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Senate

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

The PRESIDING OFFICER. The Senate is very pleased today to have as our guest Chaplain Mrs. Anne Graham Lotz, AnGeL Ministries, Raleigh, NC, who will lead the Senate in prayer.

PRAYER

The guest Chaplain offered the following prayer:

Would you pray with me, please.

Our father, we bow before You and we acknowledge You as the one true living God. In the darkness, You are our light. In a time of despair, You are our hope. And in time of grief, You are our comfort. At this time of war, You are our peace.

In the words of the prophet Daniel: We come to You as the great and awesome God, one who keeps His covenant of love with generations, with those who love Him and obey Him. And we come to You, O God, and we acknowledge that You are righteous, but we are wrong. We have done so many wrong things because we are sinners. And yet You are merciful and forgiving. We have been wicked. We have turned away from Your laws and decrees. We have not listened to Your prophets who spoke in Your name.

Yet, Lord, we come to You now pleading for Your mercy. We ask that You hear the prayers and petitions of Your servants, not because we are righteous but because You are merciful and forgiving. We plead for Your mercy.

Dear God, please hear our prayer. As we pray, forgive us our sin. We pray, God, bless America. And we ask this claiming the promise in II Chronicles, chapter 7, when You have said that a Nation who is identified with You, whether they are shaken economically or financially or personally or nationally or militarily, that if that Nation that is identified with You would humble themselves and pray and seek Your face and turn from their wicked ways, You would hear our prayer; that You would forgive our sin; that You would heal our land.

So, sovereign Lord, we ask, please, God of the universe, God of Abraham, Isaac, and Jacob, Father of Jesus Christ, we humbly ask that as we repent of our sin, You would hear our prayer; that You would forgive; that You would heal our land. We pray this for the glory of Your name. And we ask these things in the name of Your son and our saviour, Jesus Christ, who, through his own shed blood on the cross, offers us forgiveness of our sin and reconciliation with You.

It is in the name of Jesus Christ that we pray. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER 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 19, 2002.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, I know Senator HELMS wishes to address the Senate, and we will make arrangements for that in just a minute.

The first hour and a half is equally divided between the two parties, with the first 15 minutes under my control. So I ask unanimous consent that Senator HELMS be recognized for up to 4 minutes, and that following that, when the bill is called forward, I would yield my time, my 15 minutes, to Senator BOXER. I ask unanimous consent that the 4 minutes Senator HELMS uses be taken off the time of the minority.

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

Mr. REID. At 11:30, we are going to resume consideration of the Homeland Security Act, and there will be an hour of debate on that matter before the cloture vote. We will vote at approximately 12:30. Members have until 12 noon today to file second-degree amendments to the Lieberman substitute amendment.

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

Mr. HELMS. Madam President, I ask unanimous consent that it be in order for me to make my remarks seated at my desk.

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

THE GUEST CHAPLAIN

Mr. HELMS. Madam President, during my almost 30 years in the Senate, I have been honored to welcome dozens of remarkably gifted guest Chaplains. Today's guest Chaplain, Anne Graham Lotz, of Raleigh, NC, my hometown, is

one of North Carolina's most distinguished citizens and one of America's most beloved evangelists who, for more than 25 years, has been taking the good news of Jesus Christ across the United States and to many foreign countries.

Of course, she is the daughter of the remarkable two people, Billy and Ruth Graham. And this remarkable lady has preached the gospel to hundreds of thousands of Americans, filling up large civic arenas in countless major U.S. cities as well.

Anne Graham Lotz has addressed the United Nations General Assembly in New York. She represented her distinguished father at Amsterdam 2000, the largest gathering of evangelists in history.

Anne Graham Lotz is a leader of Just Give Me Jesus, which is making a nationwide tour to spark a spiritual revival. This past April, Anne's tour came to Raleigh where more than 26,000 people packed our city's largest arena for 2 days of singing and praying and teaching, led by—who else?—Anne Graham Lotz.

Anne is the final guest Chaplain whom Dot Helms and I will have the privilege of hosting. That is appropriate because Dot's and my family have known and loved her and her great family for a long time.

The first time I heard Anne's blessed father, Billy Graham, was in 1951. At that time, I was administrative assistant to a distinguished Senator from North Carolina, the late Willis Smith. Billy preached just steps from this Chamber on the East Front of the Capitol, and I had read in the Washington Sunday morning paper that he was to be here. And I said: Mercy, I don't believe he will have anybody here. I am going over there and make sure that one North Carolinian joins him. Well, Madam President, there was standing room only from the doors of the Capitol all the way to the Supreme Court.

Anne is joined today by her husband, Dr. Danny Lotz, who was a star basketball player during his years at the University of North Carolina at Chapel Hill.

Their two daughters, Rachel-Ruth and Morrow, are with us this morning along with their husbands, Steven Wright and Traynor Reitmeier, and Anne's granddaughter, Bell.

So, Madam President, Anne Graham Lotz is herself an integral part of Billy Graham's remarkable legacy, and it is my honor to have presented her to the United States Senate this morning.

I yield the floor.

Mr. NICKLES. Madam President, I wish to welcome our guest Chaplain today, along with Senator HELMS. I am very proud that she would be our guest Chaplain. Her father is a friend of all of ours and received the well deserved congressional gold medal. It is obvious by listening to Anne Graham Lotz that she possesses that same great character, inspiration, and leadership as a preacher as well. I welcome her to the Senate and compliment and congratulate Senator HELMS for inviting her to be our guest Chaplain.

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 assistant legislative clerk read as follows:

A 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.

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.

Craig/Domenici Amendment No. 4518 (to Amendment No. 4480), to reduce hazardous fuels on our national forests.

Dodd Amendment No. 4522 (to Amendment No. 4472), to prohibit the expenditure of funds to recognize Indian tribes and tribal nations until the date of implementation of certain administrative procedures.

Byrd/Stevens Amendment No. 4532 (to Amendment No. 4472), to provide for critical emergency supplemental appropriations.

The ACTING PRESIDENT pro tempore. Under the previous order, the first 15 minutes shall be under the control of the Senator from Nevada or his designee.

The Senator from California is recognized.

Mrs. BOXER. Madam President, I rise today to speak to the issue of fire suppression in our beautiful national forests, an issue that concerns every American because those are our forests, and the policy that we follow must be a balanced and good policy to make sure we preserve that incredible God-given resource. Many people heard the prayer today, and we think about the spiritual needs and we think about our obligations. I believe one spiritual obligation we have is to preserve in this country the wonder and beauty that God gave us.

Madam President, like many of my colleagues, I have watched with frustration and anger and sorrow as millions of acres of forests have been destroyed each year by catastrophic wildfires. This year the fire season has been particularly severe in my State of California, as well as in a number of Western States, such as Arizona and New Mexico.

After an extremely destructive fire season in 2000, the Departments of Agriculture and Interior took the promising step of developing what is now referred to as a National Forest Plan. Among other things, the fire plan clearly indicates that priorities should be given to the clearance of brush, undergrowth, near communities and homes. The fire plan clearly says the most important way to stop the damage to the people and to their property is to clear the undergrowth near communities and homes.

Consensus emerged around the idea that, yes, there would have to be some thinning of trees and clearing of brush but not clearing of the old-growth trees, which actually take a very long time to burn and are important to keep in our forests.

We thought we had an agreement with this administration. Yet recent GAO reports indicate the USDA and the Department of the Interior have been ineffective and inefficient in implementing that fire plan.

So what has happened? We have an ineffective and inefficient situation happening in the Department of the Interior and the USDA, and we have out-of-control fires. Well, Senators CRAIG and DOMENICI have come forward with what they say is a solution. What is it? Let's be clear.

Their amendment proposes to waive the National Environmental Planning Act, known as NEPA, which is a critical law in the Nation, and they would limit the public's ability to challenge agency decisions and restrict what we call judicial review. In other words, a judge would no longer be able to take a look at what is happening and intervene, which is a very important part of our balance of powers. If Senator BYRD were here, he would no doubt hold up the Constitution. The judicial branch is very important and the Craig-Domenici amendment would essentially weaken that leg of our Government in order to allow for the cutting of precious old-growth trees.

So the approach of the Craig-Domenici amendment, and the reason I am here—and I see my colleague from Washington and I assume she is here to speak on the same issue, so I will be brief. The approach gives the agencies complete discretion to engage in thinning and salvage logging at will. To me, this is a recipe for disaster. The waiver of environmental safeguards and elimination of judicial review are not steps to be taken lightly, and I believe there is no justification for it because they are not the source of the problem.

There is actually evidence to the contrary. In a recent letter to Senator CRAIG, the GAO determined that only 1 percent of hazardous fuel reduction projects were appealed in 2001 and none had been litigated. GAO found that the list of appellants not only included conservation groups, which have been attacked here as being radical in some way for exercising the rights that citizens have, but GAO found that the other appellants were recreation groups, industry interests, and individuals.

