through the AMBER Alert communications network.

[(d) COOPERATION.—The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

[SEC. 3. MINIMUM STANDARDS FOR ISSUANCE AND DISSEMINATION OF ALERTS THROUGH AMBER ALERT COMMUNICATIONS NETWORK.

[(a) ESTABLISHMENT OF MINIMUM STANDARDS.—Subject to subsection (b), the AMBER Alert Coordinator of the Department of Justice shall establish minimum standards for—

[(1) the issuance of alerts through the AMBER Alert communications network; and

[(2) the extent of the dissemination of alerts issued through the network.

[(b) LIMITATIONS.—(1) The minimum standards established under subsection (a) shall be adoptable on a voluntary basis only.

[(2) The minimum standards shall, to the maximum extent practicable (as determined by the Coordinator in consultation with State and local law enforcement agencies), provide that the dissemination of an alert through the AMBER Alert communications network be limited to the geographic areas most likely to facilitate the recovery of the abducted child concerned.

[(3) In carrying out activities under subsection (a), the Coordinator may not interfere with the current system of voluntary coordination between local broadcasters and State and local law enforcement agencies for purposes of the AMBER Alert communications network.

[(c) COOPERATION.—(1) The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

[(2) The Coordinator shall also cooperate with local broadcasters and State and local law enforcement agencies in establishing minimum standards under this section.

[SEC. 4. GRANT PROGRAM FOR NOTIFICATION AND COMMUNICATIONS SYSTEMS ALONG HIGHWAYS FOR RECOVERY OF ABDUCTED CHILDREN.

[(a) PROGRAM REQUIRED.—The Secretary of Transportation shall carry out a program to provide grants to States for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children.

[(b) ACTIVITIES.—Activities funded by grants under the program under subsection (a) may include—

[(1) the development or enhancement of electronic message boards along highways and the placement of additional signage along highways; and

[(2) the development or enhancement of other means of disseminating along highways alerts and other information for the recovery of abducted children.

[(c) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent.

[(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Secretary shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

[(e) ADMINISTRATION.—The Secretary shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

[(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for

the Department of Transportation for fiscal year 2003 such sums as may be necessary to carry out this section.

[(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

[SEC. 5. GRANT PROGRAM FOR SUPPORT OF AMBER ALERT COMMUNICATIONS PLANS.

[(a) PROGRAM REQUIRED.—The Attorney General shall carry out a program to provide grants to States for the development or enhancement of programs and activities for the support of AMBER Alert communications plans.

[(b) ACTIVITIES.—Activities funded by grants under the program under subsection (a) may include—

[(1) the development and implementation of education and training programs, and associated materials, relating to AMBER Alert communications plans;

[(2) the development and implementation of law enforcement programs, and associated equipment, relating to AMBER Alert communications plans; and

[(3) such other activities as the Secretary considers appropriate for supporting the AMBER Alert communications program.

[(c) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent.

[(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Attorney General shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

[(e) ADMINISTRATION.—The Attorney General shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

[(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Department of Justice for fiscal year 2003 such sums as may be necessary to carry out this section.

[(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National AMBER Alert Network Act of 2002''.

SEC. 2. NATIONAL COORDINATION OF AMBER ALERT COMMUNICATIONS NETWORK.

(a) COORDINATION WITHIN DEPARTMENT OF JUSTICE.—The Attorney General shall assign an officer of the Department of Justice to act as the national coordinator of the AMBER Alert communications network regarding abducted children. The officer so designated shall be known as the AMBER Alert Coordinator of the Department of Justice.

(b) DUTIES.—In acting as the national coordinator of the AMBER Alert communications network, the Coordinator shall—

(1) seek to eliminate gaps in the network, including gaps in areas of interstate travel;

(2) work with States to encourage the development of additional elements (known as local AMBER plans) in the network;

(3) work with States to ensure appropriate regional coordination of various elements of the network; and

(4) act as the nationwide point of contact for—

(A) the development of the network; and

(B) regional coordination of alerts on abducted children through the network.

(c) CONSULTATION AND COOPERATION.—(1) In carrying out duties under subsection (b), the Coordinator shall notify and consult with the Director of the Federal Bureau of Investigation concerning each child abduction for which an alert is issued through the AMBER Alert communications network.

(2) The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

(3) In preparation for carrying out duties under subsection (b), the Coordinator shall consult with the National Center for Missing and Exploited Children and other private sector entities and organizations (including non-profit organizations) having expertise in matters relating to such duties.

SEC. 3. MINIMUM STANDARDS FOR ISSUANCE AND DISSEMINATION OF ALERTS THROUGH AMBER ALERT COMMUNICATIONS NETWORK.

(a) ESTABLISHMENT OF MINIMUM STANDARDS.—Subject to subsection (b), the AMBER Alert Coordinator of the Department of Justice shall establish minimum standards for—

(1) the issuance of alerts through the AMBER Alert communications network; and

(2) the extent of the dissemination of alerts issued through the network.

(b) LIMITATIONS.—(1) The minimum standards established under subsection (a) shall be adoptable on a voluntary basis only.

(2) The minimum standards shall, to the maximum extent practicable (as determined by the Coordinator in consultation with State and local law enforcement agencies), provide that the dissemination of an alert through the AMBER Alert communications network be limited to the geographic areas most likely to facilitate the recovery of the abducted child concerned.

(3) In carrying out activities under subsection (a), the Coordinator may not interfere with the current system of voluntary coordination between local broadcasters and State and local law enforcement agencies for purposes of the AMBER Alert communications network.

(c) COOPERATION AND CONSULTATION.—(1) The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

(2) The Coordinator shall also cooperate with local broadcasters and State and local law enforcement agencies in establishing minimum standards under this section.

(3) The Coordinator shall also consult with the National Center for Missing and Exploited Children and other private sector entities and organizations (including non-profit organizations) having an expertise in matters relating to the minimum standards to be established under this section in establishing the minimum standards.

SEC. 4. GRANT PROGRAM FOR NOTIFICATION AND COMMUNICATIONS SYSTEMS ALONG HIGHWAYS FOR RECOVERY OF ABDUCTED CHILDREN.

(a) PROGRAM REQUIRED.—The Secretary of Transportation shall carry out a program to provide grants to States for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children.

(b) ACTIVITIES.—Activities funded by grants under the program under subsection (a) may include—

(1) the development or enhancement of electronic message boards along highways and the placement of additional signage along highways; and

(2) the development or enhancement of other means of disseminating along highways alerts and other information for the recovery of abducted children.

(c) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent.

(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Secretary shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) ADMINISTRATION.—The Secretary shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Department of Transportation for fiscal year 2003 such sums as may be necessary to carry out this section.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 5. GRANT PROGRAM FOR SUPPORT OF AMBER ALERT COMMUNICATIONS PLANS.

(a) PROGRAM REQUIRED.—The Attorney General shall carry out a program to provide grants to States for the development or enhancement of programs and activities for the support of AMBER Alert communications plans.

(b) ACTIVITIES.—Activities funded by grants under the program under subsection (a) may include—

(1) the development and implementation of education and training programs, and associated materials, relating to AMBER Alert communications plans;

(2) the development and implementation of law enforcement programs, and associated equipment, relating to AMBER Alert communications plans; and

(3) such other activities as the Attorney General considers appropriate for supporting the AMBER Alert communications program.

(c) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent.

(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Attorney General shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) ADMINISTRATION.—The Attorney General shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Department of Justice for fiscal year 2003 such sums as may be necessary to carry out this section.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

Mrs. HUTCHISON. Mr. President, I would like to speak on the bill. My colleague, Senator FEINSTEIN, will speak, and then I would like to have the bill passed following those remarks.

Mr. President, I am so proud that the Senate Judiciary Committee has already passed the AMBER Alert bill on which Senator FEINSTEIN and I worked during the recess, after the tragic happening in California with the teenage girls who were lost but then found because of AMBER Alert, and the tragic kidnapping in Texas of a baby who was also found because of the AMBER Alert.

Although in numbers the child abductions through the summer weren't any more than previous years, they seemed so much more because we knew about them and we were able to do something about them. Not all of them have had a happy ending, but more than ever before have had a happy ending.

The realization that their child has been abducted must be the most terrifying nightmare a parent can endure.

But that is what has happened to parent after parent in our country.

The AMBER Alert bill is named for Amber Hagerman, who was abducted when she was 9 years old, riding her bicycle near her home in Arlington, TX, in 1996. Amber was murdered. But her mother and law enforcement personnel in the Arlington-Dallas-Fort Worth area believed so strongly there should be some way to do something that would find these children that they created the AMBER Alert on a local level.

Today, cities, regions, and States have established AMBER Alerts and 30 abducted children have been found and rescued because of the AMBER Alert.

Most of the credit for this remarkable record goes to the National Center for Missing and Exploited Children, which provides technical guidance to communities and coordination among widely separated AMBER networks. And the Center could not be effective without the willing cooperation of the National Association of Broadcasters and local television and radio stations across the nation.

As we have witnessed this summer, AMBER Alert plans in different communities have been effective in bringing children home safely. Recently, an AMBER Alert was sent out to search for 10-year-old Nichole Timmons of Riverside, California. The Alert was not only delivered throughout California but contacts also were made in neighboring states, and Nichole was found in Nevada. Nichole and her family were extremely lucky because dedicated people at the National Center for Missing and Exploited Children made the effort to notify every possible jurisdiction, and local broadcasters devoted previous air time to the Alert. The vast majority of States, however, do not yet have comprehensive, statewide coverage and lack the ability to effectively communicate between plans. This is a critical issue particularly when an abducted child is taken across State lines.

Nichole's case clearly illustrates the need for a national AMBER network. My bill, the National AMBER Alert Network Act, prepared with the help of my friend, DIANNE FEINSTEIN of California, will fill the gaps that exist in the current patchwork of AMBER systems. We will provide resources for states and communities to build their AMBER Alert systems and spread information to surrounding jurisdictions.

Our bill establishes an AMBER Alert Coordinator within the Department of Justice to assist states with their AMBER Alert plans. The AMBER Alert Coordinator will set minimum, voluntary standards to help states coordinate when necessary. The AMBER Alert Coordinator will help to reconcile the different standards for what constitutes an AMBER alert. In doing so, the Coordinator will work with existing participants, including the National Center for Missing and Exploited Children, local and state law enforcement and broadcasters to define minimum standards. Overall, the AMBER Alert Coordinator's efforts will set safeguards to make sure the AMBER system is used to meet its intended purpose.

In addition, the bill provides for matching grant programs at the Department of Transportation and the Department of Justice. The grant programs will help localities and states build or further enhance their efforts to disseminate AMBER Alerts. To this end, the matching grant programs will fund road signage and electronic message boards along highways, dissemination of information on abducted children, education and training, and related equipment.

When a child is lost, the whole community grieves along with the family. An AMBER Alert channels this energy to a positive purpose. Tips from average citizens have resulted in the safe and rapid recovery of many children. We can spread the work about abducted children across county and state lines quickly, before the kidnappers have the chance to cover their tracks and get too far away.

I was very touched, when Senator FEINSTEIN and I decided we were going to introduce this National AMBER Alert bill, that Mr. Ed Smart, the father of Elizabeth Smart, who was abducted from her home in Utah and who has not been found, had a press conference with Senator BENNETT from Utah to say: Please enact this national system. Maybe it could have helped if we had had that in place.

Senator HATCH from Utah was so helpful in making sure the Judiciary Committee did expedite the passage of this bill. We could not have done it without Senator LEAHY, who allowed us to go forward, really, in miracle record time. Senator CLINTON came forward immediately to offer her help. So we have had a lot of people working on this issue. I do not think the Senate has ever come together so uniformly and so quickly to enact a piece of legislation as this AMBER Alert bill.

It is important that we enact this bill and that the President be able to sign it before we leave for a 3-month recess because there is no telling how many children could be helped if we had this in place and ready to go.

In memory of Amber Hagerman and for every family ravaged by the tragedy of child abduction, I urge my colleagues to pass the National AMBER Alert Network Act to safeguard America's children.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I would like to begin by thanking the distinguished Senator from Texas for her leadership, for her perspicacity, for her work on this bill. We have to remember this bill was introduced exactly 1 week ago. We had hearings. It is on the floor. It is going to be passed today.

I hope it sends a message to the Nation. I hope that message is, if yours is a State that doesn't have an AMBER Alert, let us get one. Let me tell you why.

Seventy-four percent of the children who are abducted are lost within the first day. Therefore, if you can identify the abductor, if you can identify a license plate, you may well save the life of a child.

I think that came in loudly and clearly to both Senator HUTCHISON and me in the Judiciary Committee.

The Senator mentioned Nichole Timmons and her mother Sharon. It was interesting. Nichole was kidnapped by the gardener who worked at their home. She was taken across the State line from Riverside County into Nevada. Within 24 hours, a tribal officer in Nevada recognized the license plate of the vehicle, and that went out on an AMBER Alert. There was duct tape in that car. There was a metal rod in that car. If the license had not been run, Nichole never would have come home. The AMBER Alert worked.

In my State of California, we have only had the AMBER Alert for about a month. There have been 13 AMBER Alerts. One was a misstep. Eight were stranger abductions. Four were family-related abductions. All 12 of those children were returned. Never before have I seen a statistic such as that.

We know the AMBER Alert works. Now we have an opportunity to get this nationwide.

I think the bill is thoughtful. I think it is well set out.

Since 1996, when the AMBER Alert went into being, it has been credited with the return of 30 children to their families, including one case in which the abductor, interestingly enough, released the child himself after hearing the alert. In other words, it can act as a deterrent as well.

What is more important than our children, other than war and peace? I don't think anything. This is really important because it means you can avoid a child being murdered simply by issuing this AMBER Alert.

The Senator has indicated the various points of the bill. But I want to say this. The AMBER Alert is typically issued only when a law enforcement agency confirms that a predatory child abduction has occurred. When the child is in imminent danger and there is information available that is disseminated to the public, they can assist in the safe recovery of the child.

In the bill, we have provided that the Attorney General would set these minimum standards. So the same standards would be used across every State, probably close to what I have read, and therefore avoid a plethora of unnecessary AMBER Alerts. We can have a system which really functions well in those cases where the likelihood is that something grievous could in fact happen to that child.

I am hopeful that we will shortly have a national system with 15 AMBER Alerts. We are very proud that the National Association of Broadcasters is

strongly supportive. As you know, when an AMBER Alert goes out, it interrupts the television program or radio program. It is on the highway. That is what gives the broad knowledge to people.

Interestingly enough, at the hearing, Marc Klaas was also there. His daughter Polly several years ago—in the mid-1990s—was taken from her bedroom when she had a sleepover with a number of girls in her home. Someone came into her home and took her. He truly believes that had AMBER Alert been in place, Polly might have been saved.

At that hearing, we had Nichole and her mother. She was saved. And we had Marc Klaas, who lost his daughter because there was not an AMBER Alert. For many of us, it was a real juxtaposition.

I thank the Center for Missing and Exploited Children. I thank my colleague, Senator HUTCHISON. I particularly thank the chairman of the Judiciary Committee. Without Senator LEAHY, this bill couldn't have been put on the calendar, it couldn't have been marked up, and it couldn't have been moved in the very short time in which it was.

I think it has accomplished something for our children today. It will pass unanimously. Only 15 States have it. And hopefully other States are going to move very rapidly. Hopefully one day Senator HUTCHISON and I will be able to come before you, Mr. President, and the rest of this body, and say that every State in the United States today has an AMBER Alert. Here are the statistics, ladies and gentlemen. We have saved a lot of children and had them returned to their parents.

I only say to the Senator, my friend, good work. I am delighted to be here today.

I thank my colleagues for voting for this bill.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from California for jumping right in after the tragic abduction of the teenage girls. Those lives were probably saved 5 minutes before they would have been murdered. That is what the testimony was. It was the result of the AMBER Alert, which is a statewide system in California. Senator FEINSTEIN, as the Senator from the home State, has an emotional tie to this issue. I just hope we can prevent in other States other parents from having this kind of scare in their lives. At least, if they have the scare, we will be able to help them and save the lives of the most innocent in our society. Of course, that is our children.

I send a list of cosponsors—we have 38—to the desk and ask that they be printed in the RECORD.

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

S. 2896—HUTCHISON-FEINSTEIN AMBER ALERT BILL OF 2002

CO-SPONSORS (38)

Democrats: Senators Biden, Carnahan, Cleland, Clinton, Dayton, Dodd, Durbin, Edwards, Feingold, Feinstein, Harkin, Johnson, Landrieu, Leahy, Bill Nelson, Rockefeller, Stabenow, and Wyden.

Republicans: Senators Allard, Bennett, Collins, Crapo, Ensign, Fitzgerald, Hatch, Helms, Hutchinson, Inhofe, Kyl, Lott, Lugar, Santorum, Sessions, Gordon Smith, Snowe, Thurmond, Voinovich, and McConnell.

Mrs. HUTCHISON. Mr. President, it is my understanding that other Senator's wish to speak. I was not sure if Senator NELSON wanted to speak before we passed the bill. I want to make sure we pass the bill. I don't know if we need to wait for other Senators before we do that.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, if the Senator from Texas would be amenable, while we are waiting for Senators, I have remarks with regard to another matter. It is my understanding that we are in morning business. I can accommodate you all in whatever way you would like. Senators could insert their remarks in the RECORD after the fact.

Mrs. HUTCHISON. I think that is probably what we would like to do. I would like to then go forward.

Mrs. FEINSTEIN. Mr. President, over the last few months the American people have awakened to the tragic reality that our children face the very real threat of predatory criminals each and every day.

The airwaves have been filled with story after story of children who have been abducted, sometimes to be found alive later thanks to an AMBER alert or good law enforcement work; sometimes to be found, tragically, dead; and sometimes never to be found at all.

This is not a new problem, but the increased attention to the problem gives us a real opportunity to make some much-needed changes in the law to prevent some of these horrible crimes and to better protect the children of this Nation.

The bill Senator HATCH and I introduce today will help ensure that law enforcement officers have the tools and resources they need to find, prosecute, and severely punish those who commit crimes against innocent children.

Specifically, the Hatch-Feinstein Child Crime Bill would do the following:

First, the legislation directs the FBI to establish a National Crimes Against Children Response Center. This Center would have as its primary mission the development of a comprehensive, rapid response plan to reported crimes involving the victimization of children. Working undoubtedly in conjunction with the National Center for Missing and Exploited Children, the AMBER Alert systems nationwide, and other agencies and private entities as well, this Center would be the focal point for seeing that the victimization of children does not go unsolved, or unpunished.

Second, the legislation will create a new Crimes Against Children Section at the Department of Justice, tasked with prosecuting crimes against children; providing guidance and assistance to Federal, State, and local law enforcement agencies and personnel who handle such cases; coordinating efforts with international law enforcement agencies to combat crimes against children; and acting as a liaison with the legislative and judicial branches of government.

The bill also directs this new office in DOJ to create a national Internet site that will consolidate sex offender information which States currently release under the federal reporting act.

The bill also directs States that have not developed Internet sites to do so. Currently, all 50 States have registration statutes that require sex offenders to register and to share information with the United States Attorney General through the Federal Bureau of Investigation, and over 30 States make offender information available to the public on the Internet. But not all States include all available information, and there is no single place to easily acquire this information about local sex offenders. The national database will be such a place.

The legislation also prevents the use of the so-called ''Marital Privilege'' to allow one spouse to protect another in cases where a parent, guardian or supervising adult has abused a child in the home. If an adult is abusing a child in his or her own home, it is vital to put a stop to the situation. Allowing a spouse to refuse to testify about the abuse by asserting an outdated ''marital privilege'' puts the child at continuing risk. This makes no sense.

In order to assist law enforcement track and punish child predators and other violent criminals, this legislation also expands the class of offenses that are included in the Combined DNA Index System, CODIS, by adding to the system all Federal felonies and additional offenses that subject Federal offenders to sex registration requirements. Currently, only select Federal offenses are entered in CODIS.

The bill makes two modifications to Rule 414 of the Federal Rules of Evidence, which already allows evidence of a defendant's prior acts of child molestation to be admitted in a criminal child molestation case.

Unfortunately, the definition of prior acts of child abuse includes only children under 14, so acts against 15 or 16-year olds, for instance, are inadmissable. This legislation extends the definition of ''child'' contained in Rule 414 to include any person below the age of 18—rather than age 14.

And the amendment also makes clear that where a defendant previously possessed what may have been virtual, as opposed to actual, child pornography, such evidence is admissible under Rule 414.

We have also included language to expand the Federal Wiretap Act by adding as predicate offenses to the statute, sex trafficking, sex exploitation, and other interstate sex offenses. Currently, the wiretap statute authorizes the interception of wire, oral, or electronic communications in the investigation of just two sexual exploitation of children crimes.

To obtain a wiretap, law enforcement authorities will still need to meet the strict statutory guidelines of the wiretap statute and obtain authorization from a court.

The legislation would also extend the maximum supervised release period that applies to sexual offenders, by granting Federal judges the discretion to impose up to lifetime periods of supervised release for individuals who are convicted of sexual abuse, sexual exploitation, transportation for illegal sexual activity, or sex trafficking offenses.

Under current law, a judge can impose no more than 5 years of supervised release for a serious felony, and no more than 3 years for a lesser categorized offense. This amendment will not require judges to impose a period of supervised release longer than 5 years; it simply authorizes them to do so where the judge sees fit based on the nature and circumstances of the particular case. Some sexual offenders may pose a potential risk to their communities for longer than 5 years, and discretion to supervise those offenders past an artificial time limit is simply common sense.

The legislation also increases the maximum penalties that apply to certain sexual offenses, by doubling the maximum penalties for sex offenses involving the trafficking of children and other interstate elements. This will allow the Sentencing Commission, and federal judges, greater latitude in determining sentences for the worst of offenders. No changes are made to mandatory minimums.

Finally, we direct the Sentencing Commission to review the guidelines that apply to child abuse and exploitation offenses to determine whether they are sufficiently severe.

Earlier this month Senator HUTCHINSON and I introduced legislation to help establish a national AMBER alert system. These systems have been proven effective in finding abducted children quickly, and most certainly saving some lives. That bill, which will pass tonight is one step in protecting our children from dangerous predators.

The bill I introduce today with my good friend Senator HATCH is simply another piece of the anti-predator puzzle. I hope my colleagues will join us in this effort.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate agree to the committee substitute amendment, that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of substitute was agreed to.

The bill (S. 2896) was read the third time and passed.

Mrs. HUTCHISON. Thank you, Mr. President. I thank the Senator from Florida.

I do not know if a bill has ever gone through the Senate any faster. It couldn't have happened without Senator LEAHY. I think passing this kind of bill before we leave for 3 months could be responsible for saving lives.

I am just so appreciative that we can go forward and that every single Senator on both sides of the aisle will give their consent to this bill passing.

So, Mr. President, I thank the Senator from Vermont for his leadership and for helping us work through what could have been a delay, but it was not because of his leadership.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank my good friend from Texas for her kind remarks, but I was simply able to expedite the very good work that she and the distinguished Senator from California have done.

I note that what has happened here is an idea which has come from the Senator from Texas and the Senator from California, who have worked together in a bipartisan fashion. Actually, this is a nonpartisan issue. They are both parents. The Senator from Texas knows how much I admire her work as a parent, as I do the Senator from California.

Whether or not you are a parent, the most terrifying experience is for a child to be suddenly missing, especially if foul play is involved. I am not talking about a child getting lost on the way home from school who is going to show up an hour later because all the neighbors are out looking for that child or a child who stayed too long at a friend's house and forgot to call and then calls a frantic parent 45 minutes or an hour later and says, ''Gee, I forgot to tell you I was at Johnny's or Susie's house,'' or something like that. This comes into play in a case where, much as you hate to suspect there may be foul play, there may well be.

If you can return one child—one child—to the parents, look at what you have done. If you can return hundreds, which is the potential with this legislation, look how much more you have done.

It is the case where you have big States, such as those of the Senator from Texas and the Senator from California. They come from very large States: large graphically, large in population. I come from a very small State: small in geography, small in population. But if you can tie in my part of the country—the northeastern part—we go from very small States, such as mine, to the bordering States of New York and Massachusetts, which are much larger States in population. It is the whole northeastern corridor, but somebody can drive through those States in half the time it takes to drive, for example, across the State of Texas or the length of the State of California. So we have to be able to coordinate.

I think that is why so many came together on this: Senators HATCH, BIDEN, DURBIN, EDWARDS, FEINGOLD, KYL, SESSIONS—and I think you have 34 cosponsors.

Mrs. HUTCHISON. Thirty-eight.

Mr. LEAHY. Thirty-eight. I thank the Senator from Texas.

The Senator from Florida represents a State the length of which, if it went in the other direction, it would go across time zones.

Incidentally, people may see the success stories on one or two television programs, where there might have been one last year or last month or last week, but the Department of Justice estimates the number of children taken by strangers annually is between 3,000 and 4,000. That is terrible.

This plan originated in Arlington, TX, after the murder of 9-year-old Amber Hagerman. We will help coordinate. We will make sure the local, State, and Federal officials can work together.

But not only that, private citizens will be involved because they will hear from State broadcasters or from law enforcement people. I don't know of anybody who hears of a missing child who would not want to help. And this will make that possible.

So it will help kidnap victims. It will also preserve the flexibility of the States because States are different in how they want to implement it.

It is disturbing to see on TV or in the newspapers photo after photo of missing children from every corner of the Nation. As the father of three children, as well as a grandfather of one grandson, with another grandchild on the way, I know that an abducted child is a parent's or grandparent's worst nightmare.

Unfortunately, it appears this nightmare is happening all too often. Indeed, the Justice Department estimates that the number of children taken by strangers annually is between 3,000 and 4,000. These parents and grandparents, as well as the precious children, deserve the assistance of the American people and helping hand of the Congress.

By coordinating their efforts, law enforcement emergency management and transportation agencies, radio and television stations, and cable systems have worked to develop an innovative early warning system to help find abducted children by broadcasting information—including descriptions and pictures of the missing child, the suspected abductor, a suspected vehicle, and any other information available and valuable to identifying the child and suspect—to the public as speedily as possible.