If you see a project is destroying our forests, that road should not be closed

off to our citizens. The GAO finding confirmed for me that our environmental laws, the appeals process, public participation, and judicial review are not the source of the problem, nor can we blame our forest woes on environmentalists. That isn't the point. The environmentalists are trying to do the right thing.

I want to show you two charts of the burned forest area in Oregon that President Bush recently visited. The President tried to simplify the issue and suggest that areas that are thinned will not burn, and areas that are left alone will be subject to catastrophic fire. But that is simply not the case.

Here is a chart showing a thinned area. Notice, there are no large trees left. This forest was burned to cinders. There were no large trees there when the fire erupted. See how it looks.

Here is a second chart showing an adjacent area that wasn't thinned, left in its natural state, and it did not burn at all. It did not burn at all because these large trees are very slow to burn.

Madam President, I don't suggest there is a simple answer to this complex problem, but we need to do a lot more than just trash our environmental laws and say people can no longer go to the courts to protect this God-given resource.

In California, the Forest Service took the time to do the necessary environmental reviews. They produced a plan referred to as the Sierra Nevada Framework. We just received a letter from someone I believe you know, Madam President. Our secretary for Natural Resources in California, Mary Nichols, recently wrote in a letter to Secretary Veneman, the Secretary of Agriculture:

> The framework—
>
> Meaning our framework in California—
>
> is the first landscape scale national forest management plan that balances the need for fire risk reduction through fuel treatment with environmental protection.

The fuel reduction plan in that framework has been agreed to by most of the mainstream environmental groups. Why? Because it was done thoughtfully and with full consideration of the environmental implication.

Secretary Nichols of California goes on to explain that the President's proposal and efforts to undermine existing environmental laws, which is exactly what I believe the Craig amendment does, will only serve to polarize the debate, she says, and it will unravel the good work that has happened in places such as California.

There are many people on the other side of the aisle who talk a lot about States rights. Here is a State, my home State, that reveres its national forests and wants to protect them. The State of California will be undercut by this amendment because the amendment would say to our people in California: If you do not like what is happening, if you believe the forests are being destroyed, you are limited in your judicial access.

There is a great deal of scientific evidence that thinning and clearing activities should be concentrated in the areas immediately adjacent to communities to protect those communities.

A recent study completed by the U.S. Forest Service's Fire Sciences Laboratory in Montana found that the only thinning that is needed to protect homes was within the ''red zone'' of 150 to 200 feet around a building.

I wish to quote from the person who is an expert in fire suppression, Jack Cohen. He said:

> Regardless of how intense the fire is, the principal determinant is based on the home and the exterior characteristics.

In terms of protecting houses and other community structures, the immediate vicinity is what is relevant.

We need to have buffer zones around communities so those communities are safe, and we need to protect the old-growth forests. Yes, we can thin the underbrush. We must. We should. But we should not cut down the old-growth trees.

Yet the Forest Service continues to direct thinning activities to remote areas of our forests where the risk to people and property is minimal. Less than 40 percent of the forest areas that have been thinned are in the so-called wildland-urban interface, which is the buffer zone between communities and forests.

There is also abundant scientific evidence that thinning should target small diameter trees and underbrush to most effectively reduce fire risk.

Aggressive logging of big fire-resistant trees, while appealing to the timber industry, actually increases the risk of fire. The L.A. Times published a story yesterday, which I will submit for the RECORD, that explains this well. In general, logging leaves behind highly flammable brush materials; it leads to dense new growth that poses a fire hazard; and the removal of large trees cause soils to dry out, leading to increased fire severity.

A scientific assessment completed in the Sierra Nevada in 1996, for instance, found that, ''Timber harvest, through its effects on forest structure, local microclimate and fuel accumulation, has increased fire severity more than any other human activity.''

Yet the Forest Service continues to give high priority to thinning projects that involve large valuable trees. These large trees are fire resistant—and therefore should be the last ones to be removed. But repeatedly they are removed because they are economically valuable in commercial timber sales.

In November 2001, the Inspector General at USDA completed an audit of the Forest Service's implementation of the National Fire Plan. The USDA audit ''questioned the propriety of using approximately $2.5 million of National Fire Plan Rehabilitation and Restoration Program funds to prepare and administer projects involving commercial timber sales.''

I want to show a picture of a Forest Service ''thinning.'' What's left is a few trees and absolutely nothing on the ground. The area looks like a tree orchard. While this may be good for the promotion of new timber stands, it hardly preserves any of the ecological values normally associated with a natural forest.

The reality is that we have Federal agencies implementing fire projects that make sense if the primary goal is increasing timber volume, but make no sense if the primary goal is reducing the risk of fire while preserving the ecological integrity of our forests.

Given the agencies' apparent inability to overcome their timber bias, we would be guaranteeing a future filled with fires if we gave them the broad discretion the Republican amendment would allow.

What is needed is language that provides the agencies with specific guidelines and priorities about where thinning and salvage activities should take place.

While we have been unable to reach agreement with our Republican colleagues on this matter, I am pleased that I have been able to work constructively with my colleagues Senators DASCHLE, BINGAMAN, REID, and CANTWELL to craft an alternative proposal.

This alternative will encourage aggressive and focused forest management in the buffer zone areas between communities and forests. This buffer zone, which is defined in the amendment to be within one half mile of community structures, is the area where the Forest Service has said the most aggressive thinning should be done.

Such specificity will insure that the Forest Service and BLM make the protection of Californians and others the highest priority.

Because of the agencies' propensity to turn thinning and salvage projects into timber sales, this amendment also directs the agencies to protect large trees and prohibit the development of new roads, which are generally associated with the removal of commercial timber.

It is unfortunate that we need to be this prescriptive. However, as I have noted, there is good reason to be skeptical that the Forest Service and BLM can be left to their own devices.

Without the public watching over them, and without any mechanism for challenging agency actions, the Republican amendment will exacerbate the problem. The agencies will continue to engage in senseless thinning and salvage logging in the middle of remote roadless areas—driven more by a thirst for commercial timber than by the need to protect homes and communities.

To me, that is an intolerable outcome and it is the reason I oppose this proposal and have worked with others to craft an alternative.

I conclude by saying we have seen some disastrous fires. We have to take

action, but we know what we have to do. The studies have been done by the Forest Service, by many of our States, and by the GAO. The Los Angeles Times sums it up very well. They did an exhaustive study and came up with some conclusions. I will share those with my colleagues, and then I will yield to my friend for the rest of our time.

I will quote from this article. There was an investigative reporter who went out to study the fires. It ran on September 17:

The Bush administration's timber-cutting prescription for the West's wildfire epidemic runs counter to the record of the last half century, when large forest fires erupted on the heels of the heaviest logging ever conducted by the U.S. Fire Service.

They had a chart in that newspaper. They showed that where you save the old-growth trees, you save the forests, you save the communities. The facts are in. Let's not use this tragic, horrible spate of wildfires as an excuse to let the loggers cut down the old-growth trees and pocket the money while our forests are left completely devoid of anything that makes them the gift that God gave us.

There is an editorial in today's L.A. Times. I will quote from it, and then I will cease:

We have to cut the nation's forests to save them.

That is how they open.

That seems to be the Bush administration's rationale for its misnamed Healthy Forest Initiative, now before the Senate.

It goes on to say that the Senate should defeat the Craig amendment and that there are other more reasonable and effective approaches.

Existing laws let the Forest Service do its job, provided it files environmental impact reports and stays clear of protected areas. In fact, President Bush can thin as many trees as he wants to right now. He just can't take a saw to the nation's environmental protections in the process.

I hope we will not adopt the Craig amendment. We are working on other ways to compromise this matter. I hope we can get together.

I yield to my friend from Washington, Senator CANTWELL, who has been a leader on the environment since she came to the Senate. I yield my remaining time to her.

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

The Senator from Washington.

Ms. CANTWELL. Madam President, how much time remains?

The ACTING PRESIDENT pro tempore. In total, there are 27 minutes remaining to the Democrats.

Ms. CANTWELL. I thank the Chair.

Madam President, I rise today to speak about the need for a national debate on how best to manage wildfires and improve forest health. I thank my colleague from California for being here this morning to articulate a vision about how we can move forward to protect old growth while being mindful about how much work really needs to be done before we can come up with a solid proposal.

That is why I am here to speak this morning. I believe the amendment we will offer today does not further the debate in the direction we need to go but instead focuses on the controversial issues of weakening our environmental protection laws and limiting meaningful public participation.

While I appreciate the sense of urgency that this year's fire season has brought us—and I believe the fire seasons in last several years have made all of us anxious—I believe the reasonable way of dealing with this situation is through the legislative committee process.

I applaud my colleagues who are on the Energy and Natural Resources Committee who have had much discussion about this problem and are very anxious to take the Governors' report that was done on the national fire plan and efforts to better implement it. We need to do that through the legislative committee process where we can hold hearings and talk to the experts and concerned members of our communities.

Trying to solve this important issue with a rider to an appropriations bill is unwise. It would be wrong to think that we could reverse hundreds of years of misguided forest fire management suppression policy with a rider on an appropriations bill.

One of the most significant concerns I have about the amendment, as my colleague from California mentioned, is that it does waive important environmental laws. Under this amendment, the agencies will no longer be required to comply with the National Environmental Policy Act. Furthermore, the amendment eliminates the administrative appeals process and limits judicial review.

We do need to move forward, and I applaud my colleague from Idaho for wanting to take this issue to the next level and for the focus that he has given to the issue. But I believe critical to this debate is the central issue of trust because after decades of documented problems with forest management by the Forest Service, it is no wonder that citizens are now skeptical about the plan before us today, which would allow timber companies to thin on ten million acres might really be motivated more by economics than improving healthy forests.

If we go so far as to restrict a citizen's legal right, that is the wrong approach, but I believe working within the existing framework of environmental laws and allowing for the appropriate process for projects in areas near communities is the right approach.

This basic step needs to be taken—to prevent the catastrophic wildfires that we have all experienced. This step has already been laid out in the laws of this country. In the 10-year comprehensive strategy on collaborative approach for reducing wild land fire risk to communities and the environment which was issued in May, this strategy was the highest priority.

We need to make sure we are treating fires in communities that could be most effective in protecting lives and in protecting homes.

The work done in a community in Roslyn, which is in my home State, demonstrates that protecting our forests has little to do with cutting big trees far away from homes but, rather, treating areas adjacent to communities.

Now that is not to say we do not have to look at fuel reduction and that fuel reduction is not critically important in other parts of our national forests, but the key thing we have seen in this fire season is the loss of homes and loss of areas that I think are the interfaces on which we need to focus.

The joint efforts of local citizens, the local fire department, the Washington Department of Natural Resources, and the U.S. Forest Service produced a plan in our State to clear brush and other fuel materials from a buffer zone around this town of Roslyn. I support more funding to do thinning, prescribed burns, and hazardous fuel reduction in our efforts to manage our forests.

I think all of those need more discussion and more time and energy put into them and, as we will see with the Byrd amendment, more resources financially to obtain that goal since those funds have been subverted in the past.

I also support providing the Forest Service and BLM with adequate funding to do the hazardous fuel reduction projects so each year we do not find ourselves in the same situation where the Forest Service diverts the funds from fire accounts in order to pay for fire suppression.

So let us make that clear. Let us divide the accounts. Let us make sure we are doing work both for suppression and for the prevention efforts we need.

The point is clear, we can protect our communities from fire, and we do not need to waive environmental protection laws or limit public participation to do so. In closing, I would like to urge my colleagues to support Senator BYRD's amendment to provide more funding for fire suppression efforts. However, I add a note of caution, that if we take this approach with the rider my colleague from Idaho is offering, I do not think it is in the best interest of the forests or the American public. This rider is too overreaching to be put on this legislation. Let us go back to the committee process, let us have the hearings, and let us push forward together.

I ask unanimous consent to print in the RECORD an editorial from the Seattle Times that talks about the need to move ahead but that we cannot have, as this article says:

This administration's attempt to confuse and cloud the issue of fire suppression by laughably proposing timber thinning can

only mean a return to unregulated clear-cutting on our Nation's forestlands.

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

[From the Seattle Times, Sept. 7, 2002]

DON'T HOLD YOUR FIRE

(By Tommy Hough)

The recent Bush administration proposal to suspend environmental laws and eliminate the public's right to appeal Forest Service decisions should be viewed as nothing less than a transparent attempt to increase commercial logging in our national forestlands, which has been this administration's stated intention since Day One.

How shameful too, that President Bush would so callously use a disaster such as the recent wildfires in southwest Oregon to launch the media spin for a plan designed to roll back 20 years of good sense and good environmental legislation, and in part enable the president to fulfill some inappropriate, slimy promises made to timber baron contributors and related special-interest groups during the 2000 campaign.

This administration's attempt to confuse and cloud the issue of ''fire suppression,'' by laughably proposing ''timber thinning,'' can only mean a return to unregulated clear-cutting on our nation's forestlands. Has any administration ever been so brazenly vacant and cynical?

Since this scheme was no doubt in part cobbled together by forestry professionals, I'm guessing it may have occurred to them that old-growth forests actually act as a natural suppressant of fire, even in the driest years. Granted, that would be bad for business, but the awful secret the Bush administration and the timber industry doesn't want you to know is this: Fire is not bad. Fire is simply one part of nature's long-term, delicate balancing act.

Drought and flames aren't a problem any more than rain and flooding are a problem. The problem is man and his meddling ways and 120 years of forest management (i.e., unrestricted, subsidized logging), screwing up and knocking out of whack a natural process which had been working fine in North American ecosystems for thousands, even millions of years.

We've knocked forest rhythms so far off by removing fire as an element that nature isn't even allowed to compensate with small-scale burns to clear away underbrush and tinder (unless it's a manmade ''prescribed burn''), gently changing the way the elements effect the forest floor, and paving the way for pioneering species and new trees. We may as well have removed rain from the equation.

The mature Ponderosa and lodgepole pines in the American West as well as the big, old-growth Douglas firs, hemlocks and spruces here in the Pacific Northwest are designed by nature to survive burns with their thick bark and rich moisture content, while the fires create temperatures for the big trees to be able to rapidly seed. In fact, the longer a tree lives, the more it is able to withstand fire (whew, that's bad for business too!).

The juvenile trees growing in the wake of the ceaseless clear-cuts that have left literal quilt marks on the tapestry of the region's forests are the ones most susceptible to catastrophic fire and drought, and while fire ideally should clean the forest floor an acre here and an acre there, manhandled nature is forced to wait for a drought to reclaim the other half of the natural equation, when everything is bone dry and hasn't been allowed to burn for 100 years. Instead of cleansing the forest, fire now destroys the forest, in a catastrophic fasion nature never intended.

That thinning excess timber, a natural reaction to logging and clear-cutting as the forest slowly tries to weed itself out, is somehow the Holy Grail solution to forest fires is to buy into cheap, message-of-the-day stupidity. Does the president really think Americans are just going to stand idly by and let their treasured national forestlands be threatened and destroyed? Has it not occurred to the greedy minds and special interests that floated this scheme that we all share and live in the same environment, of which forests are an integral, absolute part, no matter which side of the political or ecological fence you may be on?

Ms. CANTWELL. I suggest the absence of a quorum, with the time charged equally against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BOND. Madam President, I ask unanimous consent to proceed as in morning business for 5 minutes to introduce legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 2967 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BOND. Madam President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

Mr. ENSIGN. Madam President, I rise today to express my strong support for the Craig-Domenici hazardous fuels reduction amendment which is currently before the Senate. It is my hope that we can come to a consensus on this issue for the benefit of the forests, the animals that inhabit them and, more importantly, the people whose homes are near them.

In my home State of Nevada, our all-time worst fire was in 1999. That season set an all-time record for the severity and breadth of fire damage. Nevada experienced over 1,100 fires which burned almost 2 million acres. To put that in perspective, in 1999 the total number of fires was 135 percent of the 5-year average and the total acres burned were almost eight times what we normally burn during 5-year periods. More acres were burned during a single 10-day period in August than had burned in any entire previous season on record.

I am afraid 2002 could be another year like 1999. This year, Nevada is experiencing its fourth year of drought that has been classified from ''moderate'' to ''exceptional.'' Large fire activity began in mid- to late-May—about 3 to 4 weeks earlier than normal. And, quite honestly, we have been very lucky compared to other States such as Arizona, Colorado, Oregon, or California. We are grateful for that. But we know all too well that Nevada's fire season lasts longer than other States'. We still have the potential of a devastating fire season yet to come this year. With the current extreme drought condition combined with the buildup of dead and dying fuels, Nevada is placed in the ''extreme'' and ''advanced'' categories for potential fire behavior.

I am particularly concerned about the Lake Tahoe Basin. When my family visited that area in August, I noticed the dry conditions of the area. There is no question that Lake Tahoe is a blazing inferno waiting to happen. The Lake Tahoe Basin is under the highest risk of wildfire potential. The entire region is classified as a class 3 risk for catastrophic fire.

What is so distressing is that the land of this area is so environmentally sensitive. A catastrophic fire in the basin would result in an incredible amount of damage to communities. Homes and structures worth billions of dollars would be lost. Lake Tahoe, one of the Nation's crown jewels, could lose its defining quality of lake clarity. Millions of tourists come every year to recreate in the basin. Key recreation areas would be destroyed. A fire could cause tremendous damage to the sensitive watershed which feeds not only Lake Tahoe but supplies water to communities in Reno, Carson City, and the rest of northwest Nevada, eventually emptying into Pyramid Lake.

The ecological consequences are distressing as well. Lake Tahoe is home to one of our Nation's proudest symbols—the bald eagle. Other endangered and threatened species are native to the basin. Their safety is threatened by fire.

It is clear to me and anyone who actually goes out into the forests that something must be done to reduce the fuels buildup to prevent the outbreak of catastrophic fire. That is why I am an original cosponsor of the Craig-Domenici amendment.