The AMBER Alert system's popularity has raced across the United

States. Since the original AMBER Plan was established in 1996, 55 modified versions have been adopted at local, regional, and statewide levels. Eighteen States have already implemented statewide plans. It is also a proven success—to date the AMBER Plan has been credited with recovering 30 children.

This bipartisan legislation will authorize the Attorney General, in cooperation with the Secretary of Transportation and the Chairman of the Federal Communications Commission to appoint a Justice Department National AMBER Alert coordinator to oversee the Alert's communication network for abducted children. The AMBER Alert Coordinator will work with the States, broadcasters, and law enforcement agencies to set up AMBER plans, serve as a point of contact to supplement existing AMBER plans, and facilitate regional coordination of AMBER alerts.

It also directs the AMBER Alert coordinator, in conjunction with the FCC, local broadcasters, and local law enforcement agencies, to establish voluntary guidelines for minimum standards in determining the criteria for AMBER alerts and for the dissemination of those alerts. As a result, our bipartisan bill helps kidnap victors while preserving flexibility for States in implementing the alert system.

Because developing and enhancing the AMBER alert system is a costly endeavor for States to take on alone, our bipartisan bill establishes two Federal grant programs to share the burden. First, the bill creates a Federal grant program, under the direction of the Secretary of Transportation for statewide notification and communications systems, including electronic message boards and road signs, along highways for the recovery of abducted children. Second, the bill establishes a grant program managed by the Attorney General for the support of AMBER alert communications plans with law enforcement agencies and others in the community.

Our Nation's children, parents and grandchildren deserve our help to stop the disturbing trend of children abductions. I am gratified the Senate has passed the AMBER Alert National Network Act, and I hope the House and the President will act expeditiously on this important piece of legislation to ensure that our communications systems help rescue abducted children from their kidnapers and return them safely to their families.

Mr. President, I thank the Senators who have joined on this measure.

I yield the floor and thank the distinguished Senator from Florida for his courtesy in allowing me to speak. But I hope he will note, in honoring that, I tried to wear a suit as close in color to his as possible.

The PRESIDING OFFICER. The Senator from Florida is recognized.

ELECTION REFORM

Mr. NELSON of Florida. Mr. President, before the distinguished chairman of the Judiciary Committee leaves the floor, I want to call to his attention, which I did a few minutes ago to his colleague, the distinguished chairman of the Rules Committee, that, lo and behold, there are problems with the voting equipment in Florida today during the primary elections. It underscores the fact there is a need for this Congress to enact an election reform package.

In the Senate, we have passed a substantial bill which is a much different version than has been passed by the other body, the House of Representatives. And the conference committee has been unable to come to terms of agreement.

If it can happen in Florida, almost 2 years after the awful experience that the Nation went through in disputed ballots in the general election of November 2000, it can happen anywhere. It was a circumstance which riveted the attention of not only the Nation but the world with ballots that were confusing—ballots that were miscounted because it was difficult to determine the intent of the voter.

In fact, the Florida legislature had responded by providing appropriations so that the various counties, through their supervisors of elections, could modernize and update voting equipment, as well as procedures and providing voter education.

All of that has been in place in the State of Florida, where all of our citizens are so highly sensitive to the fact that their vote might not be counted, as happened in the experience 2 years ago. If it can happen in Florida today, as it literally has on primary election night, then how much more likely will it happen in other States? And how much more do we have to make the case that it is so important for us to get resolution of the differences and come to agreement in an election reform bill for the country as a whole?

That clearly is a matter that is relevant to the moment. As a result of the discrepancies that have happened earlier today in Florida, the Governor has extended the deadline for voting in Florida from 8 o'clock Eastern time to 10 o'clock this evening. So the results of the primary elections will be coming in quite late. Yet it bears to be underscored this is another reason we need to pass the election reform bill.

The PRESIDING OFFICER. The Senator from California is recognized.

IN MEMORY OF THE CALIFORNIA VICTIMS OF 9/11

Mrs. BOXER. Mr. President, I thank the Senator from Florida for what he said on the need to get homeland security right. He touched on the Coast Guard as an example of where we don't want to lose the function of the Coast Guard that is so important to our States—those of us who have waterways and oceans and a search-and-rescue element. I could not agree more with that point.

I am also going to be working on the Federal Emergency Management Administration. We know they have come to our rescue many times, and we don't want to lose the ability of that agency to function in a natural disaster, as well as, of course, utilizing them if, God forbid, we have another terrorist attack. I think these are things on which we need to reflect.

I am very pleased that Senator BYRD has slowed us up on considering this bill because it is not about an artificial date; it is about getting it right.

Mr. President, I am here in a very somber mood. We are approximately 15 hours away from the very moment 1 year ago that our Nation was hit, and I want to take just a moment of the Senate's time—maybe 15 minutes—to reflect on that day and, most of all, to remember the Californians we lost that day, numbering 54.

For me, and perhaps for you and many Americans, September has really been a month of excitement and anticipation. I have always loved September. It is the end of the summer, the beginning of a beautiful fall with the changing of the leaves, back to school, and perhaps a little quicker pace, a faster step. September, for most of us, never reminds us of loss, of fear, of shock, of the horrors born of an extreme, unbridled, blind hatred.

In September, we found out about those things. We also found out as a Nation what heroism truly is, how strong and united we can be, how we can set aside differences for the greater good and work together.

The images of September 11 are deep in our minds and deep in our souls. The pain is there, just under the surface. For some of us in America, it is on the surface, and it will always be on the surface for the families who grieve, for the children who will never know a parent—thousands of them—for communities that were decimated.

Today I want to remember those in my State who died on that day. Each was unique. Every one of those planes on that fated day was headed to California. So even though my State was 3,000 miles away from Ground Zero, from the World Trade Center or the Pentagon, we were linked in our sorrow, and we were linked in our outrage.

I am going to read the 54 names, and then I am going to talk a little more about some of the people whose families wanted me to just say a little more about them and show their picture to you.

David Angell; Lynn Angell; David Aoyama; Melissa Barnes; Alan Beaven; Berry Berenson; Dr. Yen Betru; Carol Beug, and her mother Mary Alice Wahlstrom died together on flight 93. Mary Alice is from Utah.

Mark Bingham; Deora Bodley; Touri Bolourchi; Daniel Brandworst, Ronald Gamboa, and their adopted son, David Brandhorst. He was 3 years old.

Charles ''Chic'' Burlingame, the captain of American Airlines flight No. 77. Technically, he was from McLean, VA, but his family is from California, and they considered him a Californian, and they said he considered himself a Californian.

Thomas Burnett; Suzanne Calley; Jeffrey Collman; Dorothy DeAraujo; Lisa Frost; Andrew Garcia; Edmund Glazer; Lauren Grandcolas; Andrew Curry Green; Richard Guadagno; Stanley Hall; Gerald Hardacre; John Hart; John Hofer; Melissa Hughes; Barbara Keating; Chad Keller; Christopher Larrabee; Daniel Lee; Dong Lee; Joe Lopez; Hilda Marcin; Dean Mattson; Dora Menchaca; Nicole Miller; Laurie Neira; Ruben Ornedo; Marie Pappalardo; Jerrold Paskins; Thomas Pecorelli; Robin Penninger; Marie-Rae Sopper; Xavier Suarez; Alicia Titus; Otis Tolbert; Pendyala Vamsikrashna; Timothy Ward; Christopher Wemmers; John Wenckus.

Mr. President, I want these names to be memorialized again today.

There is a beautiful song called ''Try to Remember,'' and one of the lines is:

Try to remember the kind of September when no one wept except the willow.

Sadly, those of us who lived through September 11, 2001, will weep for our lost brothers and sisters, but we will always remember our country, our embrace of freedom, and our democracy. And we will always cling closer to our loved ones. This place, this great democracy, America, will endure.

Now I am going to tell you a little bit more about a few of the people we lost in California. Many people noted that the New York Times has run an ongoing biography of the people who were lost on that day. I was talking to Bob Kerrey, the former Senator from Nebraska, and he said this to a group of us: When you read those memorials, what you realize is how wonderful and important each of these people was and what wonderful stories were related from their families, their friends, and their coworkers. What really emerged is why this is such a great country. These people, they do not get in the news. They get up and go about their lives. That is what you are going to find out as I read about these people and show these pictures in memoriam.

LAUREN GRANDCOLAS

Mrs. Grandcolas was a 38-year-old advertising sales consultant when the flight she was on, United flight 93, was hijacked by terrorists. As we all know, that plane crashed in a Pennsylvania field killing everyone on board. We also know of the heroism of the passengers on that plane.

Mrs. Grandcolas was born in Bloomington, IN, and attended the University of Texas at Austin where she met her husband, Jack Grandcolas. After graduation, she worked as a marketing director for a law firm and then for PricewaterhouseCoopers.

At the time of her tragic death, Mrs. Grandcolas was working as an advertising sales consultant at Good Housekeeping magazine and was researching and writing a nonfiction book to help women boost their self-esteem.

Lauren had enthusiasm and passion for life, loved the outdoors and was devoted to physical fitness. She hiked, jogged, kayaked, and enjoyed in-line skating around her neighborhood. Her energy was boundless. She took classes in cooking and gardening, scuba diving, and wine appreciation. Lauren was active with the United Way, March of Dimes, Project Open Hand, Juvenile Diabetes Foundation, Breast Cancer Awareness, and Glide Memorial.

Her husband Jack recalls she had a heart the size of Texas. Knowing her flight had been hijacked, Lauren left her husband a message on their home answering machine and then loaned her cell phone to another passenger to call loved ones.

The joy Lauren felt pursuing new interests and developing new skills was being interwoven in the book she was writing for women. Jack recalls:

She made a point to do things that were good for her, and she thought she could extend what she had learned to help other adult women gain confidence. Her sister and I will fulfill her dream by completing the book.

Lauren Grandcolas is missed deeply by her family.

I wanted to take a moment to tell you a little bit more about her.

NICOLE CAROL MILLER

This next picture in memoriam is of Nicole Carol Miller. I want to start out by reading a poem that was dedicated to Nicole that was written by her father, David James Miller. It was written last September 11. If I cannot get through this, I will put it in the RECORD. My daughter's name is Nicole. This is the poem.

How I love thee My Nicole.
When the thoughts of you come into my mind
It's as if a breeze has passed through our rose garden and the sweet savory I smell
The taste of roses upon my tongue brings the sweetness of your memory to my mind
It comes upon me as the morning dew weighs the roses down
Smooth and pleasant are the thoughts of you, as the petals of a rose
And once again I am nourished with your love.

Nicole Carol was a lovely 21-year-old college student when the flight she was on, United flight 93, was hijacked by the terrorists. That was the plane that was brought down by the passengers in Pennsylvania.

Nicole's memory lives on in the hearts of those she loved. She took great joy in life and exemplified this with her wonderful outlook and her tenacious personality. Nicole's radiant smile, which we can see in this photo, could light up the room as she energized those around her. She knew how to be an outstanding friend. She was blessed with two families, her father and stepmother, David and Catherine Miller of Chico, CA, and her mother and stepfather, Cathy and Wayne Stefani, Sr., of San Jose, CA.

In her father's words:

She had that sweet baby quality. She could make you smile and forget your troubles for a little bit.

Friend Heidi Barnes describes Nicole as very friendly and welcoming. She had a big heart, and it was open to everyone.

Nicole lived in San Jose, CA, with her mother and stepfather. She attended local schools and graduated from Pioneer High School in 1998. A talented softball player during all 4 years of high school, Nicole won a college softball scholarship during her senior year. Even though she had never been a competitive swimmer, she tried out for the Pioneer High swim team as a freshman and made the team. At the time of her tragic death, she was a dean's list student at West Valley College in Saratoga working part time and weighing whether to transfer to California State University at Chico or San Jose State University.

I offer this tribute to Nicole.

HILDA MARCIN

I would like to take this opportunity to share with the Senate the memory of one of my constituents, Hilda Marcin, who lost her life on September 11, 2001. Mrs. Marcin was 79 years old when the flight she was on, United Airlines Flight 93, was hijacked by terrorists. As we all know, that plane crashed in a Pennsylvania field, killing everyone on board.

Mrs. Marcin was born in Schwedelbach, Germany. When she was 7 years old, her family emigrated to the United States to escape oppression. Like many immigrants, her family left all possessions behind and came only with the clothes on their backs.

Her family settled in Irvington, NJ, where she attended local schools. She worked seven days a week in the payroll department of the New Jersey shipyards during World War II.

A friend arranged a blind date with Edward Marcin and they were married on February 13, 1943. They had two daughters, Elizabeth and Carole. The Marcin family enjoyed participating in school functions, class trips, the PTA, and various church activities. Mr. and Mrs. Marcin were also socially and politically active in Irvington. Mrs. Marcin later worked as a special education teacher's aide.

Hilda Marcin embraced life with enthusiasm and made the most of every minute. She adored her family and her granddaughter, Melissa Kemmerer Lata. She was an inspiration to those she touched, including the special needs children in the school where she worked. Her friends admired her positive attitude and her desire and ability to continue working during the later years of her life. Mrs. Marcin treasured freedom and democracy, and her American citizenship.

At the time of her death, Mrs. Marcin was flying to San Francisco to live with her younger daughter, Carole O'Hare. She is survived by her daughter, Elizabeth Kemmerer and son-in-

law Raymond Kemmerer; daughter Carole O'Hare and son-in-law Thomas O'Hare; and granddaughter Melissa Lata and Melissa's husband, Edward Lata. I offer this tribute to her.

DANIEL LEE

Daniel Lee lost his life on September 11, 2001. Mr. Lee was 34 years old when the plane he was on, American Airlines Flight 11, was hijacked by terrorists. As we all know, that plane crashed into the World Trade Center, killing everyone on board.

Daniel Lee grew up in Palm Desert, CA. He was a carpenter and a drummer in a local southern California band. He met his wife, Kellie, in 1991 at a rock concert in which he was playing the drums. They were married October 7, 1995 and their first child, Amanda Beth, was born December 11, 1998.

Mr. Lee was a dedicated and successful set carpenter in the music industry, known to work 20 hour days when necessary. He worked with many talented musicians including Neil Diamond, Barbara Streisand, N'Sync, Aerosmith and Yanni. He was touring with the Backstreet Boys when, on September 11, 2001, he left to fly home to be with his wife as she was about to give birth to their second child. Allison Danielle Lee was born September 13, 2001.

Kellie Lee recalls Dan's bright, relaxed and charming smile. ''He was caring, loving, funny and romantic. He loved being a Dad and was so excited about having another child on the way,'' she says. One of his special joys was getting friends together for barbeques and pool parties,'' Kellie remembers.

Dan Lee is survived by his wife, Kellie Lee, his daughters, Amanda and Allison, mother and stepfather Elaine and John Sussino, brothers Jack Fleishman and Stuart Lee and sister, Randi Kaye. I offer this tribute to Daniel Lee.

Mr. President, I take this opportunity to share with the Senate the memory of one of my constituents, Mari-Rae Sopper, who lost her life on September 11, 2001. Ms. Sopper was a 35-year-old lawyer and gymnastics coach when the flight she was on, American Airlines Flight 77, was hijacked by terrorists. As we all know, that plane crashed into the Pentagon, killing everyone on board.

Ms. Sopper was a native of Inverness, IL, and attended William Fremd High School in Palatine, IL. At the age of 15 she set the goal of becoming a champion gymnast. She succeeded, becoming all-American in 4 events, the school's Athlete of the Year and the state's Outstanding Senior Gymnast of the Year.

Larry Petrillo, her high school gymnastics coach, remembers her as brash and committed. ''One thing she taught me is, you never settle for less than you are capable of. We should never accept limits. We should always fight the good fight. She was a staunch supporter of gymnastics and what's right,'' he recalls.

Upon graduating from Iowa State University with a degree in exercise science, Ms. Sopper earned a master's degree in athletics administration from the University of North Texas and a law degree from the University of Denver. Ms. Sopper was an accomplished dancer and choreographer and continued to coach at gymnastics clubs.

Ms. Sopper practiced law as a Lieutenant in the Navy's JAG Corps, focusing on Defense and Appellate Defense. She had left the Navy JAG Corps and was an associate with the law firm Schmeltzer, Aptaker & Sheperd, P.C. when she found her dream job: to coach the women's gymnastics team at the University of California at Santa Barbara.

It was a 1-year appointment and Ms. Sopper was looking forward to the challenge. Her mother, Marion Kminek, says Mari-Rae was excited about the opportunity. ''I said go for it. Life is too short. It was something she had always wanted to do and she was so happy and excited,'' recalls Kminek.

At the time of her death, Ms. Sopper was moving to Santa Barbara to begin her appointment. Her close friend, Mike Jacki, recalls ''This was to be a new adventure for Mari-Rae, and an opportunity to get back into the sport she loved. We have lost a very special person. She was prepared to make her dream come true, and in an instant it was gone.''

Mari-Rae Sopper is remembered for her loyalty, strong values, excellent work ethic and spirit for life. She is survived by her mother, Marion Kminek and stepfather, Frank Kminek, her father Bill Sopper, sister Tammy and many loving friends.

Mr. President, the last story I share with the Senate is the memory of one of my young constituents, Deora Bodley, who lost her life on September 11, 2001. Ms. Bodley was a 20-year-old college student when the flight she was on, United Airlines Flight 93, was hijacked by terrorists. As we all know, that plane crashed in a Pennsylvania field, killing everyone on board.

Ms. Bodley grew up in San Diego, California. As a high school student, she visited local high schools to discuss HIV/AIDS with her peers. She volunteered with the Special Olympics and a local animal shelter. Chris Schuck, her English teacher at La Jolla Country Day School, recalls, ''Deora was always thinking big and going after big game.''

At the time of her death, Ms. Bodley was studying psychology at Santa Clara University. She coordinated volunteers in a literacy program for elementary school students. Kathy Almazol, principal at St. Clare Catholic Elementary, recalls Ms. Bodley had ''a phenomenal ability to work with people, including the children she read to, her peer volunteers, the school administrators and teachers. We have 68 kids who had a personal association with Deora.''

In the words of her mother, Deborah Borza, ''Deora has always been about peace.'' At the tender age of 11 years, Deora wrote in her journal, ''People ask who, what, where, when, why, how. I ask peace.'' A warm and generous person, Deora was a gifted student and a wonderful friend. Wherever she went, her light shined brightly.

Deora's father, Derrill Bodley, of Stockton, CA, feels her life was about ''getting along'' and sharing a message of peace. Her 11-year-old sister, Murial, recalls Deora taught her many things and says, ''Most of all she taught me to be kind to other people and animals. I cherish the memories of my sister and plan to work hard in school and in everything I do so she can be proud of me like I was of her.''

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

So I am honored and very moved to have had this chance to put into the RECORD today the names of these more than 50 Californians, every one now a bright and shining star in the sky. Their memories will live on and their legacies will live on, as will the memories and legacies of every American and every person, every innocent victim, who was cut down in the most hateful way on that tragic day.

I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Alabama.

TERRORISM

Mr. SESSIONS. I thank the Senator from California for her eloquent remarks. It is time for a memory indeed. Tomorrow I will be going to the Pentagon for a memorial service, as will many other Senators, to memorialize that terrible day on September 11, when we lost the people at the Pentagon. Five of those lost at the Pentagon happened to be from the State of Alabama, but the State has lost 10 or more personnel since this war on terrorism began. It has touched the entire country.

Some of our finest people, innocent of any wrongdoing, innocent of any involvement in what might be considered to be oppression or disagreements with the terrorists who did these acts, paid the price. Historically, the civilized world has rejected these acts.

But there is afoot today terrorist groups and terrorist cells throughout the country. A significant number of people would believe they have a right to use terrorism and weapons of mass destruction to kill and maim people who have done nothing in their lives to wrong them. I believe we have to confront that.

The President has been talking about Iraq and the problem it presents. It is

a real problem. It is a problem that will not go away.

We could wish it would go away, but it will not go away. The reason is they have been in such continual violation of the agreements they made with regard to not participating in weapons of mass destruction.

We are in a critical time right now. I think the President has done the right thing, to say he wants Congress to participate in a debate and to give him a resolution of support of his action with regard to Iraq. I believe that is a good step. I think it is good, not because it is absolutely clear to me that it is required—I know Senator DAYTON is a member of the Armed Services Committee and has been through a lot of these hearings—but we are at this point with regard to Iraq because we held back. We did not complete the job. We did not continue to move into Baghdad and capture or kill Saddam Hussein and completely take that country in 1991 during the gulf war—Desert Storm. We didn't do that.

We said OK, and the U.N. sort of stepped in, and they wrote up this agreement, and Saddam Hussein agreed to many different things. He agreed to reject weapons of mass destruction, chemical and biological weapons, and not only did he agree not to do those things, he agreed U.N. inspectors could be sent there to actually go into his country and examine anything that looked unusual, he would not attempt to stop that, and we could send inspectors to prove he was not participating in weapons of mass destruction—chemical, biological, or nuclear weapons.

But what has happened? The history is very sad. It is a circumstance that is particularly frustrating. We wish we did not have to direct our attention to it, but we do. It is not going away. He has broken virtually every one of the promises he made, and I suspect, from what I read, the President is going to talk about that at the U.N.

Let me say this about the United Nations. The United Nations is a noble organization, with noble goals, that deserves respect. Remember in the Declaration of Independence, they, the fathers of the American Revolution, used the phrase ''a decent respect for the opinions of mankind'' to require them to set forth the reasons for separation, the reasons for revolution.

So I think the President should explain to the world—and the U.N. is a great forum to do that—precisely why he believes we should act now.

I suspect what he is going to talk a lot about is resolutions that Saddam Hussein agreed to and that were put forth by the U.N. and were U.N. resolutions that have been violated. Resolution after resolution, for a decade or more, they have been in violation. He will raise that tomorrow—or Thursday, as he should.

The gravity of the problem is clear. Saddam Hussein's violations are matters of life and death. I wish it were not so. I wish it were just some disagreement over tariffs, or maybe oil prices, or something like that. But what we are talking about is that Saddam Hussein has, with determination and consistency for many years before the gulf war—11, 12 years ago, and since—persisted to develop weapons that he has used in this world. So it is a matter of life and death.

They demonstrate not just technical infringements on their agreements but they constitute a deliberate and determined program to develop weapons of mass destruction that he himself can use if he desires, or he can in secret provide to stateless terrorists so they can use these weapons on law-abiding American citizens and people of the world. So there is a real danger here.

Some say: What new evidence do you have to go forward? What new evidence do we have? Apparently, from some of the things you read in the papers—and I will not make reference to anything that is confidential—there have been indications that there is new evidence to indicate continued progress toward achieving dangerous weapons. We know, for example—we were shocked to find, at the time of the gulf war when we were victorious and did the inspection of the nuclear facilities, that Saddam Hussein had—that they were within 6 months of being able to produce a nuclear bomb when the United States successfully defeated Iraq in that war—6 months. The experts did not think that at the time, but the inspection of the country afterwards found that.

So I would say first of all, as Secretary Rumsfeld said: Oftentimes we know what we don't know. We know some things that indicate that he has continued steadfastly to improve chemical, biological, and nuclear weapons. We know that. But precisely how far he has gone we cannot say. But we know what his goal is. It has not changed. So I would say that is important for us to remember.

These things should not come as a surprise to any serious observer of the scene. We have been dealing with this man and his deliberate plans to obtain weapons of mass destruction for quite a number of years, and virtually daily since the gulf war. The fact is, he had no intention of complying with the world's demands to stop. He will not stop. Will a single person in this Congress, will a single person, come forth and say that they believe he will even unequivocally promise to stop? Which I doubt he will—but he might. But more important, will he actually stop production of these weapons? I challenge this body and the House of Representatives, and I will ask that question. Is there anyone here who thinks he sincerely will stop his activities to build weapons of mass destruction? I do not think anyone would.

Why? Is it just anger we are involved in here? Are we just angry over his bellicose statements about the United States? Are we just angry over his attempt to assassinate the President of the United States? Is it just anger over the fact that he gave $25,000 rewards to families of suicide bombers in Israel or other places, people who would murder innocent civilians, that cause us to say we don't trust him? No. It is not anger—although we have a right to be indignant over what he does. But we must not act solely out of anger.

I used to try criminal cases as a Federal prosecutor. Many times, the evidence from credible, honest witnesses would be contradicted solely by the words of the defendant. He would say: I didn't do it.

I used to do a little deal sometimes and talk to the jury. I said: Just because somebody says they won't do it doesn't mean they will not. I can say: I don't have a pencil in my hand, and if I do, I am not going to drop it. And I didn't drop it. I didn't drop the pencil.

Does that change the fact that I had a pencil and I dropped it? I think not.

This man is not credible. What we have to do when we deal with a man of this kind is look at his acts. Can they be just short-term acts? That is important, but long-term acts are even more important.

I think a decision that is to be made by a great nation, a nation that desires to protect its citizens and has the protection and security of its citizens in this country and around the world as its highest priority, that nation has to be serious. We cannot deal in wishful thinking. We cannot do so.

People say to me, basically: Can't we get along? Why do you want to talk about war?

Why do we have to wrestle with these issues? Isn't it possible that Saddam Hussein has seen the light and will change? I think people are not saying that. I don't think people are saying it. But in their hearts they are hoping that. Sometimes I think the same way. Isn't it just possible that this will change?

But let us consider the matter rationally and reasonably. What are the facts? What is the evidence? Is there a case here?

When solely evaluated, I submit there is overwhelming evidence that the facts present a demonstration that Saddam Hussein is manipulating the world, acting to keep them at bay while he steadfastly pursues his plan for weapons of mass destruction in direct violation of the agreement that saved his monstrous regime 11 years ago.

There are many ways to detail the charges against this most vicious dictator with the possible exception of North Korea, the most brutal dictator in the world today, and one who has been more active to export his violence than any other nation in the world today.

At this time, I think we should talk about the Iraq Liberation Act of 1998. This Congress voted on it. It passed the House of Representatives almost unanimously. There were maybe 30 ''no'' votes. It passed in this body unanimously by consent.

This is what we found in 1998 at a time when Saddam Hussein ejected the inspectors that he agreed to have come into his country. We did nothing about it. This is what the findings say:

The Congress makes the following findings.

On September 22nd, 1980, Iraq invaded Iran, starting an 8-year war in which Iraq employed chemical weapons against Iranian troops, and ballistic missiles against Iranian cities.