Currently, 74 million acres nationwide are classified as class 3 forests, which is the highest risk for catastrophic fires. The Craig-Domenici amendment will limit action to only 10 million of the 74 million class 3 acres. It is an emergency amendment. It only addresses 7 percent of the problem. I wish it would address more of the problem. Highest priority will be given to wildland-urban interface areas, which are areas near homes and communities, municipal watersheds, and forested areas affected by disease, insect infestation, and windthrow.

The amendment seeks to cut through the bureaucratic mess that is currently

in place that often needlessly delays implementation of these projects.

It also seeks to expedite the judicial process. Too often, these essential fuels reduction projects are halted by frivolous lawsuits. Ultimately it is the forest and wildlife habitat that suffer.

That is the case in my State where two projects in the wildland-urban interface were challenged by an outside party. The challenger was not even from Nevada. All the people in Nevada had agreed—environmentalists in Nevada, the Forest Service in Nevada, the BLM in Nevada, and all the local people in Nevada—that this project was meritorious and was good for the environment. Yet somebody from the outside challenged in court and was able to block this important environmental project.

Public land managers must be allowed to manage the land. Unfortunately, only one dissenter can stymie a completely collaborative effort to clean the forests. Without proper forest management, an accidental blaze can turn into a flaming inferno which can sterilize the land and destroy the habitat for many endangered species of plants and animals.

The groups that are against our efforts claim they are environmentally friendly. What is environmentally friendly about obstructing sound management projects from going forward? Wildfires contribute heavily to air pollution, destroy wildlife habitat, and kill endangered species.

While we were in Lake Tahoe this summer, the entire basin—which is truly one of the most beautiful areas in the world—was filled with smoke from the fires from far off in California and from Oregon. Anybody who is against air pollution ought to be for stopping and preventing these forest fires.

Extremists in the environmental community claim they are concerned about the welfare of wildlife habitat and forest health. Yet they oppose commonsense projects that seek to lessen the devastating effects of catastrophic wildfires. This amendment seeks to ensure that fuel reduction projects continue in spite of these extremists.

This legislation is absolutely necessary. It is necessary this year. It was actually necessary last year and many years before. Every year we talk about how we need to save the forests, but we do nothing to clean the forest to reduce the intensity of fires. We must be able to conduct these fuel reduction projects. Advocates on both sides of the aisle and both sides of the political spectrum agree on this. They are essential to continue the health of our forests. We have waited long enough. Our forests have waited long enough.

I say to my colleagues, let us get this done. The fires we have seen this year are unprecedented. I, for one, am committed to do all I can to ensure that forests are protected, watersheds are protected, homes protected, and, most importantly, people are protected.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CRAIG. Madam President, I rise today to speak about a matter that I find deeply troubling. An ''Inside the Beltway'' column in the September 19, 2002, Washington Times reveals that a correspondent working for National Public Radio, in what appears to be a flagrant violation of all standards of professional journalism and ethical conduct, has set about to enlist the help of environmental radicals in order to concoct a story concerning thinning projects on our national forests. I find this abhorrent for two reasons.

First, it reveals the desperate lengths to which the environmental community is willing to go to their quest to lock up our public forests and prevent efforts aimed at protecting and restoring health to our public forests from going forward.

Second, and perhaps more troubling to me, it suggests the complete lack of intellectual honesty and the apparent complicity of a nonprofit organization, established by Congress for the purpose of educating our public, in fabricating stories and spinning the news in a manner that is devoid of objectivity and at odds with the fundamental tenets of sound journalistic practices.

Let me read from a message that was sent out by a news correspondent working for National Public Radio seeking assistance from members of the environmental community. The message reads as follows:

> Hey there. Put on your thinking cap and give me your best example of a 'thinning project' where they went in and did the opposite. I'm working on a story about trust, which is at the heart of all this . . . and I want to use just one example of where the FS [Forest Service] and the industry flagrantly abused the public's trust on a thinning project . . . in short, concrete evidence as to why the environmental community is distrustful of the FS and industry's so called thinning projects.

In 1967, Congress passed the Public Broadcasting Act. This act authorized the creation of the Corporation for Public Broadcasting, CPB. The Act called on CPB to encourage ''the growth and development of noncommercial radio'' and to develop ''programming that will be responsive to the interests of the people.'' National Public Radio, NPR, was established in 1970 as a private, nonprofit organization to provide leadership in national news gathering and production and broadcast of radio programming responsive to the interests of American citizens.

I would ask my colleagues how is this biased effort at attempting to sway public opinion in the public interest? NPR appears to have allowed its news people to sink to new lows to scrape together a story to incite and inflame public opinion. Is this the kind of reporting we should expect from a national news organization established by Congress to promote news gathering in the interest of American citizens? I think not.

It is a sad day when our national news organizations must engage in fabricating stories by listening solely to one side and a sadder day still when these stories are presented by these organizations to an unsuspecting public as a balanced reporting of the facts.

This message authored by the NPR correspondent was distributed by way of an environmental group mailing list. The forwarding message from an organization called ''Wild Rockies'' is also revealing.

The sender reveals that environmental groups have ''successfully appealed/litigated'' many thinning projects and also ''tied up'' many more thinning projects. In short, the author of this message is making plain the fact that these groups have been successful in causing the very sort of unnecessary delays that we are attempting to prevent with the amendment introduced by Senators CRAIG and DOMENICI.

These environmentalists have demonstrated that they will stop at nothing—even shamefully dishonest practices—to impede, delay, and quash efforts by the Forest Service and Department of Interior land management agencies to restore health to our forests. We cannot let our precious American forests be held hostage by these extremists, nor should we stand idly by and allow these zealots to continue to hold our forests hostage by employing these sort of unethical and distasteful tactics.

Shame on NPR for what appears to be an utter and complete lack of balance in news gathering practices. Shame on Wild Rockies and the other environmental groups that would conspire to mislead the public in this way. And shame on us, if we fail to enact legislation that will enable us to protect our precious public forests from these irresponsible sham artists and unethical charlatans who seek to deceive rather than truthfully inform our citizens on the conditions that exist on our forests and what needs to be done to move them toward a healthier state.

Madam President, we have just heard from another one of our colleagues, in this case Senator ENSIGN from the State of Nevada, talk about the conditions and situations that exist in that State and in the northern end of the High Sierras of California and Nevada. The conditions he talks about are real and very severe.

I used to chair the Forestry Subcommittee in the Senate. During that period of time, we examined the condition of the Sierras and especially what is known as the Greater Tahoe Basin

area. In fact, our colleague from Nevada, Senator REID, grew very concerned as to the state of health of those forests.

It was, at that time—a couple of years ago—very obvious those forests were in rapid declining health conditions, bug kill was rampant, and at some time in the very near future that forest could be consumed in wildfire that would wipe out the whole of the Tahoe Basin.

Of course, as the Senator just spoke, it is a beautiful area. Lake Tahoe is renowned for its beauty. That is why folks from all over the country have gone there to build phenomenal homes, to enjoy that beauty. And, of course, at risk at that time in the investigation was the reality that wildfire would wipe out many of those multimillion-dollar homes that were sprinkled around the lake, both on the Nevada side and on the California side of that lake, and the whole tourism and resort industry that exists there—another example of a forest crying out for a thinning and cleaning and management program that could reverse the state of the health of that forest.

We struggle mightily to solve a problem that has come upon the Interior appropriations bill, of which my colleague from Montana, who has now joined us, is the ranking member of that subcommittee which funds Interior issues.

I submitted some days ago a second-degree amendment to Senator BYRD's amendment to increase fire funding, to try to find a compromise, to develop some degree of active management in these very critical areas of concern that are, in part, driving the wildfires of at least the western forests at this moment and are realities of growing conditions in all of the public land forests around our country. And that is a state of health, a state of fuel loading, and dead and dying trees, and therefore optimum fuels that, under the right conditions, ignite into the catastrophic fires that we have experienced this year.

But yesterday I became aware of an interesting episode going on aside but a part of this debate out on the public side of things—I should say the private side of things—that I find very interesting. This morning that was highlighted in the ''Inside the Beltway'' column of the Washington Times, an article by John McCaslin. It is worth your time and interest to read it because I do believe it demonstrates something that is in an apparent complicity of efforts between national radical environmental groups and an organization funded by this Congress, National Public Radio.

It is obvious to me that there was an effort underway to try to show to the public that what I was debating, and others were debating, simply was not the case. And the e-mail transaction that was going on out there demonstrated quite the opposite because fundamental to what Senator DASCHLE did for his home State of South Dakota, and what we are trying to do here, is to design a way to create a more active process that disallows the obvious and constant use of the appeals process and temporary court injunctions to deny any activity on our public lands, and especially in these critical areas that are so fire prone.

And, of course, the article is fascinating in what it says because what it basically says is: Can you show me a thinning process?—calling the environmental groups that would give us the worst case scenario, in other words, a contradiction to what I and others have been saying is being done, and can be done effectively, in the thinning and the cleaning of these fuel-loaded areas.

And the answer is, I think, quite fascinating. The answer is: No, we can't show you any because we have them all under appeal, and we have them all blocked.