This country is not Iraq. It is not a backward country. It has a government of laws, longstanding. It has for that region of the world an educated population. They are capable of doing so much better than they are today.

Unfortunately, the people of Iraq are suffering more than anyone else as a result of Saddam Hussein's bad leadership.

It goes on in paragraph 2:

In February of 1988, Iraq forcibly relocated Kurdish civilians——

These are citizens of Iraq——

from their home villages in the Anfal campaign, killing an estimated 50,000 to 180,000 Kurds——

Fifty-thousand to 100,000 of his own civilians in 1988 after he lost the war, after he signed an agreement not to use weapons of mass destruction, and after he agreed to inspections——

On March 16th, 1988, Iraq used chemical weapons against the Iraqi Kurdish civilian opponents in the town of Halabja killing an estimated 5,000 Kurds——

Causing numerous birth defects that affect the town to this day.

How long has it been since a nation in the world used chemical weapons against anyone, much less their own citizens, killing 5,000 Kurds? It is a despicable act by a despicable man who is not worthy to be a part of civilized nations, I submit.

On August 2nd, 1990, Iraq invaded and began a 7-month occupation of Kuwait.

This is a sovereign, independent nation on its border that happened to have substantial oil reserves that Saddam Hussein wanted. So on August 2, 1990, he invaded and began a 7-month occupation killing and committing numerous abuses against Kuwaiti citizens and setting Kuwaiti oilfields ablaze in his retreat.

Do you remember that? Just out of perversion and pure meanness, he set the oilwells on fire, polluting the atmosphere, putting at risk thousands of lives, and causing tremendous expense to bring those fires under control. In fact, they were brought under control better than we had any right to expect. At first, people expected it would take much longer than the long period it ultimately took.

No. 5—this is our findings, the Congress:

Hostilities in Operation Desert Storm ended on February 28th, 1991, and Iraq subsequently accepted the cease-fire conditions in the United Nations Security Council Resolution 687 on April 3, 1991, requiring Iraq, among other things, to disclose and fully permit the dismantlement of his weapons of mass destruction program, and submit to long-term monitoring and verification of such a dismantlement.

That was the basic condition of it. We said: OK. Mr. Saddam Hussein, we will not continue this war. We have ousted you from Kuwait where you had no right to be, but you have to agree to dismantle your weapons of mass destruction. OK. He agreed to that. That was the U.N.-brokered deal.

Paragraph 6:

In April of 1993, Iraq orchestrated a failed plot to assassinate former President George Bush during his April 14 through 16, 1993, visit to Kuwait.

What a despicable act. I submit to you as a Member of the Senate of any party that when a head of a foreign nation deliberately sets about to assassinate the leader or former leader of any great nation, that is something that should not be lightly dealt with. Frankly, I think we dealt with it too lightly at the time. We did take some action but not enough.

This man attempted to kill, assassinate the President, former President of the United States of America while he was visiting Kuwait, a country that former President Bush had led the liberation of and freed from this oppressive regime.

So it continues. That was in April of 1993:

In October of 1994, Iraq moved 80,000 troops to areas near the border of Kuwait posing an imminent threat of renewed invasion of or attack against Kuwait.

This is a man who wants us to get along with him and says, If you want complete destruction of my Government, I will behave and end weapons, and I will get along with my neighbors. And here he is moving 80,000 troops down on the border towards Kuwait where he does not station them normally. It just shows the aggressive hostilities of which he is capable.

On August 31 of 1996, paragraph 8:

In the findings of the U.S. Congress, Iraq oppressed many of its opponents by helping one Kurdish faction capture the seat of a Kurdish regional government.

Since March of 1996, Iraq has systematically sought to deny weapons inspectors from the United Nations Special Commission on Iraq—UNSCOM—access to key facilities and documents, has on several occasions endangered the safe operation of UNSCOM's helicopters transporting UNSCOM personnel in Iraq, and has persisted in a pattern of deception and concealment regarding the history of its weapons of mass destruction program——

And persisted in a pattern of deception and concealment regarding the history of his weapons of mass destruction programs——

The U.S. Congress, U.S. Senate unanimously found:

On August 5 of 1998, Iraq ceased all cooperation with UNSCOM, and subsequently threatened to end long-term monitoring activities by the International Atomic Energy Agency and UNSCOM.

The International Atomic Energy Agency is monitoring Iraq's nuclear bomb capability.

Paragraph 11:

On August 14, 1998, President Clinton signed Public Law 105–235 which declared that ''the Government of Iraq is in material and unacceptable breach of its international obligations'' and urged the President ''to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations.''

No. 12:

On May 1, 1998, President Clinton signed Public Law 105–174, which made $5,000,000 available for assistance to the Iraqi democratic opposition for such activities as organization, training, communication and dissemination of information, developing and implementing agreements among opposition groups, compiling information to support the indictment of Iraqi officials for war crimes, and for related purposes.

It goes on to say:

Sense Of The Congress Regarding United States Policy Toward Iraq.

In Section 3, this is what we found as a Congress:

It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.

I repeat that. That is so important. We voted unanimously in this Senate that:

It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.

I suppose we have tried to do so in many different ways. The problem is, we have not been very successful. Iraq continues to make a mockery of its agreements and continues to build and develop weapons of mass destruction.

So the President is, I am sure, from newspaper reports, going to talk about that to the United Nations. I am so glad that he is because we have to think about an important subject.

Mr. President, you are aware that the Economist magazine, a London publication, in England, which is seriously reviewed around the world—and people give its opinions great weight—has expressed a view that there is no alternative but to war in this circumstance.

A couple months ago, they had an insert on the role of American foreign policy in the world, and they talked about this tension between multilateralism and unilateral action by the President, or can the United States act alone or with a few allies? They raised this question.

Multilateralists say we ought to reach agreements, and those agreements ought to be for the purpose of making our world safer. And they can work in that regard. The question the Economist posed is: What if the people who sign them do not abide by them? What if the people who have signed them deliberately, deceitfully operate in violation of those agreements, thereby threatening the safety and security of the rest of the world? Does the world just sit by and do nothing? Is that a credible response?

Do you think that is what was on President Bush's mind when he said, in recent words—and I think I can quote

him directly—''the credibility of the world is at stake''?

Yes, it is one thing to have resolutions. It is one thing to say we are going to have agreements so we can go away and wash our hands and say the matter is solved and the danger is over. That may be OK if it is a trade issue or some such event as that. But if it is a matter of life and death, dealing with a country that is capable of and has proven in the past it will use weapons of mass destruction against enemies in its own country and outside their country, if that is so, then we have a big problem.

So I think the President is determined to confront this issue and that the status quo in Iraq is not sufficient. We need to go back and remember what has already occurred. And that is where we are.

They say: Well, you have to have a unanimous vote. The United Nations has to support this action. I think a decent respect for the United Nations calls on the President to go there and state his case. I think it is important for the President to explain it to good and decent leaders all over the world, and seek their support wherever he can get it. But as a member of the Armed Services Committee, I can tell you, we do not have to have the support of any one nation to defeat Iraq. I hope we can do it promptly.

One thing I do believe is, he does not have popular support in his country and many of the people will be delighted to see him go. And I think it is not as if we are attacking a country that has loyal and decent people willing to die for their country. There may be some, but it is not nearly that many because this man is a brutal dictator.

But the President is required to state his case around the world. That is important. I hope he does not feel compelled to describe, in any detailed way, precisely how he might conduct a war, if a war becomes necessary. Maybe it will not be. I hope it will not be. But from my reading of this history, both before Desert Storm and after, of Saddam Hussein's absolutely steadfast determination to frustrate the world and do what he wants to do, I do not believe he is going to change. So I think we are going to be confronted with that situation sooner or later.

The question is, shouldn't we have the support of the United Nations? The problem there is this: A United Nations resolution requires a Security Council vote, a unanimous vote of the Security Council.

The American people have spent a lot of money building up the greatest military force in the history of the world. We will spend, next year, $370 or so billion on a national defense system for this country. And on the United Nations Security Council there are countries such as France and Germany and England, and also China and Russia. So what are we going to do? Are we going to say that the Chinese or the Russians, or any other member of the Security Council, for any reason they choose, has the right to say: No, Mr. President, we don't agree. You can't use force against Iraq. You can't use force to liberate Kuwait. You can't use force against Panama, as President Bush did. You can't act against Kosovo because we say no?

That is not something that a great nation, the preeminent world power—let's say it frankly—can allow. The preeminent world power—a good and decent nation, whose actions are not for self gain but to vindicate legitimate rights and interests—cannot allow its power to be curtailed by the vote of one nation in the U.N. Security Council.

So the President cannot say: I am going to defer this matter to the U.N. That would be absolutely wrong. It would be unwise. And the American people would not support that. It is our military. We did it to protect our just national interests—not our unjust national interests, but our just, legitimate national interests. I believe the President understands that distinction. I hope that we, as Americans, think that through because some tend to believe we have to have a vote of the U.N. before we can act to defend our national security interests around the world, and that is not correct. Very few would agree with that.

We are in a time of remembrance as we move toward September 11. We will be at the Pentagon tomorrow. Others will be in New York. Others will be in Pennsylvania. Others will have memorials in their communities and towns, as I will be visiting one in Birmingham, hosted by the religious community, to commemorate this sad occasion of September 11.

The President told us we were going to have to return to our fundamental beliefs, we were going to have to be courageous, and if we stepped out and took on these people, and we chased them to their lairs and went after them, we could make the world safer.

I believe the world is safer today. I believe it is an unacceptable policy to allow any nation to harbor terrorists, to allow any nation to allow their territory to be used as a training base or where they can build their weapons and plot their diabolical actions. We cannot allow that to happen. It is against the policy of the United States and this Congress, I believe.

We are in a time that all of us need to study how we got to where we are, being quite serious about this entire circumstance. I am coming to the conclusion that it is very unlikely, based on the consistent, long-term history of Saddam Hussein, that we can reach any kind of agreement with him.

As the Economist magazine said, for 11 years we have been trying to contain him in a box. The box is leaking. Who has suffered most? The people and children of Iraq. They are the ones who have been suffering for these 12 years. It is difficult for us to defend to the Arab world this kind of oppression that falls mainly on the innocent. They said, concluding their very serious editorial: Painful as it is, our vote is for war.

I hope we don't come to that, but I am afraid that is where we are heading. It is a subject we have to talk about. I believe that debate will now commence.

I yield the floor.

REVISIONS TO THE 2002 APPROPRIATIONS COMMITTEE ALLOCATIONS AND THE BUDGETARY AGGREGATES

Mr. CONRAD. Mr. President, section 314 of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the budgetary aggregates and the allocation for the Appropriations Committee by the amount of appropriations designated as emergency spending pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

On July 23, I filed adjustments to the 2002 budgetary aggregates and allocation for the Appropriations Committee resulting from the $29.9 billion in emergency funding included in the conference report to H.R. 4775, the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (Public Law 107–206). The legislation, however, included $5.1 billion in emergency funding that the Congress made contingent on the President designating the total amount as emergency spending within 30 days of enactment. On August 13, the President announced that he would not declare the $5.1 billion as emergency spending, thereby vitiating the entire amount. Consequently, I am lowering the adjustments I made on July 23 by the amount of the contingency—$5.1 billion in budget authority—as well as by the estimated amount of the contingency's impact on 2002 outlays—$0.96 billion.

Pursuant to section 302 of the Congressional Budget Act, I hereby revise the 2002 allocation provided to the Senate Appropriations Committee in the concurrent budget resolution in the following amounts:

TABLE 1.—REVISED ALLOCATION FOR APPROPRIATIONS COMMITTEE, 2002

[In millions of dollars]

	Budget authority	Outlays
Current Allocation:		
General Purpose Discretionary	734,126	700,500
Highways	0	28,489
Mass Transit	0	5,275
Conservation	1,760	1,473
Mandatory	358,567	350,837
Total	1,094,453	1,086,574
Adjustments:		
General Purpose Discretionary	−5,139	−962
Highways	0	0
Mass Transit	0	0
Conservation	0	0
Mandatory	0	0
Total	−5,139	−962
Revised Allocation:		
General Purpose Discretionary	728,987	699,538
Highways	0	28,489

TABLE 1.—REVISED ALLOCATION FOR APPROPRIATIONS COMMITTEE, 2002—Continued

[In millions of dollars]

	Budget authority	Outlays
Mass Transit	0	5,275
Conservation	1,760	1,473
Mandatory	358,567	350,837
Total	1,089,314	1,085,612

Pursuant to section 311 of the Congressional Budget Act, I hereby revise the 2002 budget aggregates included in the concurrent budget resolution in the following amounts.

TABLE 2.—REVISED BUDGET AGGREGATES, 2002

[In millions of dollars]

	Budget authority	Outlays
Current allocation: Budget Resolution	1,710,450	1,653,782
Adjustments: Emergency Spending	−5,139	−962
Revised allocation: Budget Resolution	1,705,311	1,652,820

Prepared by SBC Majority Staff on 9–10–02.

LOCAL LAW ENFORCEMENT ACT OF 2001

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

I would like to describe a terrible crime that occurred August 22, 2002 in San Francisco, CA. Two people beat a lesbian outside a nightclub. The assailants, Jack Broughton, 35, and Jean Earl, 32, punched and kicked the victim, who was later treated at San Francisco General Hospital. Police say that the attackers shouted anti-gay slurs, and are investigating the incident as a possible hate crime.

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

COMMUNITY HERO

Mr. SMITH of Oregon. Mr. President, I rise to salute a World War II veteran from my home State of Oregon. Today, I want to recognize the efforts of August F. ''Gus'' Smoorenburg, a member of the European resistance fighters who lived and struggled in Nazi occupied territories throughout the last century's largest and most destructive war.

Born in Amsterdam in the 1920s, Gus was 19 years old when Germany invaded Holland, Luxembourg, and France. To stop the Germans, the Dutch tried using their own landscape, opening the country's famous dams and sluices to stop tanks and trucks filled with soldiers. After the brutal killing of thousands of civilians, including schoolchildren, the Dutch surrendered on May 15, 1940.

The European resistance fighters, as they have come to be known, began as independent groups of youths clandestinely sabotaging the occupying German forces by whatever means at their disposal. Resistance groups sprang up in every Nazi-occupied country. Gradually, like-minded people banded together and worked in secret to overthrow the invaders. Dutch, French and Polish youths risked their lives day and night to slow the advance of the Nazi forces. They accomplished small victories by such simple methods as rearranging traffic signs and filling the gas tanks of their enemy's vehicles with sugar. These groups became a part of an organized European resistance movement when they finally established short-wave radio contact with London and received coded messages.

The risks of joining the resistance were great. A resistance worker caught by the Nazis faced certain death. The Germans sometimes rounded up and executed hundreds of civilians in revenge for an act of sabotage. Gus' life was no exception to this backlash to the resistance fighters. By 1944 his family was living on meager rations of tulip bulbs and two of his fellow resistance fighters and a cousin had been executed by firing squad.

The ferociousness of the fighting and danger that these unsung heroes faced are conveyed by his description of the bombing of Dortmund: ''This sight I cannot ever forget: burning roofs collapsing, burning window sills and brick walls crashing down on sidewalks, bricks and debris lying everywhere from roads as well as from houses, blown to pieces. It is unforgettable . . . to see and feel a city, an entire city, on fire.''

Gus moved to Portland, OR in 1977 to be closer to his oldest daughter. He has been a valuable member of the community and a welcome piece of living history. I believe it is time that he, along with other resistance fighters, be recognized for the sacrifices they selflessly made fighting the oppressive forces of fascism during those dark years.

Each allied nation is indebted to patriots such as Gus; without their invaluable efforts the greatest war of the last century might have lasted much longer and cost many more thousands of lives. It is with humble respect and praise that I offer my recognition today to Gus and the European resistance fighters.

THE NOMINATION OF PRISCILLA OWEN

Mr. LEAHY. Mr. President, in light of the continuing criticism of Republicans about the Senate Judiciary Committee's vote on the nomination of Priscilla Owen to be a judge on the United States Court of Appeals for the Fifth Circuit, I am making my statement from September 5, 2002, on that vote a part of the RECORD.

I would also like to respond to the misleading suggestion that the Senate Judiciary Committee has never defeated a nominee who received a ''well qualified'' rating from the American Bar Association. In fact, in the prior six and one-half years of Republican control of the Senate the nominations of more than a dozen judicial candidates with unanimous well qualified ratings were defeated in the Committee through the decision of Republicans to block them from receiving hearings and votes on their nominations. More than three dozen others received partial ratings of ''well qualified'' and ''qualified.'' More than 50 of President Clinton's judicial nominees never received Committee votes, despite their ratings. The truth is that Republicans defeated dozens of judicial nominees with well-qualified ratings, not in the light of day with a democratic vote, but in the dark of night through secret, anonymous holds or other tactics.

Here are some of the Clinton nominees with unanimous well qualified or partial well qualified ratings who never received a Senate Judiciary Committee vote and whose nominations ended in Committee: Alston Johnson, Fifth Circuit, James Duffy, Ninth Circuit, Kathleen McCree-Lewis, Sixth Circuit, Enrique Moreno, Fifth Circuit, Judge James Lyons, Tenth Circuit, Allen Snyder, D.C. Circuit, Judge Robert Cindrich, Third Circuit, Judge Stephen Orlofsky, Third Circuit, James Beatty, Fourth Circuit, Frederic Woocher, Central District of California, Richard Anderson, District of Montana, Jeffrey Coleman, Northern District of Illinois, John Bingler, Western District of Pennsylvania, Elena Kagan, D.C. Circuit, Elizabeth Gibson, Fourth Circuit, Lynette Norton, Western District of Pennsylvania, Judge Legrome Davis, Eastern District of Pennsylvania, Judge Richard Leonard, Eastern District of North Carolina, Judge Linda Reigle, District of Nevada, Gary Sebelius, District of Kansas, Judge David Cercone, Western District of Pennsylvania, Patricia Coan, District of Colorado, Stephen Achelpohl, District of Nebraska, Judge Jorge Rangel, Fifth Circuit, Ronald Gould, Ninth Circuit, and Robert Freedburg, Eastern District of Pennsylvania. This is just a partial list.

Of course some of President Clinton's judicial nominees who received hearings and Committee votes had also received well-qualified ratings, but that did not stop Republicans from voting against them and trying to defeat their nominations. For example, some of the same Republicans who now claim it is unprecedented to defeat a nominee with a well-qualified rating voted against several Clinton nominees with that same rating, either in Committee, on the floor or both. The following nominees with well qualified ratings

were subject of Republican efforts to defeat their nominations, despite the rating that Republicans now cling to like a impermeable shield against criticism: Judge Rosemary Barkett, Eleventh Circuit, Judge Merrick Garland, D.C. Circuit, Judge William Fletcher, Ninth Circuit, Judge Ray Fisher, Ninth Circuit, Judge Marsha Berzon, Ninth Circuit, Judge Sonia Sotomayor, Second Circuit, Judge Margaret McKeown, Ninth Circuit, Judge Richard Paez, Ninth Circuit, Judge Margaret Morrow, Central District of California, Judge Gerald Lynch, Southern District of New York, and Mary McLaughlin, Eastern District of Pennsylvania.

Republicans tried mightily to defeat these nominations. In fact, some of these nominees were asked about their ABA membership, as if being active in the Nation's largest bar association were somehow disqualifying. Republicans almost defeated some of these nominations. For example, Judge Paez was voted out of committee with barely a majority, and he received 39 Republican votes against his nomination despite his partial well-qualified rating. Judge Fletcher, who had a unanimous well-qualified rating, received negative votes in Committee from some of the same Republicans now complaining about negative votes on the nomination of Justice Owen, and Judge Fletcher's nomination received 41 Republican votes against his confirmation.

Thus, what Republicans are really complaining about is not that a nominee who received a well- qualified rating was defeated, but that one of their nominees was defeated, regardless of her ABA rating. That is understandable. What is not understandable is their effort to distort the facts and the history of defeat of numerous other nominees of President Clinton who had the same rating as Justice Owen. Those ratings were no obstacle back then to Republican efforts to defeat those nominations, either through blocking hearings and votes or through attempts to defeat nominations in the Committee and on the floor. It was not due to lack of effort on their part that a nominee with a well-qualified rating was not actually voted down on their watch. In fact, dozens were defeated in far less public ways, but their nominations failed, nonetheless, and were returned to the President without confirmation.

Additionally, I would like to respond to the notion that the vote against Justice Owen was somehow ''anti-woman.'' Such a claim, as that made by Attorney General Ashcroft, is absurd. I recall that when John Ashcroft was in the Senate he voted against the confirmation of at least 11 judicial nominees of President Clinton and almost half of them are women who now sit on the federal bench. The Senate Judiciary Committee has been far fairer to this President's judicial nominees, including the women he has nominated to the federal bench.

Since the reorganization of the Senate Judiciary Committee 14 months ago, 17 women nominated to the Federal bench by President Bush have been given a hearing and reported out of committee. Sixteen have already been confirmed by the Democratic-led Senate. Four of these women were nominated to the Circuit Courts and were some of the first nominees in years to receive hearings, after the anonymous holds and obstruction during the period of Republican control of the Senate. Ten of those women nominees with records of fairness as lower federal courts or State court judges have been voted out of the Democratic-led Senate Judiciary Committee, including former Minnesota Supreme Court Justice Joan Lancaster.

Justice Owen's record, in contrast, was not one of fairness and adherence to precedent. Instead, time after time, Justice Owen's written opinions demonstrated her willingness to substitute her policy preferences for those of the Texas legislature and her determination to distort precedent. Even her fellow judges criticized her approach. These issues are discussed in more detail in my full Judiciary Committee statement that follows:

Statement of Senate Judiciary Committee Chairman Patrick Leahy on September 5, 2002 on the nomination of Justice Priscilla Owen to the United States Court of Appeals for the Fifth Circuit:

Today, the Senate Judiciary Committee considered a number of the President's nominees, including Priscilla Owen to be a judge on the United States Court of Appeals for the Fifth Circuit, and Reena Raggi to be a judge on the United States Court of Appeals for the Second Circuit. These two nominees were the 80th and 81st judicial nominees voted on by the Committee in less than 15 months, and the 16th and 17th circuit court nominees voted on by the committee in that time. This committee has worked diligently since the change in majority last summer to consider more than 250 of the President's nominees.

During our first year in the majority, we have held twice as many hearings for President Bush's Courts of Appeals nominees as were held in the first year of the Reagan Administration, when the Senate was controlled by Republicans, and five times as many as in the first year of the Clinton Administration, when the Senate was controlled by Democrats. Under Democratic leadership, this committee has also voted on more judicial nominees, 79 so far, than in any of the six and one-half years of Republican control that preceded the change in majority. We have already voted on twice as many circuit court nominees, 15, as the Republican majority averaged in the years they were in control. In fact, this last year we voted on more judicial nominees than were voted on in 1999 and 2000 combined and on more circuit court nominees than Republicans voted on in 1996 and 1997 combined.

We have achieved what we said we would by treating President Bush's nominees more fairly and more expeditiously than President Clinton's nominees were treated. By many measures the Committee has achieved almost twice as much this last year as Republicans averaged during their years in control.

In the six and one-half year period of Republican control before the change in majority last summer, vacancies on the Courts of Appeals more than doubled from 16 to 33 and overall vacancies rose from 63 to 110. We have reversed those trends, even though 43 vacancies have arisen since the changeover last year.

I have taken a number of actions to seek a cooperative and constructive working relationship with all Senators on both sides of the aisle and with the White House in order to make the confirmation process more orderly, less antagonistic, and more productive. Not all of my efforts have been successful and very few of my suggestions to the Administration have yielded results, but I have continued to make these efforts in the best interests of the country, the Senate and this committee.

I am proud of the work the Committee has done since the change in the majority. I am proud of the way we have considered nominees fairly and expeditiously.

The circuit court nominees voted on by the Senate Judiciary Committee today are two very different examples of the types of nominees sent to the Senate by this President. Judge Reena Raggi was appointed to the trial court in 1987 by President Ronald Reagan. She has a solid record of accomplishment in both the private and public sectors. She received the strong bipartisan support of two Democratic Senators, CHARLES SCHUMER and HILLARY RODHAM CLINTON, and of the New York legal community. We have every reason to believe that she will serve with distinction on the Second Circuit as a fair and impartial judge. She is a conservative Republican.

In sharp contrast is the record of the other circuit court nominee we considered today: Justice Priscilla Owen, a nominee whose record is too extreme even in the context of the very conservative Texas Supreme Court.

Justice Owen has been nominated to fill a vacancy that has existed since January, 1997. In the intervening five years, President Clinton nominated Judge Jorge Rangel, a distinguished Hispanic attorney from Corpus Christi, to fill that vacancy. Despite his qualifications, and his unanimous rating of Well Qualified by the ABA, Judge Rangel never received a hearing from the Committee, and his nomination was returned to the President without Senate action at the end of 1998, after a fruitless wait of 15 months.

On September 16, 1999, President Clinton nominated Enrique Moreno, another outstanding Hispanic attorney, to fill that same vacancy. Mr.

Moreno did not receive a hearing on his nomination either, for more than 17 months. President Bush withdrew the nomination of Enrique Moreno to the Fifth Circuit and later sent Justice Owen's name in its place. It was not until May of this year, at a hearing before Senator SCHUMER, that this committee heard from any of President Clinton's three unsuccessful nominees to the 5th Circuit. This May Mr. Moreno and Mr. RANGEL testified along with a number of other Clinton nominees about their treatment by the Republican majority. Thus, Justice Owen is the third nominee to this vacancy and the first to be accorded a hearing before the Committee.

In fact, when the Committee held its hearing on the nomination of Judge Edith Clement to the Fifth Circuit last fall, it was the first hearing on a Fifth Circuit nominee in seven years. By contrast, Justice Owen is the third nomination to the Fifth Circuit on which this committee has held a hearing in less than one year. In spite of the treatment by the former Republican majority of so many moderate judicial nominees of the previous President, we proceeded this July, as I said that we would, with a hearing on Justice Owen.

Justice Owen is one among 16 Texas nominees who have been considered by this Committee since I became Chairman. So far, five District Court judges, four United State Attorneys, three United States Marshals, and three executive branch appointees from Texas have moved swiftly through the Judiciary Committee.

When Justice Owen was initially nominated, the President changed the confirmation process from that used by Republican and Democratic Presidents for more than 50 years. That resulted in her ABA peer review not being received until later in the summer. As a result of a Republican objection to the Democratic leadership's request to retain all judicial nominations pending before the Senate through the August recess, the initial nomination of Justice Owen was required by Senate rules to be returned to the President without action. The Committee nonetheless took the unprecedented action of proceeding during the August recess to hold two hearings involving judicial nominations, including a nominee to the Court of Appeals for the Federal Circuit.

In my efforts to accommodate a number of Republican Senators, including the Republican Leader, this Committee's ranking member, and at least four other Republican members of this Committee, I have scheduled hearings for nominees out of the order in which they were received. This has been a longstanding practice of the Committee.

It is also a fact that less controversial nominations are easier to consider and are, by and large, able to be scheduled sooner than more controversial nominations. This is especially important in the circumstances that existed last summer at the time of the change in majority. At that time we faced what Republicans have now admitted had become a vacancies crisis. From January 1995 when the Republican majority assumed control of the confirmation process in the Senate until the shift in majority last summer, vacancies rose from 65 to 110 and vacancies on the Courts of Appeals more than doubled from 16 to 33. I thought it important to make as much progress as quickly as we could in the time available to us last year, and we did. Evaluating the record of a nominee whose record raises questions as serious as those about Justice Owen simply takes longer.

The responsibility to advice and consent on the President's nominees is one that I take seriously and that this committee takes seriously. Justice Owen's nomination to the Court of Appeals has been given a fair hearing and a fair process before this Committee. I thank all Members of the Committee for their fairness. Those who have had concerns have raised them and have heard the nominee's responses, in private meetings, at her public hearing and in written follow-up questions.

I would particularly like to commend Senator FEINSTEIN for her evenhandedness in chairing the hearing for Justice Owen. It was a long day, in which nearly every Senator who is a member of this Committee came to question Justice Owen, and Senator FEINSTEIN handled it with patience and fairness.

I am proud that Democrats and most Republicans have kept to the merits of this nomination, and have not chosen to vilify, castigate, unfairly characterize and condemn without basis Senators working conscientiously to fulfill their constitutional responsibilities. To those who will take this occasion to engage in name-calling or accusations of political posturing, I can only express my disappointment.

The constitutional responsibility to advise and consent to the President's life tenure judicial nominees is not an occasion to rubber stamp. The nomination of Justice Priscilla Owen presents a number of areas of serious concern to me.

The first area of concern to me is Justice Owen's extremism even among a conservative Supreme Court of Texas. The conservative Republican majority of the Texas Supreme Court has gone out of its way to criticize Justice Owen and the dissents she joined in ways that are highly unusual and that highlight her ends-oriented activism. A number of Texas Supreme Court Justices have pointed out how far from the language of statute she has strayed in her attempts to push the law beyond what the legislature intended.

One example is the majority opinion in Weiner v. Wasson, 900 S.W.2d 316, Tex. 1995. In this case, Justice Owen wrote a dissent advocating a ruling against a medical malpractice plaintiff injured while he was still a minor. The issue was the constitutionality of a State law requiring minors to file medical malpractice actions before reaching the age of majority, or risk being outside the statute of limitations. Of interest is the majority's discussion of the importance of abiding by a prior Texas Supreme Court decision unanimously striking down a previous version of the statute. In what reads as a lecture to the dissent, then-Justice John Cornyn, the current Texas Attorney General and Republican nominee for the U.S. Senate, explains on behalf of the majority:

> Generally, we adhere to our precedents for reasons of efficiency, fairness, and legitimacy. First, if we did not follow our own decisions, no issue could ever be considered resolved. The potential volume of speculative relitigation under such circumstances alone ought to persuade us that stare decisis is a sound policy. Secondly, we should give due consideration to the settled expectations of litigants like Emmanuel Wasson, who have justifiably relied on the principles articulated in [the previous case]. . . . Finally, under our form of government, the legitimacy of the judiciary rests in large part upon a stable and predictable decision-making process that differs dramatically from that properly employed by the political branches of government. Id. at 12–13. (Citations omitted.)

According to the conservative majority on the Texas Supreme Court, Justice Owen went out of her way to ignore precedent and would have ruled for the defendants. The conservative Republican majority followed precedent and the doctrine of stare decisis.

In Montgomery Independent School District v. Davis, 34 S.W. 3d 559 (Tex. 2000), Justice Owen wrote another dissent which drew fire from a conservative Republican majority, this time for her disregard for legislative language. In a challenge by a teacher who did not receive reappointment to her position, the majority found that the school board had exceeded its authority when it disregarded the Texas Education Code and tried to overrule a hearing examiner's decision on the matter. Justice Owen's dissent advocated for an interpretation contrary to the language of the applicable statute. The majority, which included Alberto Gonzales and two other appointees of then-Governor Bush, was quite explicit about its view that Justice Owen's position disregarded the law:

> The dissenting opinion misconceives the hearing examiner's role in the . . . process by stating that the hearing examiner 'refused' to make findings on the evidence the Board relies on to support its additional findings. As we explained above, nothing in the statute requires the hearing examiner to make findings on matters of which he is unpersuaded. . . . Id. at 25–26.

The majority also noted that:

> The dissenting opinion's misconception of the hearing examiner's role stems from its disregard of the procedural elements the Legislature established in subchapter F to ensure that the hearing-examiner process is fair and efficient for both teachers and school boards. The Legislature maintained

local control by giving school boards alone the option to choose the hearing-examiner process in nonrenewal proceedings. . . . By resolving conflicts in disputed evidence, ignoring credibility issues, and essentially stepping into the shoes of the factfinder to reach a specific result, the dissenting opinion not only disregards the procedural limitations in the statute but takes a position even more extreme than that argued for by the board. . . .'' Id. at 28.

Collins v. Ison-Newsome, 73 S.W.3d 178, is yet another case where a dissent, joined by Justice Owen, was roundly criticized by the Republican majority of the Texas Supreme Court. The Court cogently stated the legal basis for its conclusion that it had no jurisdiction to decide the matter before it, and as in other opinions where Justice Owen was in dissent, took time to explicitly criticize the dissent's positions as contrary to the clear letter of the law.

At issue was whether the Supreme Court had the proper ''conflicts jurisdiction'' to hear the interlocutory appeal of school officials being sued for defamation. The majority explained that it did not because published lower court decisions do not create the necessary conflict between themselves. The arguments put forth by the dissent, in which Justice Owen joined, offended the majority, and they made their views known, writing:

The dissenting opinion agrees that ''because this is an interlocutory appeal . . . this Court's jurisdiction is limited,'' but then argues for the exact opposite proposition . . . This argument defies the Legislature's clear and express limits on our jurisdiction. . . . The author of the dissenting opinion has written previously that we should take a broader approach to the conflicts-jurisdiction standard. But a majority of the Court continues to abide by the Legislature's clear limits on our interlocutory-appeal jurisdiction. Id. at 182.

They continue:

[T]he dissenting opinion's reading of Government Code sec. 22.225(c) conflates conflicts jurisdiction with dissent jurisdiction, thereby erasing any distinction between these two separate bases for jurisdiction. The Legislature identified them as distinct bases for jurisdiction in sections 22.001(a)(1) and (a)(2), and section 22.225(c) refers specifically to the two separate provisions of section 22.001(a) providing for conflicts and dissent jurisdiction. . . . [W]e cannot simply ignore the legislative limits on our jurisdiction, and not even Petitioners argue that we should do so on this basis. Id. at 183.

Again, Justice Owen joined a dissent that the Republican majority described as defiant of legislative intent and in disregard of legislatively drawn limits.

Some of the most striking examples of criticism of Justice Owen's writings, or the dissents and concurrences she joins, come in a series of parental notification cases heard in 2000. They include:

In re Jane Doe 1, where the majority included an extremely unusual section explaining its view of the proper role of judges, admonishing the dissent joined by Justice Owen for going beyond its duty to interpret the law in an attempt to fashion policy.

Giving a pointed critique of the dissenters, the majority explained that, ''In reaching the decision to grant Jane Doe's application, we have put aside our personal viewpoints and endeavored to do our job as judges—that is, to interpret and apply the Legislature's will as it has been expressed in the statute.'' 19 S.W.3d 346.

In a separate concurrence, Justice Alberto Gonzales wrote that to the construe law as the dissent did, ''would be an unconscionable act of judicial activism.''

In re Jane Doe 3, Justice Enoch writes specifically to rebuke Justice Owen and her fellow dissenters for misconstruing the legislature's definition of the sort of abuse that may occur when parents are notified of a minor's intent to have an abortion, saying, ''abuse is abuse; it is neither to be trifled with nor its severity to be second guessed.''

In one case that is perhaps the exception that proves the rule, Justice Owen wrote a majority that was bitterly criticized by the dissent for its activism. In In re City of Georgetown, 53 S.W. 3d 328, (Tex. 2001), Justice Owen wrote a majority opinion finding that the city did not have to give the Austin American-Statesman a report prepared by a consulting expert in connection with pending and anticipated litigation because such information was expressly made confidential under other law, namely the Texas Rules of Civil Procedure.

The dissent is extremely critical of Justice Owen's opinion, citing the Texas law's strong preference for disclosure and liberal construction. Accusing her of activism, Justice Abbott, joined by Chief Justice Phillips and Justice Baker, notes that the legislature, ''expressly identified eighteen categories of information that are 'public information' and that must be disclosed upon request . . . [sec. (a)] The Legislature attempted to safeguard its policy of open records by adding subsection (b), which limits courts' encroachment on its legislatively established policy decisions.'' Id. at 338. The dissent further protests:

[b]ut if this Court has the power to broaden by judicial rule the categories of information that are 'confidential under other law,' then subsection (b) is eviscerated from the statute. By determining what information falls outside subsection (a)'s scope, this Court may evade the mandates of subsection (b) and order information withheld whenever it sees fit. This not only contradicts the spirit and language of subsection (b), it guts it. Id.

Finally, the opinion concluded by asserting that Justice Owen's interpretation, ''abandons strict construction and rewrites the statute to eliminate subsection (b)'s restrictions.'' Id. at 343.

These examples, together with the unusually harsh language directed at Justice Owen's position by the majority in the Doe cases, show a judge out of step with the conservative Republican majority of the Texas Supreme Court, a majority not afraid to explain the danger of her activist views.

Ends-Oriented Judicial Activism Showing Bias Against Consumers, Victims, Individuals.—I am also greatly concerned about Justice Owen's record of ends-oriented decision making as a Justice on the Texas Supreme Court. As one reads case after case, particularly those in which she was the sole dissenter or dissented with the extreme right wing of the Court, her pattern of activism becomes clear. Her legal views in so many cases involving statutory interpretation simply cannot be reconciled with the plain meaning of the statute, the legislative intent, or the majority's interpretation, leading to the conclusion that she sets out to justify some pre-conceived idea of what the law ought to mean. This is not an appropriate way for a judge to make decisions. This is a judge whose record reflects that she is willing and sometimes eager to make law from the bench.

Justice Owen's activism and extremism is noteworthy in a variety of cases, including those dealing with business interests, malpractice, access to public information, employment discrimination and Texas Supreme Court jurisdiction, in which she writes against individual plaintiffs time and time again, in seeming contradiction of the law as written.

One of the cases where this trend is evident is FM Properties v. City of Austin, 22 S.W. 3d 868 (Tex. 1998). I asked Justice Owen about this 1998 environmental case at her hearing. In her dissent from a 6–3 ruling, in which Justice Alberto Gonzales was among the majority, Justice Owen showed her willingness to rule in favor of large private landowners against the clear public interest in maintaining a fair regulatory process and clean water. Her dissent, which the majority characterized as, ''nothing more than inflammatory rhetoric,'' was an attempt to favor big landowners.

In this case, the Texas Supreme Court found that a section of the Texas Water Code allowing certain private owners of large tracts of land to create ''water quality zones,'' and write their own water quality regulations and plans, violated the Texas Constitution because it improperly delegated legislative power to private entities. The Court found that the Water Code section gave the private landowners, ''legislative duties and powers, the exercise of which may adversely affect public interests, including the constitutionally-protected public interest in water quality.'' Id. at 876–77. The Court also found that certain aspects of the Code and the factors surrounding its implementation weighed against the delegation of power, including the lack of meaningful government review, the lack of adequate representation of citizens affected by the private owners' actions, the breadth of the delegation, and the big landowners' obvious interest in maximizing their own profits and minimizing their own costs.

The majority offered a strong opinion, detailing its legal reasoning and explaining the dangers of offering too much legislative power to private entities. By contrast, in her dissent, Justice Owen argued that, ''[w]hile the Constitution certainly permits the

Legislature to enact laws that preserve and conserve the State's natural resources, there is nothing in the Constitution that requires the Legislature to exercise that power in any particular manner,'' ignoring entirely the possibility of an unconstitutional delegation of power. Id. at 889. Her view strongly favored large business interests to the clear detriment of the public interest, and against the persuasive legal arguments of a majority of the Court.

When I asked her about this case at her hearing, I found her answer perplexing. In a way that she did not argue in her written dissent, at her hearing Justice Owen attempted to cast the FM Properties case not as, ''a fight between and City of Austin and big business, but in all honesty, . . . really a fight about . . . the State of Texas versus the City of Austin.'' Transcript at 69. In the written dissent however, she began by stating the, ''importance of this case to private property rights and the separation of powers between the judicial and legislative branches . . .'', and went on to decry the Court's decision as one that, ''will impair all manner of property rights.'' 22 S.W. 3d at 889. At the time she wrote her dissent, Justice Owen was certainly clear about the meaning of this case—property rights for corporations.

Another case that concerned me is the case of GTE Southwest, Inc. v. Bruce, 990 S.W.2d 605, where Justice Owen wrote in favor of GTE in a lawsuit by employees for intentional infliction of emotional distress. The rest of the Court held that three employees subjected to what the majority characterized as ''constant humiliating and abusive behavior of their supervisor'' were entitled to the jury verdict in their favor. Despite the Court's recitation of an exhaustive list of sickening behavior by the supervisor, and its clear application of Texas law to those facts, Justice Owen wrote a concurring opinion to explain her difference of opinion on the key legal issue in the case—whether the behavior in evidence met the legal standard for intentional infliction of emotional distress.

Justice Owen contended that the conduct was not, as the standard requires, ''so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency . . .'' Id. at 621. The majority opinion shows Justice Owen's concurrence advocating an inexplicable point of view that ignores the facts in evidence in order to reach a predetermined outcome in the corporation's favor.

At her hearing, in answer to Senator EDWARDS' questions about this case, Justice Owen again gave an explanation not to be found in her written views. She told him that she agreed with the majority's holding, and wrote separately only to make sure that future litigants would not be confused and think that out of context, any one of the outrages suffered by the plaintiffs would not support a judgment. Looking again at her dissent, I do not see why, if that was what she truly intended, she did not say so in language plain enough to be understood, or why she thought it necessary to write and say it in the first place. It is a somewhat curious distinction to make—to advocate that in a tort case a judge should write a separate concurrence to explain which part of the plaintiff's case, standing alone, would not support a finding of liability. Neither her written concurrence, nor her answers in explanation after the fact, is satisfactory explanation of her position in this case.

In City of Garland v. Dallas Morning News, 22 S.W. 3d 351 (Tex. 2000), Justice Owen dissented from a majority opinion and, again, it is difficult to justify her views other than as based on a desire to reach a particular outcome. The majority upheld a decision giving the newspaper access to a document outlining the reasons why the city's finance director was going to be fired. Justice Owen made two arguments: that because the document was considered a draft it was not subject to disclosure, and that the document was exempt from disclosure because it was part of policy making. Both of these exceptions were so large as to swallow the rule requiring disclosure. The majority rightly points out that if Justice Owen's views prevailed, almost any document could be labeled draft to shield it from public view. Moreover, to call a personnel decision a part of policy making is such an expansive interpretation it would leave little that would not be ''policy''.

Quantum Chemical v. Toennies, 47 S.W. 3d 473 (Tex. 2001), is another troubling case where Justice Owen joined a dissent advocating an activist interpretation of a clearly written statute. In this age discrimination suit brought under the Texas civil rights statute, the relevant parts of which were modeled on Title VII of the federal Civil Rights Act (and its amendments), the appeal to the Texas Supreme Court centered on the standard of causation necessary for a finding for the plaintiff. The plaintiff argued, and the five justices in the majority agreed, that the plain meaning of the statute must be followed, and that the plaintiff could prove an unlawful employment practice by showing that discrimination was ''a motivating factor.'' The employer corporation argued, and Justices Hecht and Owen agreed, that the plain meaning could be discarded in favor of a more tortured and unnecessary reading of the statute, and that the plaintiff must show that discrimination was ''the motivating factor,'' in order to recover damages.

The portion of Title VII on which the majority relies for its interpretation was part of Congress's 1991 fix to the United States Supreme Court's opinion in the Price Waterhouse case, which held that an employer could avoid liability if the plaintiff could not show discrimination was ''the'' motivating factor. Congress's fix, in Section 107 of the Civil Rights Act of 1991, does not specify whether the motivating factor standard applies to both sorts of discrimination cases, the so-called ''mixed motive'' cases as well as the ''pretext'' cases.

The Texas majority concluded that they must rely on the plain language of the statute as amended, which could not be any clearer that under Title VII discrimination can be shown to be ''a'' motivating factor. Justice Owen joined Justice Hecht in claiming that federal case law is clear (in favor of their view), and opted for a reading of the statute that would turn it into its polar opposite, forcing plaintiffs into just the situation legislators were trying to avoid. This example of Justice Owen's desire to change the law from the bench, instead of interpret it, fits President Bush's definition of activism to a ''T''.

Justice Owen has also demonstrated her tendency toward ends-oriented decision making quite clearly in a series of dissents and concurrences in cases involving a Texas law providing for a judicial bypass of parental notification requirements for minors seeking abortions.

The most striking example is Justice Owen's expression of disagreement with the majority's decision on key legal issues in Doe 1. She strongly disagreed with the majority's holding on what a minor would have to show in order to establish that she was, as the statute requires, ''sufficiently well informed'' to make the decision on her own. While the conservative Republican majority laid out a well-reasoned test for this element of the law, based on the plain meaning of the statute and well-cited case law, Justice Owen inserted elements found in neither authority. Specifically, Justice Owen insisted that the majority's requirement that the minor be ''aware of the emotional and psychological aspects of undergoing an abortion'' was not sufficient and that among other requirements with no basis in the law, she, ''would require . . . [that the minor] should . . . indicate to the court that she is aware of and has considered that there are philosophic, social, moral, and religious arguments that can be brought to bear when considering abortion.'' In re Doe 1, 19 S.W. 3d 249, 256 (Tex. 2000)

In her written concurrence, Justice Owen indicated, through legal citation, that support for this proposition could be found in a particular page of the Supreme Court's opinion in Planned Parenthood v. Casey. However, when one looks at that portion of the Casey decision, one finds no mention of requiring a minor to acknowledge religious or moral arguments. The passage talks instead about the ability of a State to, ''enact rules and regulations designed to encourage her to know that there are philosophic and social arguments of great weight that can be brought to bear,'' Casey at 872. Justice Owen's reliance on this portion of a United

States Supreme Court opinion to rewrite Texas law was simply wrong.

As she did in answer to questions about a couple of other cases at her hearing, Justice Owen tried to explain away this problem with an after the fact justification. She told Senator CANTWELL that the reference to religion was not to be found in Casey after all, but in another U.S. Supreme Court case, H.L. v. Matheson. She explained that in, ''Matheson they talk about that for some people it raises profound moral and religious concerns, and they're talking about the desirability or the State's interest in these kinds of considerations in making an informed decision.'' Transcript at 172. But again, on reading Matheson, one sees that the only mention of religion comes in a quotation meant to explain why the parents of the minor are due notification, not about the contours of what the government may require someone to prove to show she was fully well informed. Her reliance on Matheson for her proposed rewrite of the law is just as faulty as her reliance on Casey. Neither one supports her reading of the law. She simply tries a little bit of legal smoke and mirrors to make it appear as if they did. This is the sort of ends-oriented decision making that destroys the belief of a citizen in a fair legal system. And most troubling of all was her indicating to Senator FEINSTEIN that she still views her dissents in the Doe cases as the proper reading and construction of the Texas statute.

Last May, President Bush said that his standard for judging judicial nominees would be that they ''share a commitment to follow and apply the law, not to make law from the bench.'' Priscilla Owen's record, as I have described it today, does not qualify her under that standard for a lifetime appointment to the Federal bench.

The President has often spoken of judicial activism without acknowledging that ends-oriented decision making can come easily to ideological conservative nominees. In the case of Priscilla Owen, we see a perfect example of such an approach to the law, and I cannot support it.

As I said earlier, when the President sends us a nominee who raises concerns over qualifications or integrity or who has a misunderstanding of the appropriate role of a federal judge, I will make my concerns known. This is one of those times. In his selection of Priscilla Owen for the Fifth Circuit, the President and his advisors are trying to do to the Fifth Circuit what they did to the Texas Supreme Court. Plucked from a law firm by political consultant Karl Rove, Justice Owen ran as a conservative, pro-business candidate for the Texas Supreme Court, and she received ample support from the business community. She fulfilled her promise, becoming the most conservative judge on a conservative court, standing out for her ends-oriented, extremist decision making. Now, on a bigger stage, the President and Mr. Rove want a repeat performance: sending Justice Owen to a court one step below the Supreme Court of the United States, attempting to skew its decisions out of step with the mainstream.

Before and after he took office, President Bush said he wanted to be a uniter and not a divider, yet he has sent the Senate several nominees who divide the Senate and the American people. Over the last 14 months, the Judiciary Committee has exceeded the pace of recent years in approving more than six dozen of the President's judicial nominees—most of them, conservative Republicans. The Senate by now has confirmed 73 of them. This committee and the Senate have made the judgment that those nominees will fulfill their duties to act fairly and impartially. I urge the President to choose nominees who fit that profile, not the profile of Justice Owen.

The oath taken by Federal judges affirms their commitment to ''administer justice without respect to persons, and do equal right to the poor and to the rich.'' No one who enters a federal courtroom should have to wonder whether he or she will be fairly heard by the judge. Justice Priscilla Owen's record shows me that she has not fulfilled that commitment on the Supreme Court of Texas, and I cannot vote to confirm her for this appointment to one of the highest courts in the land.

IMPROVING THE GENETIC NEWBORN SCREENING PROGRAM

Mr. DEWINE. Mr. President, on August 1, along with my colleague from Connecticut, Senator DODD, introduced a bill designed to improve the Nation's current genetic newborn screening program. Our legislation would provide education grants for physicians and parents, as well as grants to States to improve follow-up and tracking of those children who receive a heelstick screening and receive a positive result for metabolic, genetic, infectious, and other congenital conditions that threaten their health and life.

Each year, newborn screening identifies an estimated 3,000 babies with conditions that would otherwise have had dire consequences. But despite their clear importance, our newborn screening systems are fragmented. Quite simply, all children do not have access to the same genetic tests. Where a child is born and what tests are offered in that State is what determines the tests a newborn receives. In my home State of Ohio, we test for 12 disorders, while right across the border in Kentucky, they test for only four disorders and in Pennsylvania, they test for five. In Massachusetts, however, newborns are tested for 29 disorders.

Furthermore, parents often are not sufficiently informed of the number of tests available in their state and what those tests can help accomplish. Physicians may not know to educate parents, or physicians may talk to parents too late in the birthing process for it to make a difference. Also, State health departments may not follow-up adequately with the parents of a child who receives a positive test result, and health departments may not have the capacity to effectively record or track a large number of positive results.

The bill we are introducing today would go a long way toward streamlining the current newborn screening system by offering states grants to accomplish the following: build and expand existing procedures and systems to report test results to individuals and families, and primary care physicians and subspecialties; coordinate ongoing follow-up treatment with individuals, families, and primary care physicians after a newborn receives an indication of the presence of a disorder on a screening test; ensure seamless integration of confirmatory testing, tertiary care, genetic services, including counseling, and access to developing therapies by participation in approved clinical trials involving the primary health care of the infant; and analyze collected data to identify populations at high risk, examine and respond to health concerns, recognize and address relevant environmental, behavioral, socioeconomic, demographic, and other factors.

This bill is a good start toward ensuring that all newborns receive equal access to genetic tests and that their follow-up care, if needed, is available and coordinated. The importance of these screenings cannot be overstated. It can mean the difference between life and death for a newborn. And that, is something we must address.

I ask my colleagues for their support.

ADDITIONAL STATEMENTS

FIESTA 2002 CELEBRATION

• Mr. LUGAR. Mr. President, as a lifelong supporter of cultural heritage events and friend of the Indianapolis Hispanic-Latino Community, I rise today to share with my colleagues my interest in, and strong support for, an important cultural event that will take place in Indianapolis on September 21.

For the 22nd year, Fiesta will be held on the American Legion Mall in downtown Indianapolis to celebrate Hispanic culture and heritage. This is the premier Hispanic cultural event for the State of Indiana.

Fiesta 2002 will highlight the music, food, and traditions of Hispanic culture and provide an educational opportunity for everyone to learn more about Hispanic traditions and understand the contributions Hispanics in Indiana have made to enrich and strengthen our community.

Attendees for this public event will have the opportunity to enjoy a wide range of activities that showcase the Hispanic traditions in music, history, art, and food, among many others. Information booths, contests, and speakers will be set up to encourage

attendees and their families to experience and enjoy the many educational, social, and culinary offerings that will be available.

Fiesta is organized and coordinated by Fiesta Indianapolis Inc., a non-profit volunteer organization. Fiesta's mission is to promote and preserve Hispanic culture in central Indiana. Executive Director Carmen DeRusha has done outstanding work to coordinate Fiesta 2002, and I am thankful to her for her leadership in organizing the many individuals, groups, and businesses that are a part of this event.

I am so pleased to join in this celebration, and I welcome the opportunity to be a part of Fiesta 2002. The success and longevity of the Fiesta event is attributable to the growth and strength of the Hispanic presence in Indiana, and to the dedication and commitment of everyone involved planning Fiesta 2002.