The very thing we have been arguing is the very thing that is reality, by the admission of the environmental groups themselves.

Mr. BYRD. Madam President, will the Senator yield without losing his right to the floor?

Mr. CRAIG. I am happy to yield.

Mr. BYRD. When you said, ''We have them all blocked,'' that kind of caught my ear. And I am wondering about these appropriations bills. Somebody has them all blocked. Here is my friend from Montana who is the ranking member. We have been here at our posts on duty. When are we going to unblock the barriers to getting our appropriations bills passed?

I have a question of the distinguished Senator.

Mr. CRAIG. Sure.

Mr. BYRD. And before I pose the question, I preface it by saying this: I can appreciate what the distinguished Senator is trying to do. The other day I said to him, on the floor: If you will remove your amendment here, if we can vote for cloture, on the one hand, and get on with this bill, if you offer your amendment on another bill, I will support it.

Mr. CRAIG. Yes.

Mr. BYRD. But my friends on that side did not vote for cloture. Whatever the vote was at that time, they did not vote for cloture. So they have not helped me to get on with the appropriations bills. Consequently, I made a generous offer at that point, but I am concerned about that offer.

The Senator did not take me up on it. Senators on that side did not take me up on that. They did not help remove that block. I want to look at the Senator's amendment again when it comes time to vote on it. I am concerned about judicial review, about that aspect of it and some other things.

Mr. CRAIG. Sure.

Mr. BYRD. But the Senators had me on board at that time if that would have helped to take the plug out of the dike and let these bills pass. I am concerned, may I say to the distinguished Senator——

Mr. CRAIG. Sure.

Mr. BYRD. He is a member of the committee. I am concerned about the way these appropriations bills are piling up around here, and when we are headed for a continuing resolution.

Now, would the Senator have a suggestion as to when we might have another cloture vote on that very question of the other day? A motion to reconsider was entered on that vote, I believe. Am I correct, may I ask——

Mr. CRAIG. That is correct, as I recall.

I do not, in any way, question the Senator's sincerity. You offered to solve it in one way, and I reciprocated by offering to solve it in another.

I would go immediately to a unanimous consent for an up-or-down vote on the Craig second degree. That is an immediate solution that could occur in the next 35 or 40 minutes. That is a clear and clean and within-the-rules solution to a problem. I believe my side feels that I deserve a vote. And I know that the Senator is a stickler for the rules of the Senate and an advocate of them and strongly supportive of them.

I want to facilitate this process. The money you have so generously helped us get——

The PRESIDING OFFICER. The time controlled by the minority has expired.

Mr. CRAIG. I ask unanimous consent for 1 more minute.

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

Mr. CRAIG. To fit into this Interior appropriations bill is critical, to pay back the funds within the Department of Agriculture and in the U.S. Forest Service that have been expended for the very fires about which we are concerned. This has to happen. Clearly, it is critical for the operation of the Forest Service. What is also critical, in my opinion, is that the Congress respond in a responsible way to the crisis.

You, as chairman, and if you are chairman again in the new Congress or someone else is, should not have to be asking the taxpayers to pay out an additional $1 billion to $1.5 billion to $2 billion more a year because clearly a public policy is failing out there at this moment to address a crisis and, therefore, we are asking the taxpayer to pay for it. That is really what hangs in the balance here. They are intricately locked, I do believe. That is why I think it is so fundamentally important we vote on it at this moment.

Mr. BYRD. Madam President, will the Senator yield?

Mr. CRAIG. I am happy to yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I took at least 3 minutes of the Senator's time. I ask unanimous consent that the distinguished Senator from Idaho may have 3 additional minutes.

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

Mr. BYRD. I thank the Senator for yielding.

Mr. CRAIG. Madam President, I repeat what is a phenomenally frustrating concern of ours, that the Public

Broadcasting Act that created NPR authorized the use of public money and what appears now at this moment to be an effort to go out and find a worst case scenario to refute arguments being placed on the floor. That is not the role of the public broadcasting program in this country.

I am extremely pleased that this article appeared. We became aware of that e-mail traffic yesterday. I am glad some journalists have the right and the willingness to step forward and say: Wait a minute. This appears to be a complicit act of a nonprofit organization established by Congress for the purpose of educating our public but not misinforming our public. That appears by every evidence to be exactly what was underway.

What fell out of it was the very basis of the argument I and others have been placing for some time and why my amendment or a version of my amendment in dealing with these critical areas and in dealing with allowing a process to move forward that cannot be just summarily blocked by an appeal but does not yet close the courthouse door is very critical to all of us.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, how much time remains on the pending bill?

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. BYRD. Madam President, I ask unanimous consent that there be 15 minutes, a total of 15 minutes.

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

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will today offer an amendment to expedite forest thinning on our national forests and public lands. I am pleased that Senator DASCHLE is a cosponsor of this amendment. I would like to thank all of my colleagues who have worked with me to craft this amendment and who offered invaluable input and expertise.

Everyone in the Senate wants to do what we can to reduce the threat of catastrophic wildfire. We all agree that we need to accelerate fuels reduction activities because the risk of severe fire is so high. Ongoing, drought, past fire suppression policies, and excessive harvesting of timber have all contributed to the problem. All of us also agree that it is much better to devote limited resources to proactive efforts to reduce fire risk rather than paying to fight the fires once they occur.

I have tried for years to improve the Federal agencies' forest thinning program in a variety of ways. I am also a vocal proponent for spending Federal dollars conducting proactive forest restoration to reduce fire risk rather than continuing to spend billions of dollars each year fighting fires. Although some may contend that restoration costs too much money, over the long-term, it is much less expensive than fighting fires. Restoring our lands is the preferred alternative for the environment as well because, unfortunately, important species habitat burns right along with the forests during a fire.

The main obstacle constraining us from substantially increasing our proactive efforts to reduce fire risk is a lack of adequate funding. As Oregon Governor and cochair for the Western Governor Association's 10-Year Fire Plan John Kitzhaber states, ''it will take a significant investment of resources—far greater than what is envisioned to be saved through process efficiencies.'' Ever since Congress first funded the National Fire Plan 2 years ago, I have continually emphasized the need to sustain a commitment to the fiscal year 2001 funding levels over a long enough period of time to make a difference—at least 15 years.

Most fuel reduction projects will take several years to implement. It is critical that the agencies have reliable funding to complete the projects they start. If funding is obtained to thin trees the first year, but not to complete the slash disposal and reintroduce fire through prescribed burning the following years, short-term fire risk will be increased. Around the villages north of Truchas, some villages face a tremendous danger of fire due to slash left from thinning. According to the agencies themselves, mechanical thinning comprises only 19 percent annually of all hazardous fuels reduction activities.

Adequate funding means, at a minimum, sustaining fiscal year 2001 funding levels for all components of the National Fire Plan. The Western Governors Association recently sent a letter to Congress urging full funding of the National Fire Plan at the fiscal year 2001 funding levels. Similarly, recently the National Association of State Foresters compiled projected funding needs for the National Fire Plan over the next 10 years based on collaborative efforts with State governments, the Forest Service, and the Department of the Interior. The Western Governors' Association endorsed the State Foresters' projections. The General Accounting Office estimates that the cost to reduce fuels is about $725 million per year for the next 15 years, GAO/RCED–99–65.

The funding levels in the bill we are currently considering are far below the State Foresters' and GAO's projected funding needs. For example, while hazardous fuels reduction was increased in fiscal year 2001 and has remained relatively constant since that time, the State Foresters' analysis includes $100 million more for hazardous fuels reduction than the Interior appropriation bill provides. The State Foresters project that hazardous fuels reduction also will need to steadily increase over the next 10 years.

Other important programs that are part of the National Fire Plan, including economic action programs, community and private land fire assistance, and burned area restoration and rehabilitation have been drastically cut—and some have been zeroed out—by the administration over the last two budget cycles. For some accounts included under the National Fire Plan, but not all, Congress has made up the difference. However, it would certainly be much easier to fully fund the National Fire Plan with the administration's support.

Funding constraints clearly affect the ground restoration work. In New Mexico, there are several restoration projects that could make a meaningful difference in reducing the risk of catastrophic wildfire if funds were available. Here are some examples:

One, Dry Lakes Project, El Rito Ranger District, Carson National Forest.—This mechanical thinning and prescribed burning fuel reduction project is located on the Tusas Ridge to the southwest of the community of Tres Piedras. The ridge has an unusually high incidence of lightening strikes which put the community at high risk. Tres Piedras is on the State list of highest priority areas. The district used fiscal year 2001 funding from the National Fire Plan to thin a large area but could not find sufficient funds in fiscal year 2002 to complete the prescribed burning. This is particularly troubling because several forestry experts agree that thinning trees without follow up work to reintroduce fire with prescribed burns, the fire risk will increase.