Fiesta 2002 is important for the Hoosier State and I want to share with my colleagues in the Senate my support for this great event. The Hispanic community is strong in Indiana and growing stronger every day. Fiesta 2002 is a wonderful opportunity to learn more about Hispanic heritage and to celebrate their rich and vibrant traditions that broaden and strengthen the fabric of our community in Indiana.●

NORMA EUDORA CRONK

● Mr. BAUCUS. Mr. President, I would like to take the opportunity to congratulate Norma Eudora Cronk Dickson. On October 16th, 2002 she will celebrate her 100th birthday. Norma is a resident of Chinook, MT.

Norma Dickson was born October 16, 1902. She was the eldest of four children born to John Colburn Cronk and Anna Rogers Cronk. John and Anna Cronk moved to Montana in 1898, and settled in the Milk River Valley in Coburg, MT. Her parents were ranchers and prominent members of the community. Her father John was elected state representative in Montana in 1923. Her parents raised cattle and prize winning Percheron horses. The livestock pavilion at the Blaine County Fairgrounds was dedicated to her father's memory.

Norma attended college and taught for a few years prior to her marriage in 1928 to Dr. Joseph Robert Dickson, another Montana native who practiced dentistry in Chinook, Montana.

Norma and Dr. Dickson had four children; Joseph Robert Dickson Jr., Marilyn Dickson Gregg, James Cronk Dickson, and George William Hunt Dickson. They also have thirteen grandchildren and ten great-grandchildren.

In addition to Norma's dedication to her family, she has been very active in her community of Chinook, MT. Her involvements include the Eastern Star, Chinook Presbyterian Church, and High School Girl's State. She has also worked at the Chinook Senior Center as a volunteer from its inception until she was 97 years old. Finally, she was named Senior of the Year in Chinook. She is a treasure to her community, her State, and of course, to her family.●

CONGRATULATIONS TO D.C. MURPHY

● Mr. CRAIG. Mr. President, I would like to take this opportunity to congratulate D.C. Murphy of Nampa, ID on his recent achievement of driving two million miles without a preventable accident. Put into perspective, that is equivalent to driving around the world eighty times, or driving 275 miles every day for the last twenty years. As I am sure you can imagine, this is an incredible feat. Over the twenty years he has been employed by Yellow Transportation, the roads have become increasingly crowded. To travel as many miles as he has without an avoidable accident is an achievement of which he should be very proud.

Over the last twenty years there has been a 39 percent increase in the number of registered large trucks, and at the same time also a 90 percent increase in the number of miles these trucks traveled. It is a credit to the trucking industry, D.C. Murphy, and other truckers with similar responsible driving habits that even though there are more trucks than ever before on the road, the number of accidents has continued to decrease.

Again, let me commend D.C. Murphy on this accomplishment. I would like to wish him continued safety for as long as he is on the road.●

IN MEMORY OF SAM SIMMONS, SHERIFF OF GREENVILLE, SC

● Mr. HOLLINGS. Mr. President, I received sad news from my home State last week. Sam Simmons, the sheriff of Greenville, SC, was tragically taken from us. Sheriff Simmons was a tremendous public servant and long-time friend to law enforcement. He began his law enforcement career at the age of 20 and served his community and state for nearly 29 years in this field.

During his career, this tenacious, yet soft-spoken man worked his way up through the ranks in the Greenville County Sheriff's Office from dispatcher to the top law enforcement officer for Greenville County. I had the opportunity to work with Sheriff Simmons and his staff over the years and knew him to be an extraordinary example of how law enforcement officials should conduct both themselves and their departments.

Last week, several police officers in Sheriff Simmons' department called him a ''lawman's lawman.'' I echo these sentiments and offer my heartfelt condolences to his wife, Mona, and their family.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:46 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of it reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4797. An act to redesignate the facility of the United States Postal Service located at 265 South Western Avenue, Los Angeles, California, as the ''Nat King Cole Post Office''.

H.R. 5157. An act to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes.

H.R. 5336. An act to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the ''Peter J. Ganci, Jr. Post Office Building''.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 442. Concurrent resolution recognizing the American Road and Transportation Builders Association for reaching its 100th Anniversary and for the many vital contributions of its members in the transportation construction industry to the American economy and quality of life through the multi-modal transportation infrastructure network its members have designed, built, and managed over the past century.

H. Con. Res. 401. Concurrent resolution recognizing the heroism and courage displayed by airline flight attendants each day.

The message further announced that pursuant to section 503(b)(3) of the National Skill Standards Act of 1994 (20 U.S.C. 5933), and upon the recommendation of the Minority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the National Skill Standards Board for a 4-year term: Mr. William E. Weisgerber of Iona, Michigan.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4797. An act to redesignate the facility of the United States Postal Service located at 265 South Western Avenue, Los Angeles, California, as the ''Nat King Cole Post Office''; to the Committee on Governmental Affairs.

H.R. 5336. An act to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the ''Peter J. Ganci, Jr. Post Office Building''; to the Committee on Government Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 442. Concurrent resolution recognizing the American Road and Transportation Builders Association for reaching its 100th Anniversary and for the many vital contributions of its members in the transportation construction industry to the American economy and quality of life through the multi-modal transportation infrastructure network its members have designed, built, and managed over the past century; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following concurrent resolution was read the first and second times by unanimous consent, and placed on the calendar:

H. Con. Res. 401. Concurrent resolution recognizing the heroism and courage displayed by airline flight attendants each day.

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–8834. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation to provide the Federal Bureau of Investigation (FBI) with the authority it needs to prevent the unauthorized use of the FBI's name and initials; to the Committee on the Judiciary.

EC–8835. A communication from the Secretary of the Treasury, the Secretary of Education, and the Director of the Office of Management and Budget, transmitting jointly, a draft of proposed legislation that would allow the Internal Revenue Service (IRS) to match the income reported on Federal student aid applications with income tax return data; to the Committee on Finance.

EC–8836. A communication from the Assistant Secretary of Indian Affairs, transmitting, pursuant to law, the report of a rule entitled ''25 CFR 39, Indian School Equalization Program'' (RIN 1076–AE14) received on August 12, 2002; to the Committee on Indian Affairs.

EC–8837. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Packers and Stockyards Act, 1921, to provide authority to collect license fees to cover the costs of the Packers and Stockyards programs; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8838. A communication from the Chief of the Regulations Branch, Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Pleasure Vessels of Marshall Islands Entitled to Cruising Licenses'' (T.D. 02–48) received on August 12, 2002; to the Committee on Finance.

EC–8839. A communication from the General Counsel, National Tropical Botanical Garden, transmitting, pursuant to law, a copy of the independent audit report for the Garden for the period from January 1, 2001 through December 31, 2001; to the Committee on the Judiciary.

EC–8840. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the Report on Nuclear-Powered Submarine Force Structure, Supporting the National Military Strategy through 2020; to the Committee on Armed Services.

EC–8841. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Under Secretary of Defense for Policy, received on August 27, 2002; to the Committee on Armed Services.

EC–8842. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Deputy Under Secretary of Defense for Personnel and Readiness, received on August 15, 2002; to the Committee on Armed Services.

EC–8843. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Inspector General, received on August 15, 2002; to the Committee on Armed Services.

EC–8844. A communication from the Acting General Counsel, Department of Defense, transmitting, a draft of proposed legislation relating to the transfer of a certain naval vessel to the Government of Mexico; to the Committee on Armed Services.

EC–8845. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to strengthen the management structure of the Office of the Secretary of Defense; to the Committee on Armed Services.

EC–8846. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, a report identifying additional emergency procurement authorities needed to support anti-terrorism operations; to the Committee on Armed Services.

EC–8847. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Iodosulfuron-Methyl-Sodium; Pesticide Tolerance'' (FRL 7187–2) received on September 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8848. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Lactic acid, ethyl ester and Lactic acid, n-butyl ester; Exemptions from the Requirement of a Tolerance'' (FRL 7196–6) received on September 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8849. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cypemethrin and an Isomer Zetacypermethrin; Pesticide Tolerances for Emergency Exemptions'' (FRL 7197–7) received on September 3, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8850. A communication from the Senior Paralegal, Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Mutual Savings Associations, Mutual Holding Company Reorganizations, and Conversions from Mutual to Stock Form'' (RIN 1550–AB24) received on August 1, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8851. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of foreign policy-based export controls on certain ''space qualified'' items on the Commerce Control List (CCL) in the Export Administration Regulations (EAR); to the Committee on Banking, Housing , and Urban Affairs.

EC–8852. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Analysis, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revision to the Export Administration Regulations: Denied Persons List'' (RIN 0694–AC58) received on September 6, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8853. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revision and Clarifications to the Export Administration Regulations-Nuclear Nonproliferation Controls: Nuclear Suppliers Group'' (RIN 0694–AC52) received on September 6, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–8854. A communication from the General Counsel, Office of Federal Financial Management, Office of Management and Budget, transmitting, pursuant to law, the report of a vacancy in the position of Controller, received on August 20, 2002; to the Committee on Governmental Affairs.

EC–8855. A communication from the General Counsel, Office of Management and Budget, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Director for Management, received on August 20, 2002; to the Committee on Governmental Affairs.

EC–8856. A communication from the Director, Court Services and Offender Supervision Agency for the District of Columbia, transmitting, a draft of proposed legislation entitled ''Court Services and Offender Supervision Agency Interstate Supervision Act of 2002''; to the Committee on Governmental Affairs.

EC–8857. A communication from the Director, Court Services and Offender Supervision Agency for the District of Columbia, transmitting, a draft of proposed legislation entitled ''Court Services and Offender Supervision Agency Appointment Act of 2002''; to the Committee on Governmental Affairs.

EC–8858. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period October 1, 2001 through March 31, 2002; to the Committee on Governmental Affairs.

EC–8859. A communication from the Secretary of the Treasury, transmitting, a draft of proposed legislation entitled ''District of Columbia Retirement Protection Improvement Act of 2002''; to the Committee on Governmental Affairs.

EC–8860. A communication from the Chief Operating Officer/President, Financing Corporation, transmitting, pursuant to law, the report relative to the statement of the system on internal controls for December 31, 2000 and 2001; to the Committee on Governmental Affairs.

EC–8861. A communication from the Assistant Secretary for Water and Science, Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Public Conduct on Bureau of Reclamation Lands and Projects'' (RIN 1006–AA44) received on August 12, 2002; to the Committee on Energy and Natural Resources.

EC–8862. A communication from the Assistant Secretary for Water and Science, Bureau

of Reclamation, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Law Enforcement Authority at Bureau of Reclamation Projects'' (RIN 1006–AA42) received on August 12, 2002; to the Committee on Energy and Natural Resources.

EC–8863. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Domestic and Foreign Procurement Preference Rules'' (AL–2002–06) received on August 27, 2002; to the Committee on Energy and Natural Resources.

EC–8864. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Civil Monetary Penalty Inflation Adjustment Rule'' (Order No. 890) received on September 3, 2002; to the Committee on Energy and Natural Resources.

EC–8865. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–8866. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–8867. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–8868. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more to Jordan; to the Committee on Foreign Relations.

EC–8869. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more South Korea; to the Committee on Foreign Relations.

EC–8870. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8871. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed manufacturing license agreement with France that also involves the export of defense articles and defense services in the amount of $50,000,000 or more to France and Sales Territories; to the Committee on Foreign Relations.

EC–8872. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8873. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–8874. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–8875. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Fiscal Year 2003 Chesapeake Bay Program Activity Grants''; to the Committee on Environment and Public Works.

EC–8876. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maine; Reasonable Available Control Technology for Nitrogen Oxides'' (FRL7269–6) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8877. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants; National Emission Standards for Emission of Radionucledes Other Than Radon From Department of Energy Facilities National Emission Standards for Radionuclide Emission from Federal Facilities Other Than Nuclear Regulatory Commission Licenses and Not Covered by Subpart H; Final Amendment'' (FRL7271–3) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8878. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Ambient Air Quality Surveillance and Designation of Areas for Air Quality Planning Purposes; Louisiana; Modification of Ozone Monitoring Season and Revisions to Geographical Boundaries of Air Quality Control Regions'' (FRL7374–1) received on September 6, 2002; to the Committee on Environment and Public Works.

EC–8879. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Sites'' (FRL7272) received on September 3, 2002; to the Committee on Environment and Public Works.

EC–8880. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Montana; State Implementation Plan Correction'' (FRL7374–4) received on September 6, 2002; to the Committee on Environment and Public Works.

EC–8881. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to the State Implementation Plan (SIP) Addressing Sulfur Dioxide in Philadelphia County'' (FRL7271–4) received on September 6, 2002; to the Committee on Environment and Public Works.

EC–8882. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; New Source Performance Standards'' (FRL7374–3) received on September 6, 2002; to the Committee on Environment and Public Works.

EC–8883. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Indiana; Volatile Organic Compound Regulations'' (FRL7273–5) received on September 6, 2002; to the Committee on Environment and Public Works.

EC–8884. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Minnesota'' (FRL7264–9) received on September 6, 2002; to the Committee on Environment and Public Works.

EC–8885. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Guidance for Combining Award of Grants for Counter-Terrorism Coordination Activities and Award of Grants for Technical Assistance and Training for Drinking Water System Security (for Systems Serving Fewer Than 100,000 People) by States and Terrorists into a Single Multiple-Appropriations Grant Award'' received on September 6, 2002; to the Committee on Environment and Public Works.

EC–8886. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Oregon: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7373–6) received on September 6, 2002; to the Committee on Environment and Public Works.

EC–8887. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, a report relative to safety and security; to the Committee on Environment and Public Works.

EC–8888. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, a report concerning additional recommendations of the United States Nuclear Regulatory Commission for Inclusion in the Physical Protection Infrastructure Plan; to the Committee on Environment and Public Works.

EC–8889. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation entitled ''Clear Skies Act of 2002''; to the Committee on Environment and Public Works.

EC–8890. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Nonessential Experimental Population Status and Reintroduction of Four Fishes in the Tellico River, from the Backwaters of Tellico Reservoir Upstream to Tellico River Mile 33, in Monroe County, Tennessee'' (RIN1018–AF96) received on August 12, 2002; to the Committee on Environment and Public Works.

EC–8891. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Establishing Spring/Summer Subsistence Harvest Regulations for Migratory

Birds in Alaska'' (RIN1018–AH88) received on August 12, 2002; to the Committee on Environment and Public Works.

EC–8892. A communication from the General Counsel of Department of Commerce, transmitting, a draft of proposed legislation entitled ''Federal Spectrum Relocation Payment Procedures Act''; to the Committee on Commerce, Science, and Transportation.

EC–8893. A communication from the Under Secretary of Commerce for Oceans and Atmosphere, transmitting, pursuant to law, the Annual Report of the Coastal Zone Management Fund for Fiscal Year 2001; to the Committee on Commerce, Science, and Transportation.

EC–8894. A communication from the Chairman, Office of Proceedings, Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled ''Removal and Revision of Regulations'' (STB Ex Parte No. 637) received on September 5, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8895. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Administrator, Federal Aviation Administration, received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8896. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a vacancy for the position of Under Secretary of Transportation for Security, received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8897. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a vacancy for the position of Administrator, Federal Aviation Administration, received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8898. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of the designation of acting officer for the position of Under Secretary for Transportation Security, received on August 27, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8899. A communication from the Assistant Administrator for Human Resources and Education, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a nomination for the position of Deputy Administrator, received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8900. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Generic Tortugas Amendment that Amends the Joint Fishery Management Plans (FMPs) for Coastal Migratory Pelagic Resources and the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic and the Gulf of Mexico FMPs for the Coral, Red Drum, Stone Crag, Reef Fish and Shrimp Fisheries'' (RIN0648–AN83) received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8901. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Pacific Halibut Fisheries; Washington Sport Fisheries; Inseason Action and Partial Closure'' received on August 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8902. A communication from the Senior Rulemaking Analyst, Transportation Security Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Investigative and Enforcement Procedures'' (RIN2110–AA09) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8903. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Infectious Substances'' (RIN2137–AD13) received on August 12, 2002; to the Committee on Commerce, Science, and Transportation.

EC–8904. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, and the Director for the Fish and Wildlife Service, Department of the Interior, transmitting jointly, The Atlantic Striped Bass Studies 2001 Biennial Report; to the Committee on Commerce, Science, and Transportation.

EC–8905. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to Low Income Home Energy Assistance Program (LIHEAP) Fiscal Year 2002 Contingency Funds; to the Committee on Health, Education, Labor, and Pensions.

EC–8906. A communication from the Regulations Coordinator, Substance Abuse and Mental Health, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Substance Abuse and Mental Health Services Administration Mental Health and Substance Abuse Emergency Response Criteria'' (RIN0930–AA09) received on September 6, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8907. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Rules for Administrative Review of Agency Decisions'' (RIN1212–AA97) received on September 3, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–8908. A communication from the Director, Corporate Policy and Research Department, Pensions Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on August 15, 2002 ; to the Committee on Health, Education, Labor, and Pensions.

EC–8909. A communication from the Regulations Coordinator, Office for Civil Rights, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Standards for Privacy of Individually Identifiable Health Information'' (RIN0991–AB14) received on August 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 1140, A bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts. (Rept. No. 107–266).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. GRASSLEY, and Ms. LANDRIEU):

S. 2917. A bill to enhance national efforts to investigate, prosecute, and prevent crimes against children by increasing investigatory tools, criminal penalties, and resources and by extending existing laws; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2918. A bill to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the ''Peter J. Ganci, Jr. Post Office Building''; to the Committee on Governmental Affairs.

By Mr. BAYH:

S. 2919. A bill for the relief of Irina Kotlova-Green and her son, Nikita Kotlov; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 2920. A bill to expedite procedures for hazardous fuels reductions activities and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 2921. A bill to encourage Native contracting over the management of Federal lands, and for other purposes; to the Committee on Indian Affairs.

By Ms. LANDRIEU (for herself, Mr. BURNS, Mr. LOTT, Mr. GREGG, Ms. MIKULSKI, Mr. LEAHY, Mr. BAUCUS, Mr. KERRY, and Mr. DODD):

S. 2922. A bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 1022

At the request of Mr. WARNER, the names of the Senator from Montana (Mr. BURNS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1224

At the request of Mr. ALLARD, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1224, a bill to amend title XVIII of the Social Security Act to extend the availability of medicare cost contracts for 10 years.

S. 1934

At the request of Ms. MIKULSKI, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1934, a bill to amend the Law Enforcement Pay Equity Act of 2000 to permit certain annuitants of the retirement programs of the United States Park Police and United States Secret Service Uniformed Division to receive

the adjustments in pension benefits to which such annuitants would otherwise be entitled as a result of the conversion of members of the United States Park Police and United States Secret Service Uniformed Division to a new salary schedule under the amendments made by such Act.

S. 2268

At the request of Mr. MILLER, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2490, a bill to amend title XVIII of the Social Security Act to ensure the quality of, and access to, skilled nursing facility services under the medicare program.

S. 2512

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2512, a bill to provide grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 2560

At the request of Mr. ALLARD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2560, a bill to provide for a multi-agency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

S. 2654

At the request of Ms. CANTWELL, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2654, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income loan payments received under the National Health Service Corps Loan Repayment Program established in the Public Health Service Act.

S. 2664

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2664, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction, and for other purposes.

S. 2674

At the request of Mr. BROWNBACK, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Georgia (Mr. CLELAND), the Senator from North Dakota (Mr. DORGAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2874

At the request of Mr. DAYTON, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2874, a bill to provide benefits to domestic partners of Federal employees.

S. 2896

At the request of Mrs. HUTCHISON, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Minnesota (Mr. DAYTON), the Senator from Oregon (Mr. SMITH) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 2896, a bill to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

S. 2896

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2896, supra.

S. 2901

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2901, a bill to provide that bonuses and other extraordinary or excessive compensation of corporate insiders and wrongdoers may be included in the bankruptcy estate.

S. RES. 239

At the request of Mr. ALLEN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 239, A resolution recognizing the lack of historical recognition of the gallant exploits of the officers and crew of the S.S. Henry Bacon, a Liberty ship that was sunk February 23, 1945, in the waning days of World War II.

S. RES. 305

At the request of Mr. THURMOND, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Louisiana (Mr. BREAUX), the Senator from Kansas (Mr. BROWNBACK), the Senator from Kentucky (Mr. BUNNING), the Senator from West Virginia (Mr. BYRD), the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CLELAND), the Senator from Mississippi (Mr. COCHRAN), the Senator from Idaho (Mr. CRAIG), the Senator from North Carolina (Mr. EDWARDS), the Senator from California (Mrs. FEINSTEIN), the Senator from Nebraska (Mr. HAGEL), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mrs. HUTCHISON), the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Oklahoma (Mr. INHOFE), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Georgia (Mr. MILLER), the Senator from Oklahoma (Mr. NICKLES), the Senator from Kansas (Mr. ROBERTS), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Alabama (Mr. SESSIONS), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Tennessee (Mr. THOMPSON) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. Res. 305, A resolution designating the week beginning September 15, 2002, as ''National Historically Black Colleges and Universities Week''.

S. RES. 307

At the request of Mr. TORRICELLI, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from California (Mrs. FEINSTEIN), the Senator from Michigan (Mr. LEVIN) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Res. 307, A resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 316

At the request of Mrs. LINCOLN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 316, a bill designating the year beginning February 1, 2003, as the ''Year of the Blues''.

S. RES. 324

At the request of Mr. JOHNSON, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Kansas (Mr. BROWNBACK), the Senator from Montana (Mr. BURNS) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. Res. 324, A resolution congratulating the National Farmers Union for 100 years of service to family farmers, ranchers, and rural communities.

S. CON. RES. 129

At the request of Mr. CRAPO, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Con. Res. 129, A concurrent resolution expressing the sense of Congress regarding the establishment of the month of November each year as ''Chronic Obstructive Pulmonary Disease Awareness Month''.

AMENDMENT NO. 4510

At the request of Mr. BAYH, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of

amendment No. 4510 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. GRASSLEY, and Ms. LANDRIEU):

S. 2917. A bill to enhance national efforts to investigate, prosecute, and prevent crimes against children by increasing investigatory tools, criminal penalties, and resources and by extending existing laws; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, this summer we were all devastated by the repeated news flashes reporting violent crimes against children across our Nation. In June, Elizabeth Smart, a 14 year old from my home town of Salt Lake City, UT, was kidnapped at gun point from her home. To date, neither Elizabeth nor her abductor has been found.

In July, five-year-old Samantha Runnion was kidnapped while playing with a neighborhood friend down the street from her home in Stanton, CA. The following day, her body was found along a highway, nearly 50 miles from her home. California authorities have charged a man, who reportedly was acquitted just 2 years ago of molesting two girls under the age of 14, with Runnion's abduction, sexual assault and murder.

Elizabeth Smart and Samantha Runnion are just two, among many, recent child victims. The list of tragic cases goes on and on.

These horrific incidents illustrate the need for comprehensive legislation, at both the State and national level, to protect our children. We need to ensure that our law enforcement officers have all the tools and resources they need to find, prosecute, and punish those who commit crimes against our children.

Earlier this year, with Senators LEAHY, SESSIONS, HUTCHINSON, BROWNBACK, EDWARDS and DEWINE, I introduced S. 2520, the ''PROTECT Act of 2002''. This bill plugged a loophole that existed as a result of a recent Supreme Court decision which struck down key provisions in the ''Child Pornography Prevention Act,'' which I authored and Congress passed in 1996. Among other things, the PROTECT Act prevents child pornographers from escaping prosecution by claiming that their sexually explicit material did not involve real children. Where child pornography includes persons who appear virtually indistinguishable from actual minors, prosecutions can still occur unless a defendant shows that the pornography did not involve a minor.

Today I rise to introduce with my colleagues, Senators FEINSTEIN, HUTCHINSON, HUTCHISON, SESSIONS, DEWINE, THURMOND and GRASSLEY, the ''Comprehensive Child Protection Act of 2002,'' which enhances child crime prosecutions, investigatory tools, penalties and resources in a variety of ways. For the record, I will submit a section by section summary of the bill, but allow me to comment briefly on some of the bill's specific provisions.

First, and most significantly, the bill creates a National Crimes Against Children Response Center. The recent series of tragic events involving child victims has convinced me that we need to take a more proactive approach to prevent, deter and prosecute child predators of all types, abusers, molesters, pornographers and traffickers. And at the same time, we need to provide our children, the vulnerable victims of such predators, with the support systems they need to recover fully from such horrendous crimes and to assist law enforcement in effectively investigating and prosecuting these crimes.

To this end, our bill directs the Federal Bureau of Investigation to establish a National Response Center whose primary mission will be to develop a comprehensive and rapid response plan to reported crimes involving the victimization of children. While the Center is to be established by the FBI in consultation with the Deputy Assistant Attorney General for the new Department of Justice Crimes Against Children Section created by the bill, it will integrate the resources and expertise of other Federal, State, and local law enforcement agencies, as well as other child services professionals. By forming and training rapid response teams comprised of Federal, State and local prosecutors, investigators, victim witness specialists, mental health and other child services professionals, the Center will greatly enhance our national response and prevention efforts. The combination of valuable expertise and resources provided by such multi-jurisdictional and multi-disciplinary partnerships will increase the likelihood that law enforcement authorities will successfully identify, prosecute and punish child predators, and that child services professionals will provide child victims with much needed support.

Second, this legislation tasks the new Crimes Against Children Section with creating an Internet site that will consolidate sex offender information which States currently release under the Federal reporting act. The bill also directs States that have not developed Internet sites to do so. The creation of a national Internet site will enable concerned citizens to find in one, easily accessible place, critical information about sexual predators.

Currently, all 50 States have statutes that require sex offenders to register and share information with the United States Attorney General through the Federal Bureau of Investigation, and over 30 States make offender information available to the public on the Internet. A national Internet site will enhance the public's ability to find and access information that is already available in the public record, and will protect citizens in states where sex offenders travel or move, often to avoid detection. In short, the national Internet site will provide parents and other concerned citizens with essential information about the whereabouts and backgrounds of child abusers, so they can take all necessary steps to protect our Nation's children.

Third, the bill enhances the ability of federal prosecutors to bring and successfully prosecute cases involving children predators in several ways:

The legislation extends the statute of limitations period that applies to offenses involving the sexual or physical abuse of children by permitting such cases to be brought up until the date the minor reaches age 35, as opposed to age 25 as the law currently provides. I believe that there should rarely, if ever, be a time when we say to a victim who has suffered as a child at the hands of an abuser: you have identified your abuser; you have proven the crime; yet the abuser will remain free because you, the victim, waited too long to come forward. Our criminal justice system should be ready to adjudicate all meritorious claims of child abuse. Abusers should not benefit from the lasting psychological harms they inflict on innocent children. This provision is meant to recognize that the arm of the law should be long in the prosecution of crimes of this heinous nature.