Two, in southern New Mexico, Otero County Commissioner Michael Nivison has worked tirelessly to encourage broad community involvement within the context of existing laws and procedures. Unfortunately, the group found that lack of funding was an obstacle to moving forward with sensible forest thinning plans. In April 2002, I requested the necessary additional funds from the Washington office of the Forest Service because no additional funding was available from the Lincoln National Forest's budget or the Southwest Region office budget. The minimum funding needed was $1 million to complete thinning projects within the wildland/urban interface in the Rio Penasco watershed and for watershed analyses to prepare future restoration projects. Fortunately, after waiting 3 months, the Forest Service complied with the request. However, Commissioner Nivison estimates an additional $4 million per year for the next 10 years above existing funding levels will be needed to successfully complete the forest thinning program on the Lincoln National Forest.

Three, on the Gila National forest, the Catron County Citizens Group based in Glenwood is working to establish a sawmill to process small diameter wood removed from the forest as part of forest restoration projects and has secured non-Federal matching funds for their operation. In December 2001, I was notified that Forest Service employees had identified several restoration projects that were NEPA-

ready, however, no funding was available. Once again, after specific and repeated requests, the Chief complied with the request to allocate an additional $1 million to the Gila. However, a 1-year special allocation clearly will not provide the long-term restoration investment needed.

Four, earlier this year, the Chief told me that the Santa Fe Municipal Watershed Project is one of the highest priorities for the Forest Service's Southwest Region. Nonetheless, at the current rate of funding by the agency, the project will be completed in 18 years. If it were fully funded at $1 million per year, however, the project would be completed in 7 years. This is a critical project for the residents of Santa Fe to protect two city-owned reservoirs that hold 40 percent of the city's water supply.

Five, Deer Lakes Fuel Break, Cuba Ranger District, Santa Fe National Forest.—This fuel break project was put on the list of suggested projects for fiscal year 2001 since NEPA review was complete, but it was not funded in fiscal year 2001 or fiscal year 2002. The fuel break will protect private homes in a forested subdivision. The Forest Service considers this area to be a priority.

Six, Mt. Taylor Ranger District, Cibola National Forest.—A number of fuel reduction projects planned on this district have been held up by insufficient funding. All of these projects were small, less than 500 acres.

Seven, the Collaborative Forest Restoration Program, created through legislation I sponsored two years ago, provides $5 million annually to fund a variety of forest restoration projects in many different locations in New Mexico. Unfortunately, due to the Forest Service's practice of borrowing from other accounts to pay for firefighting, action on this year's projects has been suspended since July 8. Because the administration was unwilling, until very recently, to support repaying these accounts, it is unlikely that work will resume this year on these projects.

Beyond funding constraints, some allege that administrative appeals and lawsuits limit our ability to reduce fire risk across the country. I am willing to provide new legal authorities and exemptions from administrative appeals to address this concern. However, we should proceed carefully at this juncture and withhold from enacting sweeping changes to Federal law without due consideration. If we need to make permanent changes to existing laws, we should do so next year after this issue has been debated thoroughly in the Senate including hearings and committee business meetings.

Let me briefly describe our amendment. We propose to exempt from National Environmental Policy Act analysis all forest thinning projects located in areas that are at the highest risk of fire and remove up to 250,000 broad feet of timber or 1 million board feet of salvage. We prohibit administrative appeals on these projects, thereby saving 135 days in the process. In addition, we eliminate judicial review granted under NEPA for thinning projects within 1/2 mile of any community structure or within certain key municipal watersheds. The combination of these provisions would save between one and one-half to three and one-half years of process.

Moreover, in order to focus the agencies' work on the highest priority ares where human safety and property loss are the most serious, we require that 100 percent of hazardous fuels reduction funds be spent in the highest fire risk areas, known as condition class 3, and 70 percent of those funds be spent within one-half mile of any community structure or within key municipal watersheds identified in forest plans.

In order to recognize the role that forest dependent communities play in restoring our lands, we require that at least 10 percent of hazardous fuels reduction funds be spent on projects that benefit small businesses that use hazardous fuels and are located in small, economically disadvantaged communities. Finally, in order to provide robust monitoring of these experimental new authorities, we require multiparty monitoring of a representative sampling of the projects.

We agree with, and included, many provisions of Senator CRAIG'S amendment in our amendment. For example, Senator CRAIG requires the secretaries to give highest priority to protecting communities, municipal watersheds, and areas affected by disease, insect activity, or wind throw. He requires that projects be consistent with applicable forest plans and that the Secretaries jointly develop a collaborative process to select projects. We agree with all of these provisions.

However, our amendment differs from Senator CRAIG'S amendment because we felt it was appropriate to enact parameters and limitations along with the new authorities for several reasons. First, we are legislating without the benefit of the normal authorizing Committee process. If, after consideration through the authorizing Committee process, we decide to make some or all of these changes permanent, we can do so next year.

Second, the Forest Service has a poor track record with respect to supporting projects that do not harvest large trees. One example that I am aware of occurred in New Mexico. On the Gila National Forest Sheep Basin project, there was broad agreement within the local community that a project harvesting small trees would be a win-win. The community agreed this project would both benefit the environment and generate local jobs while also reducing fire risk. The Forest Service, however, rejected the community's proposal and insisted on following a plan to harvest large trees.

Third, many independent analyses have discovered numerous flaws with the agencies' existing implementation of the National Fire Plan. For example, a recent General Accounting Office report severely chastised the agencies for their inability to account for where hazardous fuels reduction funds have been spent. Specifically, the GAO states:

> It is not possible to determine if the $796 million appropriate for hazardous fuels reduction in fiscal year 2001 and 2002 is targeted to the communities and other areas at highest risk of severe wildland fires.—GAO/RCED–02–259, January 2002.

In addition, in November 2001, the Inspector General for the Department of Agriculture found that the Forest Service was inappropriately spending its burned area restoration funds to prepare commercial timber sales. Similarly, it was recently discovered that the Forest Service ''misplaced'' $215 million intended for wildland fire management due to an accounting error.

Finally, another GAO report concluded that, because the Forest Service relies on the timber program for funding many of its other activities, including reducing fuels, it has often used the timber program to address the wildfire problem. GAO states:

> The difficulty with such an approach, however, is that the lands with commercially valuable timber are often not those with the greatest wildfire hazards. Additionally, there are problems with the incentives in the fuel reduction program. Currently, managers are rewarded for the number of acres on which they reduce fuels, not for reducing fuels on the lands with the highest fire hazards. Becuase reducing fuels in ares with greater hazards is often more expensive—meaning that fewer acres can be completed with the same funding level—managers have an incentive not to undertake efforts on such lands.—GAO/RCED–99–65.

The parameters set forth in our amendment will ensure that the agencies conduct forest thinning in a way that truly reduces the threat of fire. For example, we require the agencies to focus on thinning projects that truly reduce the threat of fire, namely removing small diameter trees and brush. This limitation is based on numerous scientific research studies conducted by the Forest Service. Too often, the Forest Service has cut large trees because of their commercial value instead of removing small-diameter trees that tend to spread fire.

Our amendment prohibits new road construction in inventoried roadless areas because the National Forests already contain 380,000 miles of road, as a comparison, the National Highway System contains 160,000 miles of roads, and the deferred maintenance needs on these existing roads totals more then $1 billion. Forest Service analysis reveals that roads increase the probability of accidental and intentional human-caused ignitions.

A group of respected forest fire scientist recently wrote President Bush a letter stating that, ''thinning of overstory trees, likely building new roads, can often exacerbate the situation and damage forest health.'' Moreover, the vast majority of all trees in

the west are small, more than 90 percent are 12 inches in diameter or smaller.

Returning receipts to the Treasury is consistent with a provision in the Wyden/Craig County payments legislation enacted 2 years ago and avoids existing perverse incentives. Numerous GAO reports reveal that existing agency trust funds provide incentives for the agency to cut large trees because it gets to keep the revenue. Cutting large trees will not reduce fire risk, therefore, we should direct receipts back to the Treasury. Jeremy Fried, a Forest Service research specialist at the Pacific Northwest Research Station, states, ''If you take just big trees, you do not reduce fire danger.''

The provision in our amendment stating that 70 percent of Hazardous Fuels Reduction Funds be spent within one-half mile of any community structure or within key municipal watersheds is more flexible than the President's fiscal year 2003 budget request which provides that the same percentage only be spent near communities. We in Congress must ensure that the agencies adhere to our direction that the number one priority is to protect communities at risk for catastrophic fire. To date, this has not occurred. In fiscal year 2002, only 39 percent of the areas where hazardous fuels will be treated are in the wildland/urban interface. In fiscal year 2003, only 55 percent of the acres scheduled to be treated are near communities. Finally, we need hard and fast assurance that the agencies will make its investments near communities because the National Fire Plan and the Western Governors' Association identify protecting people as the number one priority.

We are willing to provide the agencies with additional authority as set forth in our amendment but only to achieve the number of acres treated that can be accomplished without a substantial increase in funds. My amendment doubles the amount of acreage treated to reduce fire risk in the upcoming year form 2.5 million to 5 million acres whereas Senator CRAIG's amendment covers 10 million acres of Federal land.