The bill also amends an existing Federal evidentiary rule, Federal Rule of Evidence 414, to permit the admission into evidence of prior offenses involving child molestation or the possession of sexually explicit materials containing minors. The current evidentiary rule permits such evidence to be admitted only where the victim is under 14 years of age. This amendment extends the rule to apply to any victim who is under 18 years of age at the time of the offense. This amendment also makes clear that even where an individual possesses what may be virtual, as opposed to actual, child pornography, such evidence is admissible under Rule 414.

This legislation limits the scope of the common law marital privileges by making them inapplicable in a criminal case in which a spouse stands accused of abusing a child in the home. Where a spouse is charged with abusing a child of either spouse, or a child under the custody or control of either spouse, neither the abuser nor his or her spouse should be permitted to invoke a marital privilege to avoid providing critical evidence in a criminal proceeding.

Fourth, the bill enhances tools that are used to investigate child crimes. It expands the class of offenses that are included in the Combined DNA Index System, CODIS, by adding to the system all federal felony offenses and

other designated federal and state sexual offenses that subject Federal offenders to sex registration requirements. This extension will increase law enforcement's ability to solve crimes where DNA evidence is found.

The bill also extends the Federal wiretap statute by adding additional sex exploitation offenses, as well as sex trafficking and other interstate sex offenses, to the statute's list of predicate offenses. As we all know, the Internet is becoming an increasingly popular means by which sexual predators make contact with child victims. Predators frequently initiate relationships with children online, but later seek to make personal contact with the child, either over the telephone or through face to face meetings. But as the law exists today, law enforcement authorities are restricted in their ability to investigate such predators. This amendment will not only aid investigators in obtaining evidence of such crimes, it will also help stop these crimes before a sexual predator makes contact with a child. To obtain a wiretap, law enforcement authorities will still need to meet the strict statutory guidelines of the wiretap statute and obtain authorization from a court. Thus, the legislation will not undermine the legitimate expectations of privacy of law-abiding Americans.

Fifth, this legislation will strengthen criminal penalties by extending the supervised release period that applies to child and sex offenders, increasing the maximum penalties that apply to offenses involving transportation for illegal sexual activity, and directing the United States Sentencing Commission to consider enhancing the sentencing guidelines that apply to criminal offenses with which child predators are frequently charged.

In particular, the bill grants Federal judges the discretion to impose up to lifetime periods of supervised release for individuals who are convicted of sexual abuse, sexual exploitation, transportation for illegal sexual activity, and sex trafficking offenses. Under current law, a judge can impose no more than 5 years of supervised release for a serious felony, and no more than 3 years for a lesser categorized offense. This amendment does not require the judge to impose a period of supervised release longer than 5 years; it simply authorizes a judge to do so where the nature and circumstances of the case justify a longer supervised release period.

In my view, if there is any class of offenders on which our criminal justice system should keep a close eye, it is sexual predators. It is well documented that sex offenders are more likely than other violent criminals to commit future crimes. And if there is any class of victims we should seek to protect from repeat offenders, it is those who have been sexually assaulted. They suffer tremendous physical, emotional and psychological injuries. By ensuring that egregious sexual offenders are supervised for longer periods of time, we will increase the chance that they will be deterred from and punished for future criminal acts.

In addition to increasing the maximum penalties that apply to certain offenses that involve the trafficking of children or other interstate elements, the bill directs the United States Sentencing commission to review the sentencing guidelines that apply to various federal offenses that are used to prosecute kidnappers, sexual abusers and exploiters to ensure that the sentences for these crimes are sufficiently severe where aggravating circumstances exist, such as where the victim was abducted, injured, killed, or abused by more than one person.

The ''Comprehensive Child Protection Act of 2002'' will enhance our ability to combat crimes against children, but it is by no means an end. Congress needs to continue to explore additional ways in which we can improve our ability on a national level to protect our children. Our children fall victim to many of the same crimes we face as adults, and they are also subject crimes that are specific to childhood, like child abuse and neglect. The effects of such heinous crimes are devastating and often lead to an intergenerational cycle of violence and abuse.

I want to do all I can to ensure that we devote the same intensity of purpose to crimes committed against children, as we do to other serious criminal offenses, such as those involving terrorism. We have no greater resource than our children. I invite the Department of Justice, the Federal Bureau of Investigation and other entities and professionals who are charged with protecting our children to work with me to improve our federal laws and to assist States in doing the same.

I ask unanimous consent that the text of the bill and a section-by-section summary analysis of S. 2917 be printed in the RECORD.

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

S. 2917

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 ''Comprehensive Child Protection Act of 2002''.

SEC. 2. NATIONAL CRIMES AGAINST CHILDREN RESPONSE CENTER.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

''§ 540A. National Crimes Against Children Response Center

''(a) ESTABLISHMENT.—There is established within the Federal Bureau of Investigation a National Crimes Against Children Response Center (referred to in this section as the 'Center').

''(b) MISSION.—The mission of the Center is to develop a national response plan model that—

''(1) provides a comprehensive, rapid response plan to report crimes involving the victimization of children; and

''(2) protects children from future crimes.

''(c) DUTIES.—To carry out the mission described in subsection (b), the Director of the Federal Bureau of Investigation shall—

''(1) consult with the Deputy Assistant Attorney General for the Crimes Against Children Office and other child crime coordinators within the Department of Justice;

''(2) consolidate units within the Federal Bureau of Investigation that investigate crimes against children, including abductions, abuse, and sexual exploitation offenses;

''(3) develop a comprehensive, rapid response plan for crimes involving children that incorporates resources and expertise from Federal, State, and local law enforcement agencies and child services professionals;

''(4) develop a national strategy to prevent crimes against children that shall include a plan to rescue children who are identified in child pornography images as victims of abuse;

''(5) create regional rapid response teams composed of Federal, State, and local prosecutors, investigators, victim witness specialists, mental health professionals, and other child services professionals;

''(6) implement an advanced training program that will enhance the ability of Federal, State, and local entities to respond to reported crimes against children and protect children from future crimes; and

''(7) conduct outreach efforts to raise awareness and educate communities about crimes against children.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Federal Bureau of Investigation such sums as necessary for fiscal year 2003 to carry out this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 28, United States Code, is amended by adding at the end the following:

''540A. National Crimes Against Children Response Center.''.

SEC. 3. INTERNET AVAILABILITY OF INFORMATION CONCERNING REGISTERED SEX OFFENDERS.

(a) IN GENERAL.—Section 170101(e)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(e)(2)) is amended by adding at the end the following: ''The release of information under this paragraph shall include the maintenance of an Internet site containing such information that is available to the public.''.

(b) COMPLIANCE DATE.—Each State shall implement the amendment made by this section within 3 years after the date of enactment of this Act, except that the Attorney General may grant an additional 2 years to a State that is making a good faith effort to implement the amendment made by this section.

(c) NATIONAL INTERNET SITE.—The Crimes Against Children Section of the Department of Justice shall create a national Internet site that links all State Internet sites established pursuant to this section.

SEC. 4. DNA EVIDENCE.

Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSE.—For purposes of this section, the term 'qualifying Federal offense' means—

''(1) any offense classified as a felony under Federal law;

''(2) any offense under chapter 109A of title 18, United States Code;

''(3) any crime of violence as that term is defined in section 16 of title 18, United States Code; or

''(4) any offense within the scope of section 4042(c)(4) of title 18, United States Code.''.

SEC. 5. INCREASE OF STATUTE OF LIMITATIONS FOR CHILD ABUSE OFFENSES.

Section 3283 of title 18, United States Code, is amended by striking ''25 years'' and inserting ''35 years''.

SEC. 6. ADMISSIBILITY OF SIMILAR CRIME EVIDENCE IN CHILD MOLESTATION CASES.

Rule 414 of the Federal Rules of Evidence is amended—

(1) in subsection (a), by inserting ''or possession of sexually explicit materials containing apparent minors'' after ''or offenses of child molestation''; and

(2) in subsection (d), by striking ''fourteen'' and inserting ''18''.

SEC. 7. MARITAL COMMUNICATION AND ADVERSE SPOUSAL PRIVILEGE.

(a) IN GENERAL.—Chapter 119 of title 28, United States Code, is amended by inserting after section 1826 the following:

''§ 1826A. Marital communications and adverse spousal privilege

''The confidential marital communication privilege and the adverse spousal privilege shall be inapplicable in any Federal proceeding in which a spouse is charged with a crime against—

''(1) a child of either spouse; or

''(2) a child under the custody or control of either spouse.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 119 of title 28, United States Code, is amended by inserting after the item relating to section 1826 the following:

''1826A. Marital communications and adverse spousal privilege.''.

SEC. 8. AUTHORIZATION OF INTERCEPTION OF COMMUNICATIONS IN THE INVESTIGATION OF SEXUAL CRIMES AND OTHER CRIMES AGAINST CHILDREN.

Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by inserting ''section 1591 (sex trafficking of children or by force, fraud, or coercion)'' after ''section 1511 (obstruction of State or local law enforcement),''; and

(2) by inserting ''section 2251A (selling or buying of children), section 2252A (relating to material constituting or containing child pornography), section 2260 (production of sexually explicit depictions of a minor for importation into the United States), sections 2421, 2422, 2423, and 2425 (relating to transportation for illegal sexual activity and related crimes),'' after ''sections 2251 and 2252 (sexual exploitation of children),''.

SEC. 9. INCREASE OF MAXIMUM SUPERVISED RELEASE TERM FOR SEX OFFENDERS.

Section 3583 of title 18, United States Code, is amended by adding at the end the following:

''(k) SUPERVISED RELEASE TERMS FOR SEX OFFENDERS.—Notwithstanding subsection (b), the authorized term of supervised release for any offense under chapter 109A, 110, 117, section 1201 involving a minor victim, or section 1591 is any term of years or life.''.

SEC. 10. INCREASE OF MAXIMUM PENALTIES FOR SEX OFFENSES.

Title 18, United States Code, is amended—

(1) in section 1591(b)(2), by striking ''20 years'' and inserting ''40 years'';

(2) in section 2421, by striking ''10 years'' and inserting ''20 years'';

(3) in section 2422—

(A) in subsection (a), by striking ''10 years'' and inserting ''20 years''; and

(B) in subsection (b), by striking ''15 years'' and inserting ''30 years'';

(4) in section 2423—

(A) in subsection (a), by striking ''15 years'' and inserting ''30 years''; and

(B) in subsection (b), by striking ''15 years'' and inserting ''30 years''; and

(5) in section 2425, by striking ''5 years'' and inserting ''10 years''.

SEC. 11. DEPUTY ASSISTANT ATTORNEY GENERAL FOR CRIMES AGAINST CHILDREN.

(a) ESTABLISHMENT OF POSITION.—

(1) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by inserting after section 507 the following:

''§ 507A. Deputy Assistant Attorney General for Crimes Against Children

''(a) The Attorney General shall appoint a Deputy Assistant Attorney General for Crimes Against Children.

''(b) The Deputy Assistant Attorney General shall be the head of the Crimes Against Children Section (CACS) of the Department of Justice.

''(c) The duties of the Deputy Assistant Attorney General shall include the following:

''(1) To prosecute cases involving crimes against children.

''(2) To advise Federal prosecutors and law enforcement personnel regarding crimes against children.

''(3) To provide guidance and assistance to Federal, State, and local law enforcement agencies and personnel, and appropriate foreign entities, regarding responses to crimes against children.

''(4) To propose and comment upon legislation concerning crimes against children.

''(5) Such other duties as the Attorney General may require, including duties carried out by the head of the Child Exploitation and Obscenity Section and the Terrorism and Violent Crime Section of the Department of Justice.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 31 of title 28, United States Code, is amended by inserting after the item relating to section 507 the following:

''507A. Deputy Assistant Attorney General for Crimes Against Children.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CACS.—There is authorized to be appropriated for the Department of Justice for fiscal year 2003, such sums as necessary to carry out this section.

SEC. 12. DIRECTIVE TO SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review the Federal Sentencing Guidelines and policy statements relating to child abuse and exploitation offenses, including United States Sentencing Guideline sections 2A3.1, 2A3.2, 2A3.3, 2A3.4, 2A4.1, 2G1.1, 2G2.1, 2G2.2, 2G2.3, 2G2.4, and 2G3.1 to determine whether those sections are sufficiently severe.

(b) CONSIDERATIONS.—In reviewing the Federal Sentencing Guidelines in accordance with subsection (a), the United States Sentencing Commission shall consider whether the guidelines are adequate where—

(1) the victim had not attained the age of 12 years, or had not attained the age of 16 years;

(2) the victim died, or sustained permanent, life-threatening or serious injury as a result of the criminal act;

(3) the victim was abducted;

(4) the victim was abused by more than 1 participant;

(5) the offense involved more than 1 victim;

(6) the ability of the victim to appraise or control his or her conduct was substantially impaired;

(7) the offense involved a large number of visual depictions, including multiple images of the same victim; and

(8) the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence.

''COMPREHENSIVE CHILD PROTECTION ACT OF 2002''

Section 1. Title—The Comprehensive Child Protection Act of 2002.

Section 2. Creates a National Crimes Against Children Response Center—The bill directs the Federal Bureau of Investigation to establish a National Crimes Against Children Response Center whose primary mission will be to develop a comprehensive and rapid response plan to reported crimes involving the victimization of children. While the National Response Center is to be established by the FBI, in consultation with the Deputy Assistant Attorney General for the Crimes Against Children Office, it will integrate the resources and expertise of other Federal, State and local law enforcement agencies, as well as other child services professionals. By creating and training rapid response teams comprised of Federal, State and local prosecutors, investigators, victim witness specialists, mental health and other child services professionals, the Center will greatly enhance our national efforts to protect our children from child predators.

Section 3. Creates a National Internet Site for Sexual Offender Information—The legislation directs the new Department of Justice Crimes Against Children Office to create an Internet site that consolidates sex offender information which States currently release under the federal reporting act. The bill also directs States that have not developed Internet sites to do so.

Currently, all 50 states have registration statutes that require sex offenders to register and to share information with the United States Attorney General through the Federal Bureau of Investigation, and over 30 States make offender information available to the public on the Internet. The creation of a national Internet site will enable concerned citizens to find in one, easily accessible place, critical information about sexual predators.

Section 4. Expands the DNA Analysis and Backlog Elimination Act, 42 U.S.C. 14135a(d), by increasing the categories of offenses that are included in the system of convicted offender DNA profiles, the Combined DNA Index System (CODIS). The bill expands the class of offenses that are included in CODIS by adding to the system all Federal felonies and additional offenses that subject Federal offenders to sex registration requirements.

Currently, the DNA Analysis and Backlog Elimination Act includes only select Federal offenses in CODIS. The successful experience of a large number of States which authorize the collection of DNA samples from all felony offenders illustrated the merit of this extension. In these States, numerous crimes have been solved based on DNA evidence obtained from nonviolent felony offenders. The addition of other offenses that subject Federal offenders to sex registration requirements will further enhance enforcement's ability to solve crimes.

Section 5. Extends the Statute of Limitations Period for Child Abuse Offenses contained in 18 U.S.C. 3283 to allow prosecutions of offenses involving the sexual or physical abuse of a child to be brought until the child reaches the age of 35. Currently, such prosecutions may be brought until the child is 25 years of age.

This amendment is intended to recognize that the arm of the law should be long in the prosecution of child abuse offenses. Too often victims of such crimes do not come forward until years after the abuse because they fear their disclosures will lead to further humiliation, shame, and even ostracism. This amendment will reduce the number of meritorious child abuse cases that are barred from prosecution on statute of limitations grounds.

Section 6. Expands Rule 414 of the Federal Rules of Evidence which allows evidence of a defendant's prior acts of child molestation to be admitted in a criminal child molestation case.

The amendment extends the definition of ''child'' contained in Rule 414 to include any person below the age of 18—rather than age 14, as the Rule now reads. The amendment also makes clear that where a defendant previously possessed what may have been virtual, as opposed to actual, child pornography, such evidence is admissible under Rule 414. Like the possession of actual child pornography, the possession of virtual child pornography is highly probative evidence that should be admissible in a case of child molestation or exploitation.

Section 7. Precludes the Assertion of a Marital Privilege in a Criminal Child Abuse Case in which a spouse stands accused of abusing a child in the home. In such a case, neither the abuser nor his or her spouse should be permitted to invoke a marital privilege to preclude critical testimony relating to the child abuse.

Section 8. Expands the Federal Wiretap Act, 18 U.S.C. 2516(1)(c), by adding as predicate offenses to the statute, sex trafficking, sex exploitation, and other interstate sex offenses. Currently, the wiretap statute authorizes the interception of wire, oral, or electronic communications in the investigation of just two sexual exploitation of children crimes. This expanded tool will be particularly useful to investigators who track sexual predators and child portnographers.

To obtain a wiretap, law enforcement authorities will still need to meet the strict statutory guidelines of the wiretap statute and obtain authorization from a court. Thus, the legislation will not undermine the legitimate expectations of privacy of law-abiding Americans.

Section 9. Extends the Maximum Supervised Release Period that Applies to Sexual Offenders by granting Federal judges the discretion to impose up to lifetime periods of supervised release for individuals who are convicted of sexual abuse, sexual exploitation, transportation for illegal sexual activity, or sex trafficking offenses.

Currently, under the general supervised release statute, 18 U.S.C. 3583, a judge can impose no more than 5 years of supervised release for a serious felony, and no more than 3 years for a lesser categorized offense. This amendment will not require judges to impose a period of supervised release longer than 5 years; it simply authorizes them to do so where the judge sees fit based on the nature and circumstances of the particular case.

Section 10. Increases the Maximum Penalties that Apply to Certain Sexual Related Offenses by doubling the maximum penalties for sexual related offenses involving the trafficking of children and other interstate elements. Stiffer penalties are needed to punish and deter individuals who commit such offenses.

Section 11. Creates a Crimes Against Children Section at the Department of Justice—The bill also directs the Attorney General to appoint a Deputy Assistant Attorney General to oversee a new section at the Department of Justice designated to focus solely on crimes against children. Among other things, the new section will be tasked with prosecuting crimes against children, providing guidance and assistance to Federal State, and local law enforcement agencies and personnel who handle such cases, coordinating efforts with international law enforcement agencies to combat crimes against children, and acting as a liaison with the legislative and judicial branches of government to ensure that adequate attention and resources are focused on protecting our children from predators of all types.

Section 12. Directs the Sentencing Commission to review the guidelines that apply to child abuse and exploitation offenses to determine whether they are sufficiently severe. In so doing, the Sentencing Commission shall consider whether the guidelines are adequate where aggravated circumstances exist: the victim had not attained the age of twelve years, or had not attained the age of sixteen years; the victim died, sustained permanent, life-threatening, or serious injury as a result of the criminal act; the victim was abducted; the victim was abused by more than one individual; the offense involved more than one victim; the offense involved a large number of visual depictions, including multiple images of the same victim; or the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence.

Mr. DEWINE. Mr. President, I rise today with my colleague from Utah, Senator HATCH, to introduce the ''Comprehensive Child Protection Act of 2002''—a bill to help protect our nation's children from child molestation and other forms of abuse.

Sexual abuse of children is a pervasive and extremely troubling problem in the United States. I learned that over 25 years ago when I was serving as the Country Prosecutor in Greene County, Ohio. I saw what this kind of abuse does to innocent, helpless children and how pervasive the crimes are in our communities. In fact, according to the Congressional Research Service, one of every three girls and one of every seven boys will be sexually abused before they reach the age of 18.

Our local police and prosecutors are on the front line in the fight against these criminals, and they deserve credit and our thanks for their hard work. For example, in Greene County recently, a number of child pornographers were identified and prosecuted when local law enforcement carried out a successful Internet sting operation.

Despite successes like this, however, the data suggest that law enforcement is fighting an uphill battle. Last year, there were over 5,400 registered sex offenders living in my home state of Ohio—an increase of 319 percent over 1998.

Equally troubling, many child molesters prey upon dozens of victims before they are reported to law enforcement. Some evade detection for so long because many children never report the abuse. According to the Bureau of Justice Statistics, between 60 percent and 80 percent of child molestations and 69 percent of sexual assaults are never reported to the police. Of reported sexual assaults, 71 percent of the victims are children, according to the Congressional Research Service.

For these reasons, it is vitally important that Congress do everything in its power to support law enforcement in its efforts to protect our nation's most vulnerable citizens. Enacting the ''Comprehensive Child Protection Act of 2002'' would be a step in the right direction. By enacting this measure, we would help protect our children from sexual predators, pornographers, and others who abuse children. Among its major provisions, this legislation would:

1. Direct the FBI to establish a new center that creates and trains ''rapid response teams'' (composed of prosecutors, investigators, and others) to respond promptly to reported crimes against children;

2. Establish a national Internet site that would make sex offender information available to the public in one, easy to access place. Currently, about 30 states make offender information available to the public online;

3. Authorize the collection of DNA samples from registered sex offenders and the inclusion of these DNA samples in the Combined DNA Index System, or ''CODIS;''

4. Permit the prosecution of child abuse offenses until a victim reaches the age of 35 (as opposed to the age of 25 under current law). This provision recognizes that victims of such crimes often do not come forward until years after the abuse, out of shame or a fear of further humiliation;

5. Make it easier for investigators to track sexual predators and child pornographers and make it easier to prosecute criminal child abuse/molestation cases;

6. Create a new section at the Department of Justice to focus solely on crimes against children; and

7. Stiffen penalties for sex-related offenses involving children.

This is a good bill—a bill that would help ensure that our children are protected from some of the most heinous of criminals. It is a bill that would increase the punishment for those criminals. And, it is a bill that, quite simply, is the right thing to do. I encourage my colleagues to join us in cosponsoring this important measure.

Mr. GRASSLEY. Mr. President, I rise today in support of an act that I am cosponsoring with Senator HATCH that represents one of the most comprehensive pieces of legislation ever drafted to protect children, the Comprehensive Child Protection Act of 2002. As Ranking Republican on the Subcommittee on Crime and Drugs, I have been greatly concerned with the recent increase in reports of child abductions and murders, so I am glad to be a part of this effort to address this growing problem. In my tenure on the Judiciary Committee, I have long fought for our Nation's children, and have ardently supported laws that bring them and their families greater protection. I am also pleased that the President will be hosting a conference on missing and exploited children at the end of this month, and I look forward to that conference and appreciate the President's and First Lady's work on behalf of children.

This legislation comes at a critical time because we are hearing more and more about children being taken from their homes or schools and abused, or worse, murdered. Our children are a gift to us, are our national treasure, and are our future. We must do all that we can to protect these innocents and give law enforcement every tool possible to ferret out the criminals who would do our children harm. With this legislation, we will be ensuring a greater measure of protection for our children.

The bill does many important things. First, it helps law enforcement respond immediately to incidents of child abduction, because, as we've seen with the Amber Alert system, time is critical in any abduction case to thwart further injury or harm. The bill creates a National Crimes Against Children Response Center at the FBI that will integrate the resources and expertise of all Federal, State and local law enforcement sources to provide a rapid response for crimes involving child victims. The bill also helps law enforcement by making it possible to get wire taps for suspected sex trafficking and exploitation offenses, and will require that all Federal child sex crimes offenders have their DNA added to the national DNA registry. So the bill will help to centralize information about criminals and crimes, and makes the job of the criminal investigator easier and more accurate through wiretaps and DNA evidence.

The bill also creates a website registry for convicted child sexual offenders so that parents, neighbors, and police know who in their communities is a convicted child predator. This website will supplement registries in all 50 States. This important tool will help families make better and fully-informed decisions about their childrens' safety, and will greatly aid law enforcements' response to reports of child abductions and other offenses against children.

The bill also gives new tools to prosecutors and the courts. It extends the statute of limitations for prosecuting child offenders, allows prosecutors to introduce evidence of past child sex crimes in sentencing hearings, removes the so-called ''spousal privilege'' so that a spouse can't stand silent in the prosecution of the other spouse for child sexual abuse, and increases the maximum sentences and probation periods for child sex offenders. These important tools will make our communities safer by helping to rid them of child predators, and by keeping a tight leash on predators when they get released from prison.

So this bill helps the public know about sexual predators in their communities, improves the nation's ability to respond to child abduction reports, and aids criminal investigators and prosecutors in their efforts to protect the public by identifying and locking-up child predators. I ask my fellow Senators to support this important bill.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2918. A bill to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the ''Peter J. Ganci, Jr. Post Office Building''; to the Committee on Government Affairs.

Mrs. CLINTON. Mr. President: I ask unanimous consent that the text of the bill, to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the ''Peter J. Ganci, Jr. Post Office Building,'' be printed in the RECORD.

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

S. 2918

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

SECTION 1. PETER J. GANCI, JR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, shall be known and designated as the ''Peter J. Ganci, Jr. Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Peter J. Ganci, Jr. Post Office Building.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 2921. A bill to encourage Native contracting over the management of Federal lands, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to be joined by Senator INOUYE to introduce the ''Native American Contracting and Federal Lands Management Demonstration Project Act'' to expand the highly-successful Indian Self Determination and Education Assistance Act of 1975 and to bring Native knowledge and sensitivity to the management of Federal lands.

Next week is the 140th anniversary of the bloodiest day in U.S. military history—the Battle at Antietam Creek in Sharpsburg, Maryland. Many Civil War historians see Antietam as the turning point in the Union's victory over the Confederacy and as the victory President Lincoln needed to issue the Emancipation Proclamation.

Americans have a visceral impulse to restrict development of the lands like those at Antietam, not because we are sons of the Union or daughters of the Confederacy, but because we are Americans.

We know that Antietam, like Omaha Beach and Little Bighorn and other places, is a sacred place.

In 1978, Congress passed the American Indian Religious Freedom Act, AIRFA, which declared that it is ''the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.''

It is clear that twenty-five years after the enactment of the AIRFA, the tools available to protect Native sacred places and religious beliefs are insufficient.

At the same time, as our need for economic activities, such as logging, energy and mining, increases, the clashes between economic and cultural interests also increase.

In 1970, President Nixon's Special Message to Congress on Indian Affairs changed forever Federal Indian law and policy. The President also signed into law legislation transferring the sacred Blue Lake lands back to the Pueblo of Taos. These two events set the stage for both the Indian Self Determination and Education Assistance Act, 1975, as well as the AIRFA, 1978.

The legislation I am introducing builds on these precedents by setting up a demonstration project to expand opportunities for Native contracting on Federal lands. One goal of this bill is to bring to bear the knowledge and sensitivity of Native people to activities that are currently being carried out by Federal agencies.

Under the bill, the Secretary of Interior would select up to 12 tribes or tribal organizations per year to provide archaeological, anthropological, ethnographic and cultural surveys and analysis; land management planning; and activities related to the identification, maintenance, or protection of lands considered to have religious, ceremonial or cultural significance to Indian tribes.

I urge my colleagues to join me in supporting this measure.

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. 2921

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 ''Native American Contracting and Federal Lands Management Demonstration Project Act''.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) FEDERAL LANDS.—The term ''Federal lands'' means any land or interests in land owned by the United States, including leasehold interests held by the United States, except Indian trust lands.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given such term by section 4(e) of the Indian Self-Determination and Education Assistance Act.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. PURPOSES.

(a) IN GENERAL.—The purposes of this Act are—

(1) to expand the provisions of the Indian Self Determination and Education Assistance Act, as amended (25 U.S.C. 450 et seq.), in order to expand Native employment and income through greater contracting opportunities with the Federal Government;

(2) to encourage Native contracting on Federal lands for purposes of benefiting from the knowledge and expertise of Native people in order to promote innovative management strategies on Federal lands that will lead to greater sensitivity toward, and respect for, Native American religious beliefs and sacred sites;

(3) to better accommodate access to and ceremonial use of Indian sacred lands by Indian religious practitioners; and

(4) to prevent significant damage to Indian sacred lands.

SEC. 4. NATIVE AMERICAN FEDERAL LANDS MANAGEMENT DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Indian Self Determination and Education Assistance Act is amended by adding a new subsection as follows:

"SEC.__. NATIVE AMERICAN FEDERAL LANDS MANAGEMENT DEMONSTRATION PROJECT.

''(a) IN GENERAL.—The Secretary of the Interior shall establish the 'Native American Federal Lands Management Demonstration Project' to enter contracts with Indian tribes or tribal organizations to perform functions including, but not limited to, archeological, anthropological and cultural surveys and analyses, and activities related to the identification, maintenance, or protection of lands considered to have religious, ceremonial or cultural significance to Indian tribes.

''(b) PARTICIPATION.—During each of the 2 fiscal years immediately following the date of the enactment, the Secretary shall select not less than 12 eligible Indian tribes or tribal organizations to participate in the demonstration project.

''(c) ELIGIBILITY.—To be eligible to participate in the demonstration project, an Indian tribe or tribal organization, shall—

''(1) request participation by resolution or other official action of the governing body of the Indian tribe or tribal organization;

''(2) demonstrate financial and management stability and capability, as evidenced by the Indian tribe or tribal organization having no unresolved significant and material audit exceptions for the previous 3 fiscal years; and

(3) demonstrate significant use of or dependency upon the relevant conservation system unit or other public land unit for which programs, functions, services, and activities are requested to be placed under contract.

''(d) PLANNING PHASE.—Each Indian tribe and tribal organization selected by the Secretary to participate in the demonstration project shall complete a planning phase prior to negotiating and entering into a conservation system unit management contract. The planning phase shall be conducted to the satisfaction of the Indian tribe or tribal organization and shall include—

''(1) legal and budgetary research; and

''(2) internal tribal planning and organizational preparation.

''(e) CONTRACTS.—

''(1) IN GENERAL.—Upon request of a participating Indian tribe or tribal organization that has completed the planning phase pursuant to subsection (e), the Secretary shall negotiate and enter into a contract with the Indian tribe or tribal organization for the Indian tribe or tribal organization to plan, conduct, and administer programs, services, functions, and activities, or portions thereof, requested by the Indian tribe or tribal organization and related to archeological, anthropological and cultural surveys and analyses, and activities related to the identification, maintenance or protection of lands considered to have religious, ceremonial or cultural significance to Indian tribes.

''(2) TIME LIMITATION FOR NEGOTIATION OF CONTRACTS.—Not later than 90 days after a participating Indian tribe or tribal organization has notified the Secretary that it has completed the planning phase required by subsection (e), the Secretary shall initiate and conclude negotiations, unless an alternative negotiation and implementation schedule is otherwise agreed to by the parties. The declination and appeals provisions of the Indian Self-Determination and Education Assistance Act, including section 110 of such Act, shall apply to contracts and agreements requested and negotiated under this Act.

''(f) CONTRACT ADMINISTRATION.—

''(1) INCLUSION OF CERTAIN TERMS.—At the request of the contracting Indian tribe or tribal organization, the benefits, privileges, terms, and conditions of agreements entered into pursuant to titles I and IV of the Indian Self-Determination and Education Assistance Act may be included in a contract entered into under this Act. If any provisions of the Indian Self-Determination and Education Assistance Act are incorporated, they shall have the same force and effect as if set out in full in this Act and shall apply notwithstanding any other provision of law. The parties may include such other terms and conditions as are mutually agreed to and not otherwise contrary to law.

''(2) AUDIT.—Contracts entered into under this Act shall provide for a single-agency audit report to be filed as required by chapter 75 of title 31, United States Code.

''(3) TRANSFER OF EMPLOYEES.—Any career Federal employee employed at the time of the transfer of an operation or program to an Indian tribe or tribal organization shall not be separated from Federal service by reason of such transfer. Intergovernmental personnel actions may be used to transfer supervision of such employees to the contracting Indian tribe or tribal organization. Such transferred employees shall be given priority placement for any available position within their respective agency, notwithstanding any priority reemployment lists, directives, rules, regulations, or other orders from the Department of the Interior, the Office of Management and Budget, or other Federal agencies.

''(g) AVAILABLE FUNDING; PAYMENT.—Under the terms of a contract negotiated pursuant to subsection (f), the Secretary shall provide each Indian tribe or tribal organization funds in an amount not less than the Secretary would have otherwise provided for the operation of the requested programs, services, functions, and activities. Contracts entered into under this Act shall provide for advance payments to the tribal organizations in the form of annual or semiannual installments.

''(h) TIMING; CONTRACT AUTHORIZATION PERIOD.—An Indian tribe or tribal organization selected to participate in the demonstration project shall complete the planning phase required by subsection (c) not later than 1 calendar year after the date that it was selected for participation and may begin implementation of its requested contract no later than the first day of the next fiscal year. The Indian tribe or tribal organization and the Secretary may agree to an alternate implementation schedule. Contracts entered into pursuant to this Act are authorized to remain in effect for 5 consecutive fiscal years, starting from the fiscal year the participating Indian tribe or tribal organization first entered into its contract under this Act.

''(i) REPORT.—Not later than 90 days after the close of each of fiscal years 2003 and 2006, the Secretary shall present to the Congress detailed reports, including a narrative, findings, and conclusions on the costs and benefits of this demonstration project.

''(j) PLANNING GRANTS.—

''(1) IN GENERAL.—Subject to the availability of appropriated funds, upon application the Secretary shall award a planning grant in the amount of $100,000 to any Indian tribe or tribal organization selected for participation in the demonstration project to enable it to plan for the contracting of programs, functions, services, and activities as authorized under this Act and meet the planning phase requirement of subsection (e). An Indian tribe or tribal organization may choose to meet the planning phase requirement without applying for a grant under this subsection. No Indian tribe or tribal organization may receive more than 1 grant under this subsection.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary for each of the 2 fiscal years immediately following the date of the enactment of this Act to fund planning grants under this section.''.

SEC. 5. TRIBAL PROCUREMENT CONTRACTING AND RESERVATION DEVELOPMENT.

(a) IN GENERAL.—Section 7 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) is amended by adding at the end thereof the following new subsection (d):

''(d) FOSTERING TRIBAL PROCUREMENT CONTRACTING AND RESERVATION DEVELOPMENT.—

''(1) Upon the request and application of an Indian tribe to provide certain services or deliverables which the Secretary of the Interior would otherwise procure from a private sector entity, and absent a request to contract those services or deliverables pursuant to section 102 of this Act (25 U.S.C. 450f) made by the tribe or tribes to be directly benefited by said services or deliverables, the Secretary of the Interior shall contract for such services or deliverables through the applicant Indian tribe pursuant to section 102 of this Act (25 U.S.C. 450f).

''(2) Subsection (1) shall not apply unless the applicant tribe provides assurances to the Secretary that the principal beneficiary of the contracted services remains the tribe or tribes originally intended to benefit from the services or deliverables. For purposes of this subsection, the contracting tribe shall enjoy no less than the same rights and privileges under this Act as would the beneficiary tribe if the beneficiary tribe exercised its rights to contract under section 102 of this Act. If at any time the beneficiary tribe (or tribes) seeks to contract services being provided by the contracting tribe, the beneficiary tribe (or tribes) shall give the contracting tribe and the Secretary of the Interior no less than 180 days' notice.''.

By Ms. LANDRIEU (for herself, Mr. BURNS, Mr. LOTT, Mr. GREGG, Ms. MIKULSKI, Mr. LEAHY, Mr. BAUCUS, Mr. KERRY, and Mr. DODD):

S. 2922. A bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, today I rise to introduce the Emergency Communications and Competition Act, ECCA, along with my colleague from Montana, Senator BURNS. I am pleased that this legislation has also been cosponsored by Senators LOTT, GREGG, MIKULSKI, LEAHY, and BAUCUS.

This bill will ensure that consumers will soon be able to avail themselves of an innovative new wireless technology, recently approved by the Federal Communications Commission. It is called the Multichannel Video Distribution and Data Service, MVDDS, a title which accurately describes what this new service will provide consumers: cable competition and a high speed access to the Internet.

Unless Congress Acts, however, it may be years before service is actually

deployed to the public. That would be a lost opportunity for consumers, we would lose the opportunity to improve our communications infrastructure, not only for our citizens' access to cable and the Internet, but also for public safety purposes. MVDDS technology can address all of these needs, and we should remove unnecessary and counterproductive regulatory obstacles that prevent its swift deployment.

This bill is supported by consumer groups. The Consumers Union has endorsed this legislation, because it will help ensure that competition rapidly emerges for video programming as well as high speed Internet services. The Consumers Union notes that cable rates have risen 45 percent since cable was deregulated in 1996, an increase that is almost three times faster than inflation. According to the FCC, just one percent of cable communities enjoy ''effective competition.'' MVDDS can go head-to-head with incumbent cable systems everywhere, and I believe that this good old fashioned competition will result in lower prices and better service for consumers even for those who don't choose to subscribe to MVDDS.

This legislation has also been endorsed by the National Grange, America's oldest general farm and rural public interest organization. The National Grange recognizes the extraordinary opportunity this new wireless technology can offer rural Americans, but it fears that the FCC Order authorizing MVDDS failed to ensure that it will indeed adequately serve rural America. At this time I would ask that these two letters, and other letters of support, be published in the RECORD following my statement.

The bill Senator BURNS and I are introducing today will restore fairness in the FCC licensing process, and in so doing, speed the deployment of MVDDS to applicants that are ready to launch service to the public now.

The ECCA provides that MVDDS applicants will be licensed in the same manner as satellite companies who applied on the same day to share the same spectrum. Currently, the FCC plans to subject only MVDDS applicants to an auction process. This would impose a discriminatory tax on an innovative new technology. Unfortunately, this is more of the same burdensome regulation that I believe has contributed to the collapse of the telecommunications sector. Government regulation is necessary, certainly; but we must be smart in how we regulate business. We must ensure that our laws and regulations are technologically neutral so that government policies don't replace the role of the marketplace in determining the fate of consumer products and services.

Furthermore, an auction would drastically delay the introduction of service to the public. Mr. President, this is quite the opposite of what spectrum auctions are supposed to do. In this case, industry incumbents can use the auction to block the introduction of new competition. A company with vast resources available could easily trounce a small startup in an auction—and then, under the terms of the FCC's Order, it would not have to deploy service for 10 years. Consumers cannot wait for spectrum to be ''shelved'' for an entire decade.

The ECCA solves this problem by ensuring that only qualified applicants will be licensed. That is, within six months of enactment, the FCC would issue licenses to any applicant that can demonstrate through independent testing that it will employ a technology that won't cause harmful interference to DBS operators with whom they would share spectrum. Then, to be sure that service is in fact deployed, the ECCA requires licensees to provide service to consumers within five rather than ten years.

This legislation also requires that parties who apply for licenses under this provision must assume specific public interest obligations in exchange for their prompt licensing. The bill requires full must-carry of local television stations, and an additional set aside of 4 percent of system capacity for other public interest purposes such as tele-medicine and distance learning. I can assure my colleagues that these are issues particularly important in rural areas in states like Louisiana.

The ECCA will also promote public safety, in two ways. First, it will require MVDDS licensees to air Emergency Alert System warnings. These alerts are presently carried by cable systems and over-the-air broadcasters. However, they are not seen by those who get their programming from DBS unless the viewer happens to be watching a local channel. In states like Louisiana, where DBS operators do not carry local stations, this is particularly important. Unfortunately, my state is not alone—local stations are also not carried in Alaska, Arkansas, Idaho, Iowa, Maine, Montana, Mississippi, Nebraska, North and South Dakota, West Virginia, and Wyoming. In total, over 1,100 TV stations are not carried by DBS.

Second, this legislation requires MVDDS licensees to make their transmission systems available to national security and emergency preparedness personnel on a top-priority basis in times of need. We all know that when emergencies strike, the need for public safety personnel to communicate with one another skyrockets. MVDDS wireless networks, which will be deployed ubiquitously throughout the country, can help alleviate this thirst for spectrum.

For these reasons, I believe that Congress should act on this matter as soon as possible. I urge my colleagues to support this bill and vote for enactment this year. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2922

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 ''Emergency Communications and Competition Act of 2002''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To facilitate the deployment of new wireless telecommunications networks in order to extend the reach of the Emergency Alert System (EAS) to viewers of multichannel video programming who may not receive Emergency Alert System warnings from other communications technologies.

(2) To ensure that emergency personnel have priority access to communications facilities in times of emergency.

(3) To promote the rapid deployment of low cost multi-channel video programming and broadband Internet services to the public, without causing harmful interference to existing telecommunications services.

(4) To ensure the universal carriage of local television stations, including any Emergency Alert System warnings, by multichannel video programming distributors in all markets, regardless of population.

(5) To advance the public interest by making available new high speed data and video services to unserved and underserved populations, including schools, libraries, tribal lands, community centers, senior centers, and low-income housing.

(6) To ensure that new technologies capable of fulfilling the purposes set forth in paragraphs (1) through (5) are licensed and deployed promptly after such technologies have been determined to be technologically feasible.

SEC. 3. LICENSING.

(a) GRANT OF CERTAIN LICENSES.—

(1) IN GENERAL.—The Federal Communications Commission shall assign licenses in the 12.2–12.7 GHz band for the provision of fixed terrestrial services using the rules, policies, and procedures used by the Commission to assign licenses in the 12.2–12.7 GHz band for the provision of international or global satellite communications services in accordance with section 647 of the Open-market Reorganization for the Betterment of International Telecommunications Act (47 U.S.C. 765f).

(2) DEADLINE.—The Commission shall accept for filing and grant licenses under paragraph (1) to any applicant that is qualified pursuant to subsection (b) not later than six months after the date of the enactment of this Act. The preceding sentence shall not be construed to preclude the Commission from granting licenses under paragraph (1) after the deadline specified in that sentence to applicants that qualify after that deadline.

(b) QUALIFICATIONS.—

(1) NON-INTERFERENCE WITH DIRECT BROADCAST SATELLITE SERVICE.—A license may be granted under this section only if operations under the license will not cause harmful interference to direct broadcast satellite service.

(2) ACCEPTANCE OF APPLICATIONS.—The Commission shall accept an application for a license to operate a fixed terrestrial service in the 12.2–12.7 GHz band if the applicant—

(A) successfully demonstrates the terrestrial technology it will employ under the license with operational equipment that it furnishes, or has furnished, for independent testing pursuant to section 1012 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110); and

(B) certifies in its application that it has authority to use such terrestrial service technology under the license.

(3) CLARIFICATION.—Section 1012(a) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110(a); 114 Stat. 2762A–141) is amended by inserting '', or files,'' after ''has filed''.

(4) PCS OR CELLULAR SERVICES.—A license granted under this section may not be used for the provision of Personal Communications Service or terrestrial cellular telephony service.

(c) PROMPT COMMENCEMENT OF SERVICE.—In order to facilitate and ensure the prompt deployment of service to unserved and underserved areas and to prevent stockpiling or warehousing of spectrum by licensees, the Commission shall require that any licensee under this section commence service to consumers within five years of the grant of the license under this section.

(d) EXPANSION OF EMERGENCY ALERT SYSTEM.—Each licensee under this section shall disseminate Federal, State, and local Emergency Alert System warnings to all subscribers of the licensee under the license under this section.

(e) ACCESS FOR EMERGENCY PERSONNEL.—

(1) REQUIREMENT.—Each licensee under this section shall provide immediate access for national security and emergency preparedness personnel to the terrestrial services covered by the license under this section as follows:

(A) Whenever the Emergency Alert System is activated.

(B) Otherwise at the request of the Secretary of Homeland Security.

(2) NATURE OF ACCESS.—Access under paragraph (1) shall ensure that emergency data is transmitted to the public, or between emergency personnel, at a higher priority than any other data transmitted by the service concerned.

(f) ADDITIONAL PUBLIC INTEREST OBLIGATIONS.—

(1) ADDITIONAL OBLIGATIONS.—Each licensee under this section shall—

(A) adhere to rules governing carriage of local television station signals and rules concerning obscenity and indecency consistent with sections 614, 615, 616, 624(d)(2), 639, 640, and 641 of the Communications Act of 1934 (47 U.S.C. 534, 535, 536, 544(d)(2), 559, 560, and 561);

(B) make its facilities available for candidates for public office consistent with sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315); and

(C) allocate 4 percent of its capacity for services that promote the public interest, in addition to the capacity utilized to fulfill the obligations required of subparagraphs (A) and (B), such as—

(i) telemedicine;

(ii) educational programming, including distance learning;

(iii) high speed Internet access to unserved and underserved populations; and

(iv) specialized local data and video services intended to facilitate public participation in local government and community life.

(2) LICENSE BOUNDARIES.—In order to ensure compliance with paragraph (1), the Commission shall establish boundaries for licenses under this section that conform to existing television markets, as determined by the Commission for purposes of section 652(h)(1)(C)(i) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)(i)).

(g) REDESIGNATION OF MULTICHANNEL VIDEO DISTRIBUTION AND DATA SERVICE.—The Commission shall redesignate the Multichannel Video Distribution and Data Service (MVDDS) as the Terrestrial Direct Broadcast Service (TDBS).

CONSUMERS UNION,
Washington, DC, August 29, 2002.

DEAR SENATOR: On behalf of Consumers Union, we are writing to seek your support for the Emergency Communications and Competition Act of 2002, sponsored by Senators Landrieu and Burns. This legislation would benefit consumers by ensuring that quality wireless spectrum is available for video programming and a wide range of public services, including emergency warnings.

Consumers Union has long advocated for policies that will increase competition to cable television and encourage deployment of advanced Internet services to rural and underserved communities, and we support policies that encourage efficient use of wireless spectrum. We believe that multichannel video and data distribution service (MVDDS) could provide an extraordinary opportunity for consumers to receive video programming, local broadcast, and broadband Internet access at affordable prices, by efficiently reusing satellite spectrum. However, a recent FCC order authorizing MVDDS fails to ensure that this spectrum will be used for the purpose of competition for video programming.

Nationwide, consumers have seen their cable television rates rise 45 percent since cable was deregulated in 1996, an increase almost three times faster than inflation. In the few areas where there is robust competition among cable providers, rate increases have been less draconian; consumers receive more channels for less money. Direct competition for video services should be a high public policy priority because it results in lower prices and better service for consumers.

Instead, the FCC's decision seems to better serve the interests of companies who want to provide wireless data services to businesses, by defining markets in a way that it will be difficult to provide video services. By basing MVDDS licenses on an entirely different geographic system than what is currently used for television markets, the FCC order would render local television carriage all but impossible, perpetuating artificial scarcity for video spectrum. This virtually forecloses the possibility that MVDDS could be a robust competitor to cable.

At a time when the FCC has also eliminated the 45 MHz spectrum cap, inviting more wireless consolidation, it is far less critical to put additional spectrum on the market for non-video services. Accordingly, we support the Emergency Communications and Competition Act of 2002 as a sound approach to ensure that MVDDS is a vehicle for real competition to cable television, especially in rural and underserved areas.

First, the bill would facilitate licensing of companies in the 12.2–12.7 GHz band that are committed to providing these needed consumer services. Moreover, this bill requires that licensees build out these services within five years, compared with the FCC's order which allows license holders to warehouse MVDDS spectrum as long as ten years before providing services. Second, the Emergency Communications and Competition Act of 2002 would ensure access to local broadcast signals by including full must carry requirements and retransmission consent requirements in all television markets. Third, this bill fixes the market boundary definition problem by setting license boundaries that conform to existing television market boundaries.

Importantly, the bill would also require each licensee to disseminate Federal, State and local Emergency Alert System warnings to all subscribers. Currently, subscribers to Digital Broadcast Satellite (DBS) programming only receive alerts if they happen to live in an area where local programming is carried by DBS providers. This possibility is denied to subscribers in the 13 states in which DBS provides no local channels (AK, AR, ID, IA, LA, ME, MT, MS, NE, ND, SD, WV, and WY). Given the heightened need for effective local security and emergency management plans, consumers must be able to receive Emergency Alerts regardless of where they live and how they access video programming services.

Finally, the Emergency Communications and Competition Act of 2002 includes a number of specific public interest obligations of tremendous benefit to consumers. The bill requires a licensee to make its facilities available for candidates for public office and to provide at least 4% of its capacity for services that promote the public interest, including telemedicine services, educational programming, including distance learning, high speed Internet access to unserved and underserved populations, or local data and video services intended to facilitate public participation in local government and community life.

Consumers Union has long argued that American consumers must have competitive alternatives for video programming as well as for high speed Internet services. The Emergency Communications and Competition Act 2002 will help ensure such competition rapidly emerges. For all of these reasons, we ask you to support the Emergency Communications and Competition Act of 2002.

Respectfully,

CHRIS MURRAY,
Internet & Telecommunications Counsel.
GENE KIMMELMAN,
Senior Director.

NATIONAL GRANGE,
OF THE ORDER OF PATRONS OF HUSBANDRY,
Washington, DC, August 16, 2002.

Hon. MARY L. LANDRIEU,
U.S. Senate,
Washington, DC.

DEAR SENATOR LANDRIEU: On behalf of the National Grange, I am writing to thank you for introducing the Emergency Communications and Competition Act of 2002 (ECCA) sponsored by Sen. Mary Landrieu (LA) which would assure that multichannel video and data distribution services (MVDDS) will be available and affordable in every rural community across the nation.

The National Grange is America's oldest general farm and rural public interest organization. Founded in 1867, today the Grange represents nearly 300,000 Grange members affiliated with 3200 local, county and state Grange chapters. The Grange members are families and individuals who share a common interest in community involvement, agricultural and rural issues. The Grange is a genuine grassroots, bipartisan, political advocacy organization. The goal of Grange advocacy is the well being and prosperity of rural America.

Rural telecommunication service deployment is a top priority for the National Grange. In our priority issues document Blueprint for Rural America 2002, we described the vital need for telecommunications services in rural areas:

''Adequate access to telecommunications services such as telephone, Internet, satellite and cable is important to rural America. The Internet delivers services and products efficiently, irrespective of geographic location. Today, workers who telecommute can enjoy a rewarding career and a rural life style. Satellite technology can bring new information to every farm in America. We must assure

that advanced telecommunications technologies are available in every rural community at affordable costs.''

We believe that multichannel video and data distribution services (MVDDS), as set forth in the ECCA, provide an extraordinary opportunity for rural Americans to receive video programming, local broadcast, and broadband Internet access at affordable prices. However, the FCC order authorizing MVDDS failed to ensure that rural America will be adequately served by this new technology. By contrast, the ECCA would assure that MVDDS is available and affordable in every rural community.

First, the ECCA would facilitate licensing of services in the 12.2–12.7 GHz band. It requires that licensees build out services within five years. The FCC rule allows license holders to warehouse MVDDS spectrum for as long as ten years before providing services. Rural Americans cannot afford to wait another ten years for access to advanced telecommunitions technologies such as MVDDS. The National Grange believes that license holders should be held to a strict ''use or lose'' standard if they fail to deploy services within the statutory five-year time frame.

Second, the ECCA would reverse the FCC's inappropriate decision to auction licenses in this band. Historically, auctions have failed to foster competition, particularly in rural markets. Only 31% of spectrum licenses offered for sale in 2001 were actually sold. Rural areas remain grossly underserved by spectrum licensing programs.

Third, it would include full ''must carry'' requirements for all local broadcast signals in all television markets served by MVDDS providers. Consumers in rural areas depend on local programming for news, information about local events, and other important interests. However, in many states, rural consumers are unable to receive those signals over Direct Broadcast Satellite (DBS) services or even, in some cases, by means of over-the-air free broadcasting.

Fourth, the ECCA would require each licenses to disseminate Federal, State and local Emergency Alert System warnings to all subscribers. Currently, subscribers to DBS programming may or may not receive alerts. DBS provides no local channels in 13 states (AK, AR, ID, IA, LA, ME, MT, MS, NE, ND, SD, WV, and WY). DBS subscribers in these states receive no emergency or local broadcasts at all. Given the heightened need for effective local security and emergency management plans, rural Americans must receive Emergency Alerts regardless of where they live and how they access video programming services.

Finally, the ECCA includes a number of specific public interest obligations that will benefit rural consumers. The bill requires a licenses to provide at least 4% of its capacity for services that promote the public interest, including telemedicine services, distance learning, high speed Internet access to unserved and underserved populations, or local data and video services intended to facilitate public participation in local government and community life. If implemented effectively, these provisions could dramatically change the way that rural Americans engage in civic life, experience education, and find necessary medical services.