It is impossible for the agencies, even with the expedited procedures included in Senator CRAIG's amendment, to quadruple the amount of acres treated annually. Since fiscal year 2001, Congress has provided about $400 million annually for hazardous fuels reduction. With this level of funding, the agencies have treated approximately 2.5 million acres each year. For fiscal year 2003, the Senate Interior appropriations bill provides $414 million for hazardous fuels reduction, fully funding the Administration's request. Again, the agencies estimate they will complete treatment on about 2.5 million acres. Senator CRAIG's amendment does not provide any additional funds, therefore, it is incorrect to purport that now, suddenly, the agencies will quadruple the amounts of acres treated.

Moreover, we do not need to treat every acre of land to reduce fire risk. New Mexicans and others living in the west want their government to quickly and intelligently address the excessive build-up of hazardous fuels. If we're going to leverage limited Government funds to solve this problem, we need to figure out in advance which forested lands need to be treated and how.

To act quickly and strategically to prevent catastrophic fires, we do not need to treat every single acre of national forest and public lands. Instead, we should create firebreaks and other strategically thinned areas to stop fires from spreading out of control over large areas. A respected Forest Service researcher named Mark Finney has estimated that treatments need only address 20 percent of the landscape, if thinned areas are strategically placed to make fires move perpendicular to the prevailing winds. The Forest Service should experiment with Finney's ideas and those of others about how to most strategically place thinning projects. The less acres the Government needs to treat, the further our existing funds will stretch.

The board feet levels in this amendment are identical to the levels previously set forth for categorical exclusions by the Forest Service. Almost 3 years ago, a Federal district court invalidated these categorical exclusions primarily because the agency literally lost its administrative record. Notably, the court left room for the agency to reinstate these categorical exclusions but for some reason the agency still has not done so. This approach also will benefit local businesses by requiring the agency to implement relatively smaller projects. Residents of Truchas, NM, tell me that the using categorical exclusions improves the ability of local Federal land managers to make site specific decisions that address community needs.

At this point in time, I do not believe we need to expedite judicial review beyond what we offer in our amendment. Prohibiting any temporary restraining orders or preliminary injunctions, which is what the Republican and administration proposals would do, makes any judicial review effectively irrelevant. In addition, on August 31, 2001, the General Accounting Office reported that, of the hazardous fuels reduction projects identified for implementation in fiscal year 2001, none had been litigated.

In conclusion, our amendment represents a thoughtful, balanced approach to expedite forest thinning in a way that truly reduces fire risk for communities and the environment.

I yield the floor.

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

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

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 a.m. having arrived, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The 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.

Byrd amendment No. 4644 (to amendment No. 4471), to provide for the establishment of the Department of Homeland Security, and an orderly transfer of functions to the directorates of the Department.

Reid (for BYRD) amendment No. 4673 (to amendment No. 4644), in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Madam President, I ask unanimous consent that there be 1 hour for debate, equally divided, on the cloture motion.

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

Mr. THOMPSON. And the vote to occur at the end of that hour.

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

Mr. THOMPSON. I thank the Chair.

Madam President, about a year ago, we began hearings on the homeland security issue in the Governmental Affairs Committee. Other committees had hearings, but we had a series of hearings that lasted until recently.

During that time, we reached bipartisan agreement on many important factors. We reached bipartisan agreement on the notion that we need to reorganize our Government to meet the new challenges our country faces. We live in a different world, a new world, a dangerous world, and we need to reorganize our governmental agencies to deal with that world. We have very broad bipartisan agreement on that.

We also discovered in that time that we have some very important points of disagreement.

I think it was the understanding of everyone concerned that after we addressed this in the committee, after we had a full discussion, a series of hearings, after we had an extensive markup and aired all of these similarities, these points of agreement, and points of disagreement, that we would be able to take that committee product, bring it to the floor, as Senator LIEBERMAN has done, and that we would be discussing the merits of the points of agreement and the points of disagreement because we were about very important business of our country and the future safety of our country, with the full realization that we were doing something that had not been done for over half a century in this Government, in terms of the scope of the reorganization.

I believe that was the understanding, that this would be the process, and that it was one of those rare times—all too rare around here—that we would come together on both sides of the aisle and address it in that way.

It was not to be. We have spent the last 3 weeks in the afternoons supposedly on this bill and have accomplished very little.

Of course, we had the September 11 anniversary in the middle of that time period, and we had a holiday in the midst of that time period. We also had a commemoration in New York, which many of us attended, in connection with the anniversary of September 11. But we still have had 3 weeks of afternoons for consideration of this bill, and we only really considered one of the substantive areas of disagreement.

We have had a considerable period of time in the way legislative calendars go, but we have had very little time to consider these very important issues that we have been discussing in the press, in the media, on the floor, and in committee for now going on a year at least.

Instead of coming to the floor and proceeding with those issues, we have had time taken up under the rules of the Senate, as Senators have a right to do, on matters that are peripheral to the important amendments and the issues with which we know we have to deal.

Our side of the aisle has all this time been trying to get consideration of the issues that we know we have to consider. We are going to have to consider, one way or another, whether we want to diminish the President's national security authority. Could there be anything more important than that?

We are going to have to decide whether or not we are going to give this new Secretary management flexibility to deal with the new problems in any Governmental Department nowadays, especially in this one.

We are going to have to decide what kind of intelligence apparatus we are going to have within this new Department eventually.

We are going to have to decide whether we are going to give the President reorganization authority.

We are going to have to decide all these issues. All these issues have been begging for consideration all this time. This Senator has been trying to get them up for consideration. This Senator took 6 days trying to get a vote on the question of the nature of the White House person and whether or not he would be Senate confirmed. We finally, after 6 days, got a vote on that. It was a voice vote, and it was adopted. That is the only substantive amendment we have even had an opportunity to consider.

With that background, and before considering any of these other issues at all, or having any discussion, any debate, the other side has filed cloture. After taking up all this time on all these other issues—days and hours of discussions on one thing or another—they have filed cloture. They have essentially filed cloture against themselves.

I may not have been here long enough to fully understand all of the history and the way things work around here, but I hope that it is a rare occurrence for the majority party, or anyone else, to bring up their own bill, filibuster, and then file cloture against themselves in order to cut off the other side from offering amendments, which we know have to be considered. That is the situation we have. That is the bizarre circumstance in which we are today.

That is not the proper purpose of a cloture motion. I ask my colleagues: Do they really believe there is any chance of getting a bill under these circumstances? This cloture motion is not about substance. It is not about moving the bill. Everybody knows if this cloture motion succeeds, there will be no bill this year. The President will veto this bill as sure as I am standing here. Without even having the opportunity to consider these issues concerning his own authority or the management flexibility or the reorganization or the intelligence component, or any of these other issues, they file cloture and deprive us of considering these issues?

I am not sure anybody is going to argue the amendments would be germane after cloture. The effect is to cut us off. It is not about substance. It is not about moving the bill along. It is about appearances and it is about assessing blame. I guess there is quite a bit of embarrassment around here that we have spent 3 weeks and have essentially done nothing. Now apparently we want to give the appearance we are trying to move this along so we file cloture, plus putting us in the position on this side of the aisle of opposing cloture and make it look as if we are holding up the bill, when we are the ones who have been trying to get our amendments up and considered. I do not think the American people are going to buy that.

When it comes to matters of this importance, where we could come together on a bipartisan basis and address these issues, I say to those Americans, better luck next time, because the matter has not gotten serious enough yet. We are only dealing with the security of this country, but we are going to engage in our same old games.

I have a suggestion that instead of worrying about the appearances of moving this bill, let us actually move it. We should defeat this cloture motion and get on with those issues we are going to have to address sooner or later and give us a chance of having a bill.

Therefore, I respectfully urge my colleagues to oppose cloture in this instance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I want to try to summarize my thoughts so the distinguished Senator from Tennessee can preserve some of his time.

When 9/11 happened, and after that terrible day when we all stood together in front of the Capitol and sang ''God Bless America,'' I thought that coming together on a proposal to defend our country and its people was going to be about as easy as it had been after December 7, 1941. I was absolutely and totally wrong.

As strange as it sounds, as unbelievable as it is, the Lieberman bill takes power away from President Bush to declare a national emergency and, in the process, override business as usual in the Federal bureaucracy, a power that Jimmy Carter had, a power that Ronald Reagan had, a power that the first President Bush had, a power that Bill Clinton had and used.

Incredibly, after thousands of our people have died, after all of the suffering and all the trauma, we now have in a bill—a bill that is shameless enough to call itself related to homeland security—an effort to take power away from the President that he had on 9/11.

I am not sure the American people truly understand that President Bush has asked for no additional emergency powers to set aside work rules within the Federal bureaucracy. In fact, he has already agreed to reduce those powers very slightly as compared to what his four predecessors possessed. But that is not enough for the supporters of the Lieberman bill. They want to deny the President the power to declare, on a national security basis, that we change the way the bureaucracy works to allow him to put the right person in the right place at the right time.