The National Grange has a suggestion for improving this bill. We support adding language to the ECCA to protect the property interests of rural Americans with a provision forbidding MVDDS licenses from being used as evidence of public good for private property condemnation proceedings, other than in the cases of existing utility or railroad rights of way. We understand that MVDDS transmission technology is very small, and should not require building new towers or other projects that would require condemnation of private property. Because of this we do not believe there will be any technical justification for license holders to ask local governments to exercise eminent domain authority on private property in order to meet build out requirements.

The National Grange has long argued that rural Americans must have competitive alternatives to cable and Direct Broadcast Satellite services, both for video and high speed Internet services. The Emergency Communications and Competition Act of 2002 will ensure that competitive service is deployed in a timely manner along with critical local and emergency broadcast signals in rural underserved areas. For all of these reasons, we strongly support the Emergency Communications and Competition Act of 2002.

Sincerely,

KERMIT W. RICHARDSON, *President*.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, September 9, 2002.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse coalition of organizations committed to the protection of civil and human rights in the United States, writes to express our support for the Electronic Communications and Competition Act of 2002, sponsored by Senators Landrieu and Burns. We believe that the legislation will help bridge the digital divide by encouraging rapid deployment of a new wireless multichannel video and data technology (MVDDS). This new technology will bring low-cost broadband Internet and video services to rural and underserved areas and increase the prospects for media ownership by minorities and women.

While LCCR was pleased that the Federal Communications Commission approved the creation of MVDDS, the order failed to ensure that MVDDS would provide local broadcast television, video programming, and broadband Internet services throughout the country. There is no question that auctions favor incumbents and are a major impediment to minority media ownership. The Electronic Communications and Competition Act will ensure that MVDDS fulfills, among other things, its potential to increase minority ownership and bridge the digital divide.

Notwithstanding the decades of civil rights community advocacy, minority broadcast ownership is declining. Although minorities represent more than one quarter of the nation's population, they are just 23, or 1.9% of the 1288 owners of licensed, full-power commercial broadcast television stations in the United States.

The Electronic Communications and Competition Act will eliminate the auction requirement and compel immediate licensing of all conforming MVDDS technologies. In addition, it will require license-holders to build out services within five years, significantly narrowing the digital divide. The act will also require that a percentage of each license-holder's capacity be used for public interest purposes such as distance education, telemedicine, or other important local purposes.

In sum, I urge you to support the Electronic Communications and Competition Act. It provides a rare opportunity to increase media diversity and to narrow the digital divide.

Sincerely,

WADE J. HENDERSON,
Executive Director.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, September 4, 2002.

DEAR SENATOR: As you know, the National Council of La Raza (NCLR) has long advocated on behalf of the nation's growing Hispanic community on a number of economic, education, and other social policy issues. You may not be aware, however, that NCLR has also had a long-standing interest in policy affecting telecommunications, access to the Internet, and the growing concentration of the media industry. That is why I am writing today to seek your support for the Emergency Communications and Competition Act of 2002, sponsored by Senators Mary Landrieu (D–LA) and Conrad Burns (R–MT).

NCLR has been a strong supporter in the past for policies that will increase competition in the cable industry and encourage deployment of advanced Internet services to rural and underserved communities. We have also urged ''must carry'' rules for all video programming competitors, regardless of platform, to ensure that communities, especially rural ones, have full access to local and emergency broadcast signals. That is why earlier this summer we wrote to a number of lawmakers expressing our support for new technology that will provide multichannel video and data distribution services (''MVDDS'') (a copy of that earlier communication is attached). MVDDS provides a significant opportunity for consumers to receive video programming, local broadcasts and broadband Internet access at affordable prices. As noted in that earlier correspondence, the FCC order authorizing MVDDS failed in many significant respects to serve the interests of consumers and underserved communities.

We urge Congress to enact the Emergency Communications and Competition Act of 2002 to ensure that MVDDS benefits are available to all consumers, especially in rural and underserved areas, for a range of reasons.

First, the bill would facilitate licensing of companies in the 12.2–12.7 GHz band who are committed to providing these needed consumer services. Additionally, this bill requires licensees to build out these services within five years, compared with the current FCC rule which allows license holders to warehouse MVDDS spectrum for as long as ten years before providing services.

Second, the Emergency Communications and Competition Act of 2002 would include full ''must carry'' requirements and retransmission consent requirements in all television markets, thereby ensuring access to local broadcast signals. Moreover, this bill sets license boundaries that conform to existing television market boundaries. Local access is critical as consumers depend on local programming for news, information about local events, language appropriate programming, and other critical interests. Current FCC rules for the MVDDS licenses call for entirely different geographic boundaries, which would render local television carriage almost impossible.

Third, the bill would require each licensee to disseminate federal, state and local Emergency Alert System warnings to all subscribers. Today, subscribers to Digital Broadcast Satellite (''DBS'') programming only receive alerts if they happen to live in areas where local programming is carried by DBS providers. This possibility does not even exist in the 14 states in which DBS provides no local channels (AK, AR, ID, IA, LA, ME, MT, MS, NE, ND, SD, VT, WV, and WY). Given the heightened need for effective local security and emergency management plans, consumers should be able to receive Emergency Alerts regardless of where they live and how they access video programming services.

Fourth, the Emergency Communications and Competition Act of 2002 provides other

important benefits to consumers by requiring a licensee to provide at least 4% of its capacity for services that promote the public interest, including telemedicine services, educational and long distance learning proramming, high-speed Internet access to unserved and underserved populations, and/or local data and video services intended to facilitate public participation in local governments and community life, and also requires a licensee to make its facilities available for candidates for public office.

Finally, as noted in our earlier correspondence, MVDDS is likely to increase for minority broadcasting ownership opportunities and Latino content over the airwaves, a critically important consideration for NCLR.

NCLR believes that all American consumers are entitled to have access to competitive alternatives to cable and DBS services, for both video and high-speed data services. For the reasons set forth above, we ask you to support the Emergency Communications and Competition Act of 2002.

Sincerely,

RAUL YZAGUIRRE,
President.

AVOYEL-TAENSA TRIBE
OF LOUISIANA,
Simmesport, LA, August 28, 2002.

Hon. MARY L. LANDRIEU,
U.S. Senate, Washington, DC.

DEAR SENATOR LANDRIEU: I am writing on behalf of the Avoyel-Taensa Indian Organization. We are a rural people by nature and have an obvious concern about the development of rural areas in Louisiana. The Emergency Communications and Compensation Act of 2002 is critical for further development in this legislation and hope that you decide to sponsor it.

This legislation provides benefits for rural areas previously not available. Schoolchildren will have access to the internet—a significant advancement in education for rural communities. Also, this legislation will provide access to a wide-range of television stations for an entire rural area at an affordable cost. Having telemedicine capabilities in community health centers is becoming essential. This new Bill would bring this technology to the rural communities.

This new Bill will also require full ''must carry'' requirements for all local broadcast signals in all television markets. Consumers in rural areas depend on local programming for news, information about local events, and other important interests. Subscribers to Direct Broadcast Satellite (DBS) do not have access to local broadcast signals in the State of Louisiana.

Most importantly, however, the Emergency Communications and Competition Act of 2002 brings a new level of security to our rural communities. DBS does not distribute Federal, State, and Local emergency alerts to its subscribers. This Act will ensure that emergency alerts will reach the rural communities. Given the heightened need for local security and emergency management, it is imperative that rural Americans receive emergency alerts.

There is a new technology, led by Northpoint Technology that can effectively bring the luxury of satellite television and the necessity of local programming and emergency alerts at an affordable cost to the rural areas of Louisiana. We are pleased you have taken an interest in this legislation and stand by you if you decide to sponsor it.

Sincerely Yours:

ROMES ANTOINE,
Tribal Chief

WILMA MANKILLER,
ROUTE 1, BOX 945,
Stilwell, OK, August 16, 2002.

Hon. MARY LANDRIEU,
U.S. Senate, Washington, DC.

DEAR SENATOR LANDRIEU: Thank you for drafting the ''Emergency Communications and Competition Act.'' Passage of your legislation will help facilitate the rapid deployment of the Multichannel Video Distribution and Data Service (MVDDS), a new wireless service that the Federal Communications Commission recently authorized.

This innovative wireless technology can provide affordable video programming (including all local channels) and broadband Internet access to consumers throughout the entire country, and it will be particularly important to Native Americans who live in rural areas where competition all too often is lacking or non-existent.

Your legislation will ensure that the FCC promptly issues licenses to qualified applicants. As you know, the FCC has decided to issue MVDDS licenses through an auction process. Auctions have yet to facilitate the deployment of video service or broadband to Native American communities. I'm particularly worried that in this case an auction may prevent the deployment of actual service for at least a decade.

Unless Congress enacts your legislation, well-heeled opponents of new completion could outbid small startups. Auction participants aren't required to have a proven technology and they don't have to deploy any service for ten years. Your bill corrects this by requiring all applicants to demonstrate they are capable of deploying MVDDS and requiring them to do so in five years.

The National Congress of American Indians (NCAI), the nation's oldest, largest and most representative tribal government, as well as the National Indian Telecommunications Institute (NITI), a tribally-owned and operated not-for-profit organization dedicated to ensuring that Native Americans have the same opportunity to participate in, and benefit from, the digital revolution as other Americans have urged the FCC to licenses to qualified applicants without an auction process.

As the NCAI wrote to the FCC on March 22, 2002, ''The difficulty in finding service providers willing and able to provide telecommunications to Native American communities is well documented. As the FCC's own records show auctions do nothing to narrow that gap and indeed may exacerbate the problem.... If the FCC auctions use of the 12.2–12.7 GHz band, the potential to bring video and broadband services to our communities in that spectrum will remain unfulfilled.''

I heartily share these concerns and thus I am very grateful that you have crafted legislation that will ensure the promise of MVDDS in rural America and tribal communities can be fulfilled through prompt licensing of companies that are ready, willing and able to offer new competitive service.

I and several other Native Americans are local affiliates of Northpoint Technology, the only company that has demonstrated its technology through independent testing. We clearly lack the resources to compete at an auction against giant communications companies. I find it remarkable that they are eligible to seek a license when they have no MVDDS technology.

It's also grossly unfair to subject us to MVDDS applicants to an auction when the FCC is issuing licenses—without auction—to several satellite companies that applied to share the same spectrum on the same day I filed my license application. Your legislation will ensure that terrestrial and satellite applicants for the same spectrum are treated in a like manner. While I believe that Northpoint is currently the only qualified terrestrial applicant because it alone submitted equipment for the independent testing conducted by the MITRE Corporation last year, your legislation clearly offers an opportunity for other companies to similarly become qualified by subjecting their own technology to independent testing this year.

Sincerely,

WILMA MANKILLER,
Principal Chief, Cherokee Nation.

MARZULLA & MARZULLA,
ATTORNEY AT LAW,
Washington, DC, August 30, 2002.

Re the Emergency Communications and Competition Act of 2002.

Hon. MARY LANDRIEU,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR LANDRIEU: I am writing to thank you for sponsoring the Emergency Communications and Competition Act of 2002.

This measure will promote the deployment of the Multi-channel Video Distribution and Data Service (''MVDDS''), an innovative ground-based wireless digital technology that will share spectrum with satellites in the 12.2–12.7 GHz spectrum band. Sharing this spectrum will dramatically increase the capacity of radio spectrum, and promises consumers new and competitive choices for multi-channel video programming and internet broadband services.

Because of its affordability, this technology will also make possible provision of broadband services to underserved populations such as students, library users, Indians on reservations, community center users, seniors, and residents in low-income housing.

However, this bill does more than benefit the consumer. This bill also protects the intellectual property rights of the inventors of this new technology, and thus is consistent with the constitutional framers' intent that creators and owners of intellectual property rights enjoy the fruits of their labor.

As you know, rather than permitting the inventors to utilize their new technology, the FCC instead chose to dismiss the inventors' licensing applications (after allowing their application to languish for over three years), and called for a nationwide spectrum auction. The FCC's refusal to process the inventors' permit application for over three years itself raises serious due process concerns. See, e.g., *MCI Telecommunications Corp.* v. *FCC*, 627 F.2d 322, 341 (1980) (''[D]elay in the resolution administrative proceedings can also deprive regulated entities, their competitors or the public of rights and economic opportunities without the due process the Constitution requires.'').

The FCC's decision to auction off the right to use the inventors' technology, the only technology currently proven able to allow terrestrial service to reuse the same spectrum currently used by satellite systems, to the highest bidder also smacks of a taking of private property without payment of just compensation. See *Ruckelshaus* v. *Monsanto Co.*, 467 U.S. 986, 1003 (1984) (''[I]ntangible property rights ... are deserving of the protection of the Taking Clause has long been implicit in the thing of [the Supreme] Court. . . .''); *Webb's Fabulous Pharmacies, Inc.* v. *Beckwith*, 449 U.S. 155, 164 (1980) (holding that government may not ''by ipse dixit,... transform private [property into public property without just compensation.'').

Thus, this bill should be enacted not only because it protects the property rights of the inventors, but because it also benefits consumers. This bill will require the FCC to accept an application for a license to operate a

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

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

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

Yours truly,

NANCIE G. MARZULLA.

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

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

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

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

I am most concerned, however, that unless we pass this legislation, we may never see the deployment of this new service. The FCC has determined that licenses for this new service should be auctioned. I appreciate the FCC's effort to help generate new revenues for the Federal Treasury, but we must never let that consideration override good public policy judgments. The public interest is best served when the spectrum is licensed promptly to applicants that are ready to deploy service.

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

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

AMENDMENT SUBMITTED AND PROPOSED

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

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

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

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

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

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

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

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

SA 4524. Mr. BURNS (for Mr. BENNETT) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

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

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

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

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

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

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

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

TEXT OF AMENDMENTS

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

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

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

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

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

At the end of the amendment, add the following:

SEC. 3___. PAYMENT LIMITATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SA 4518. Mr. CRAIG (for himself, Mr. DOMENICI, and Mr. MURKOWSKI) proposed an amendment to SA 4480 proposed by Mr. BYRD (for himself, Mr. BURNS, Mr. STEVENS, Mr. REID, Mr. DOMENICI, Mrs. MURRAY, Mr. CRAIG, Mr. WYDEN, Mr. KYL, Mr. BAUCUS, and Mr. CAMPBELL) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

SEC. _____. EMERGENCY HAZARDOUS FUELS REDUCTION PLAN.

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

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

(1) wildland urban interface areas;

(2) municipal watersheds;

(3) forested or rangeland areas affected by disease, insect activity, or wind throw; or

(4) areas susceptible to a reburn.

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

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

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

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

(e) ADMINISTRATIVE PROCESS.—

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

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

(B) the Forest Service appeals process and regulations.

(2) REGULATIONS.—

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

(f) JUDICIAL REVIEW.—

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

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

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

(B) be completed not later than 360 days from the date such request for review is filed with the appropriate court unless the District Court determines that a longer time is needed to satisfy the Constitution;

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

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

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

SEC. _____. QUINCY LIBRARY INITIATIVE.

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

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

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

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

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

At the end of title III, add the following:

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

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

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

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

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

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

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

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

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

WEST NILE VIRUS

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

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

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

SEC. 1___. FEDERAL RECOGNITION.

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

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

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

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

(A) the Governor and attorney general of—

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

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

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

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

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

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

(2) the Secretary—

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

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

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

(3) the Secretary shall—

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

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

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

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

At the appropriate place, add the following:

SEC. . SOUTHERN CALIFORNIA OFFSHORE OIL LEASES.

(a) Congress Finds That—

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

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

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

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

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

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

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

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

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

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

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

''(iv) Sec. 7.

''(v) Sec. 8.''.

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

At the appropriate place in the bill insert the following:

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

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

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

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

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

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

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

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

SEC. 521. APPLICABILITY OF EXISTING INDEMNIFICATION AUTHORITY.

(a) REQUIREMENT FOR REVISED GUIDANCE.—The President shall issue guidance regarding the discretionary authority for the indemnification of contractors and subcontractors under Public Law 85–804 (50 U.S.C. 1431 et seq.) that—

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) PERMITTED CATALOG TECHNOLOGIES AND SERVICES.—A State may include in a request submitted under paragraph (1) only a technology or service listed in the catalog produced under subsection (d).

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

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

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

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

SEC. 523. DEFINITIONS.

In this subtitle:

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

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

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

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

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

SEC. 524. TIME FOR IMPLEMENTATION.

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

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

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

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

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

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

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

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

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

COMMITTEE ON FINANCE

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

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

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

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

COMMITTEE ON THE JUDICIARY

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

Witness List: Mr. David Kris, Associate Deputy Attorney General, Department of Justice, Washington, DC; Professor William C. Banks, Professor of Law, Syracuse University, Syracuse, NY; Mr. Kenneth C. Bass III, Senior Counsel, Sterne, Kessler, Goldstein, Fox, and First Counsel for Intelligence Policy, Department of Justice 1977–1981, and Adjunct Professor of Law, Georgetown University Law Center, Washington, DC; and Dr. Morton Halperin, Director, Open Society Institute-Washington Office, Washington, DC.

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

COMMITTEE ON VETERANS' AFFAIRS

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

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

SELECT COMMITTEE ON INTELLIGENCE

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

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

PRIVILEGES OF THE FLOOR

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

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

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

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

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

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

FLIGHT 93 NATIONAL MEMORIAL ACT

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

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3917) to authorize a national memorial to commemorate the passengers and crew of Flight 39, who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes.

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

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

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

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

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

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

The clerk will state the bill by title.

The legislative clerk read as follows:

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

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

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

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

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

S. 2136

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

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

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

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

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

(A) grieving families of the passengers and crewmembers;

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

(C) citizens throughout the United States;

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

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

(6) a memorial of the crash site should—

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

(B) address the interests and concerns of interested parties; and

(7) it is appropriate that the crash site of Flight 93 be designated as a unit of the National Park System.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a memorial to honor the passengers and crewmembers aboard United Airlines Flight 93 on September 11, 2001;

(2) to establish the Flight 93 Advisory Commission to assist in the formulation of plans for the memorial, including the nature, design, and construction of the memorial; and

(3) to authorize the Secretary of the Interior to administer the memorial, coordinate and facilitate the activities of the Flight 93 Advisory Commission, and provide technical and financial assistance to the Flight 93 Task Force.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Flight 93 Advisory Commission established by section (4)(b).

(2) CRASH SITE.—The term ''crash site'' means the site in Stonycreek Township, Somerset County, Pennsylvania, where United Airlines Flight 93 crashed on September 11, 2001.

(3) MEMORIAL.—The term ''Memorial'' means the memorial to the passengers and crewmembers of United Airlines Flight 93 established by section 4(a).

(4) PASSENGER OR CREWMEMBER.—

(A) IN GENERAL.—The term ''passenger or crewmember'' means a passenger or crewmember aboard United Airlines Flight 93 on September 11, 2001.

(B) EXCLUSIONS.—The term ''passenger or crewmember'' does not include a terrorist aboard United Airlines Flight 93 on September 11, 2001.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) TASK FORCE.—The term ''Task Force'' means the Flight 93 Task Force.

SEC. 4. MEMORIAL TO HONOR THE PASSENGERS AND CREWMEMBERS OF FLIGHT 93.

(a) ESTABLISHMENT.—There is established as a unit of the National Park System a memorial at the crash site to honor the passengers and crewmembers of Flight 93.

(b) ADVISORY COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the ''Flight 93 Advisory Commission''.

(2) MEMBERSHIP.—The Commission shall be composed of—

(A) the Director of the National Park Service; and

(B) 14 members, appointed by the Secretary, from among persons recommended by the Task Force.

(3) TERM; VACANCIES.—

(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(4) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(B) FREQUENCY.—The Commission shall meet not less than quarterly.

(C) NOTICE.—Notice of meetings and the agenda for the meetings shall be published in—

(i) newspapers in and around Somerset County, Pennsylvania; and

(ii) the Federal Register.

(D) OPEN MEETINGS.—Meetings of the Commission shall be subject to section 552b of title 5, United States Code.

(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum.

(6) CHAIRPERSON.—The Commission shall select a Chairperson from among the members of the Commission.

(7) DUTIES.—The Commission shall—

(A) not later than 3 years after the date of enactment of this Act, submit to the Secretary and Congress a report that contains recommendations for the planning, design, construction, and long-term management of the memorial;

(B) advise the Secretary on—

(i) the boundaries of the memorial; and

(ii) the development of a management plan for the memorial;

(C) consult with the Task Force, the State of Pennsylvania, and other interested parties, as appropriate;

(D) support the efforts of the Task Force; and

(E) involve the public in the planning and design of the memorial.

(8) POWERS.—The Commission may—

(A) make expenditures for services and materials appropriate to carry out the purposes of this section;

(B) accept donations for use in carrying out this section and for other expenses associated with the memorial, including the construction of the memorial;

(C) hold hearings and enter into contracts, including contracts for personal services;

(D) by a vote of the majority of the Commission, delegate any duties that the Commission determines to be appropriate to employees of the National Park Service; and

(E) conduct any other activities necessary to carry out this Act.

(9) COMPENSATION.—A member of the Commission shall serve without compensation, but may be reimbursed for expenses incurred in carrying out the duties of the Commission.

(10) TERMINATION.—The Commission shall terminate on the dedication of the memorial.

(c) DUTIES OF THE SECRETARY.—The Secretary shall—

(1) administer the memorial as a unit of the National Park Service in accordance with—

(A) this Act; and

(B) the laws generally applicable to units of the National Park System;

(2) provide advice to the Commission on the collection, storage, and archiving of information and materials relating to the crash or the crash site;

(3) consult with and assist the Commission in—

(A) providing information to the public;

(B) interpreting any information relating to the crash or the crash site;

(C) conducting oral history interviews; and

(D) conducting public meetings and forums;

(4) participate in the development of plans for the design and construction of the memorial;

(5) provide to the Commission—

(A) assistance in designing and managing exhibits, collections, or activities at the memorial;

(B) project management assistance for design and construction activities; and

(C) staff and other forms of administrative support;

(6) acquire from willing sellers the land or interests in land for the memorial by donation, purchase with donated or appropriated funds, or exchange; and

(7) provide the Commission any other assistance that the Commission may require to carry out this Act.

10TH ANNIVERSARY OF UNITED STATES RECOGNITION OF BOSNIA AND HERZEGOVINA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 538, S. Res. 309.

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

The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 309) expressing the sense of the Senate that Bosnia and Herzegovina should be congratulated on the 10th anniversary of its recognition by the United States.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations without an amendment and with an amendment to the preamble.

[Insert the part printed in italic.]

S. RES. 309

Whereas the United States reaffirms its support for the sovereignty, legal continuity, and territorial integrity of Bosnia and Herzegovina within its internationally recognized borders and also reaffirms its support for the equality of the three constituent peoples and others in Bosnia and Herzegovina in a united multiethnic country, according to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Whereas, during the 10 years since its recognition, Bosnia and Herzegovina has made significant progress in overcoming the legacy of the internecine conflict of 1992–1995 instigated by ultranationalist forces hostile to a multiethnic society, and has persevered in building a multiethnic democracy based on the rule of law, respect for human rights, and a free market economy, as shown by the results of the elections held in November 2000;

Whereas most citizens and the national authorities of Bosnia and Herzegovina share the democratic values of the international community and feel the responsibility to uphold them;

Whereas the Government of Bosnia and Herzegovina is committed to international security and democratic stability and in that spirit has begun *discussions to initiate* the process of qualifying for membership in the Partnership for Peace; and

Whereas, after the attacks of September 11, 2001 on the United States, Bosnia and Herzegovina, as a reliable friend of the United States, immediately positioned itself within the anti-terrorism coalition of nations, sharing the common interests and values of the free and democratic world: Now, therefore, be it

Resolved, That the Senate—

(1) commends Bosnia and Herzegovina for the significant progress it has made during the past decade on the implementation of the Dayton Peace Agreement and on the implementation of the Constituent Peoples' Decision of the Constitutional Court of Bosnia and Herzegovina;

(2) applauds the democratic orientation of Bosnia and Herzegovina and urges the further strengthening by its government and people of respect for human rights, of the rule of law, and of its free market economy;

(3) urges Bosnia and Herzegovina as rapidly as possible to make fully operational all national institutions and state-level governmental bodies mandated by the Dayton Peace Agreement;

(4) welcomes and supports the aspiration of Bosnia and Herzegovina to become a member of the Partnership for Peace and, pursuant thereto, underscores the importance of creating a joint military command as soon as possible;

(5) urges the Government of Bosnia and Herzegovina to accelerate the return of refugees and displaced persons and to intensify its cooperation with the International Criminal Tribunal for the former Yugoslavia at The Hague, in particular with regard to surrendering to the Court individuals indicted for war crimes;

(6) reaffirms the importance for the future of Bosnia and Herzegovina of that country's participation in the European integration process and, in that context, welcomes the notable improvement in mutual cooperation among the successor states of the former Yugoslavia and the strengthening of cooperation within the region as a whole, developments which are essential for long-lasting peace and stability in Southeastern Europe; and

(7) recognizes the important role of the Bosnian-Herzegovinian-American community in the further improving of bilateral relations between the United States and Bosnia and Herzegovina.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the amendment to the preamble be agreed to, the preamble, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

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

The resolution (S. Res. 309) was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

ORDERS FOR WEDNESDAY, SEPTEMBER 11, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until 11 a.m., Wednesday, September 11; that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each; further, that the Republican leader be recognized at 11:40 a.m. for 10 minutes, and the majority leader be recognized at 11:50 a.m. for 10 minutes; that at 12 noon, there be a moment of silence in recognition of the events of September 11, 2001.

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

PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes tomorrow. The next rollcall vote is expected to occur Thursday morning.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:57 p.m., adjourned until Wednesday, September 11, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 10, 2002:

DEPARTMENT OF JUSTICE

GLENN T. SUDDABY, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS, VICE DANIEL J. FRENCH, RESIGNED.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

JAMES M. STEPHENS, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2005, VICE ROSS EDWARD EISENBREY.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 211:

To be rear admiral lower half

STEPHEN W. ROCHON, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT T. CLARK, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. CLARENCE M. AGENA, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDANT OF THE MARINE CORPS, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 5043 AND 601:

To be general

LT. GEN. MICHAEL W. HAGEE, 0000