Let me give a concrete example of it. At Logan Airport in 1987, Customs agents decided they needed to change the way a room was structured in order to do inspections and in order to improve the quality of the inspections. The Treasury employees labor union objected and filed a complaint with the Federal Labor Relations Authority that said, under their union work rules, they had to sign off on a change in the work space, and the FLRA ruled that the Customs Service could not change their inspections facility because it overrode a provision of that union contract.

Let me remind my colleagues that two of those planes that were involved in terrorist attacks flew out of Logan Airport. Are we today to allow a work agreement and the Federal Labor Relations Authority to override the President if he wants to improve security at Logan Airport? I do not think so. I do not think the American people believe that we should, but that is exactly what is being proposed.

So I urge my colleagues to reject this idea that in the name of national security we should take national security power away from the President. If this

cloture motion prevails, we will have only been allowed to offer one amendment, the Thompson amendment. A vote to kill it failed, but then for 3½ days it was held in limbo. If this cloture motion is agreed to, a substitute amendment, which perhaps is supported by between 40 and 50 Senators, would not be able to be offered.

The majority had a right to file a cloture motion—that is the way the Senate works—but with all due respect I think it was wrong to file it. I do not think it can be justified given we have had an opportunity to offer one amendment, and I do not believe the American people would be in favor of ending debate on this bill while its major feature takes power away from the President to use national security waivers instead of preserving that power. So I urge my colleagues to vote no on this cloture motion.

I conclude by reading a quote from Dwight David Eisenhower. I think it is very appropriate as we debate the Homeland Security Department and its structure. Ike said:

> The right organization will not guarantee success, but the wrong organization will guarantee failure.

I believe the bill, as it is now structured, is an unworkable organization. The President has said he will veto it, that he would rather have no bill than this. When are we going to awaken and give the President the tools he needs to finish the job? I hope it is soon, and I hope we begin today by voting down this motion to deny us the ability to give the Senate an opportunity to work its will on the President's proposal.

I yield the floor.

The PRESIDING OFFICER. The Senator from California has a half hour.

Mrs. BOXER. What are the rules? Do I have to ask for a specific number of minutes or may I speak until I finish my remarks?

The PRESIDING OFFICER. The Senator from Connecticut controls 30 minutes.

Mrs. BOXER. I ask Senator LIEBERMAN if he will yield 5 minutes to me to speak in favor of cloture on his amendment, and then address the Byrd amendment.

Mr. LIEBERMAN. Madam President, I yield 5 minutes to the Senator from California for that purpose.

Mrs. BOXER. I thank the Senator very much for yielding me the time.

As I begin my remarks, I offer my thanks to both Senator LIEBERMAN and Senator BYRD for the work they have done on behalf of the American people and for the principled and deliberative approach they have brought to this very complex issue.

I have tremendous misgivings about the size and shape of this Department, which I will address. I do want to seek cloture. I do want to see some finality. I do think this is very important.

I was distressed yesterday to hear comments from the Senator from Texas, Mr. GRAMM, in which he said the American Government was the laughingstock of the world because of our work rules. That is the first time I have ever heard that the American Government is the laughingstock of the world for any reason.

This is the greatest country in the world, and I believe one of the key reason, is our people and their dedication. I know one of the big issues between both sides and some on our side of the aisle, as expressed by Senator MILLER yesterday, is we should, in fact, change some of the worker rules and strip some of those rules from this new Department. I want to say respectfully I will fight that with every bone in my body, as will the Senator from Georgia and the Senator from Texas, who will oppose what my view is.

I want to say this and not linger on it too long because we will have more time. Every single one of the heroes of 9/11—every fireman, every policeman, every emergency worker—happened to be covered by work rules. They never looked at their watch and said, oh, my God, I am working overtime, I had better get out of here, or I am in danger and I should be getting hazardous duty pay. We never saw that. We saw an incredible dedication by workers who cared about what they were doing. I found it tremendously insulting to hear those words in the Senate. I will fight for those workers.

We are creating a homeland security office that is supposed to be second to the Pentagon in defending the American people. What do we do to the people who work in that Department? Make them second class. In my opinion, that is disastrous. I have met some of the workers. They are the heroes of tomorrow. They deserve to be treated with respect, not stripped of the worker rules that protect them. We will talk more about that.

Briefly, I support the Byrd amendment, and I look forward to having a chance to speak at greater length. This is a huge change in our Government. Under the current plan, much improved from the House—the Lieberman plan is much improved from the House version—we will be taking 170,000 employees and shifting them over to a new Department. Many of these agencies have multiple responsibilities—not just to protect the homeland but, for example, in the Coast Guard search and rescue missions, so important to my home State.

In the case of FEMA, when we have an earthquake, if we have a flood, or if there is a hurricane anywhere in the country, FEMA must come and deal with it, deal with the people who suffer losses, deal with the businesses that suffer losses. I don't understand why we have taken those agencies in whole cloth and placed them in the new Department.

Senator BYRD says, yes, we need this Department of Homeland Security. He moves forward with the top level people who will be bright and smart, who will be able to look at their challenge and let the Congress know in the ensuing days, weeks, and months what they need to do their job. Senator BYRD is courageous to get out here and slow this train down.

I have been in government a long time. I started at local government many years ago. I was on a county board of supervisors. We ran the whole county—the court system, the emergency workforce, transit district, and the rest. One of the lessons I learned: Do not do something that just looks good; do not do something that just sounds good; do not do something just because it protects you politically; do something right. Mostly I learned, don't do something so big, so huge, that there is less accountability rather than more accountability.

I thank Senator BYRD. I support the cloture motion. I want to see a streamlined Homeland Security Department. That is what I will work for.

I yield the floor.

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

Mr. LIEBERMAN. Mr. President, I yield myself such time as I may consume.

I rise to speak in favor of the cloture motion Senator DASCHLE has filed. It does seem to me that it is time to begin heading toward a conclusion of our deliberations on homeland security and to have a final vote as soon as we can. This cloture petition is a way to begin to do that. I have said before, and I will say it again, briefly, some of members on the Governmental Affairs Committee have been at this for almost a year now. In fact, a certain amount of activity began in Congress before that. Congressman THORNBERRY of Texas, a distinguished Member of the other body, introduced legislation early in 2001, months before September 11, to create a Department of Homeland Security. That was based on the work of the so-called Hart-Rudman Commission.

Our committee was carrying out hearings on this matter, held one prescheduled on September 12 on the question of how to protect the American people from terrorist assaults on our cyber-systems, a point of vulnerability that we have to organize ourselves to protect against. We held 18 hearings in our committee related to homeland security and the creation of the Department. Our committee reported out a bill in May by a 9-to-7 vote, unfortunately, a partisan split on the committee at that point.

President Bush endorsed the idea of a Homeland Security Department, and his proposed Department, most of the recommendations were quite similar—some exactly the same—as those contained in the bill that had come out of our committee in May on a partisan vote. We worked together with the White House and members of the committee.

On July 24 and 25 of this year, we had two long, thoughtful, productive days of markup in our committee and reported out the amendment before the

Senate as the underlying amendment creating a Department of Homeland Security.

We came to this bill immediately after we returned after Labor Day. This is the third week. A lot of the days have not been full days. We have had the two-tiered system with appropriations matters in the morning and homeland security in the afternoon. There has been a lot of debate and I hope a lot of consideration of the merits and demerits of the various ideas.

Some of our colleagues on the other side of the aisle have begun to complain about the pace of action; that the longer we wait to adopt a homeland security measure, the longer it will take to set it up, the more the American people will be exposed to danger from the terrorists who are clearly out there. We see it every day in the paper. We know it ourselves from briefings we have had, both open and classified. The enemy is there and not just at our door, but as we see from the arrests that occurred in Lackawanna, NY, within the last week, they are inside the house.

It is time to move forward on the 90 percent of ideas that are pretty much the same. We have some parts on which we are in disagreement. Senator GRAMM and the occupant of the chair, I gather, have a substitute amendment. We have various amendments to try to alter the underlying amendment. Let's get on with it.

I must say, I am puzzled, having heard the Senator from Texas speak a few moments ago, how those who have claimed we are not moving fast enough toward adopting a Department of Homeland Security bill because of the dangers involved are now going to vote against this cloture petition, which, of course, as all the Members know, would essentially narrow the debate, begin to move us toward germane amendments, and hopefully say to our colleagues and to our country that we are getting close to that time when we have to act.

I am puzzled why people who have complained about the pace of action on the Department of Homeland Security bill would vote against this cloture motion, against a vote on cloture. I hope they give it a second thought. Not only is there a critical urgency that we move forward to adopt this bill, get it to a conference committee with the House, get it to the President's desk, have it adopted, begin the work of creating the Department, but, Lord knows, we have a lot of other important work to do in this Senate and in the Congress generally, with appropriations bills, with matters related to potential military action against Iraq, matters related to the economy—particularly the retirement security of the American people, reactions to the corporate scandals that have occurred about which there is broad bipartisan interest in having us do something.

I think the time is now. I think each of us ought to vote for cloture and then let's have a system for having a finite number of amendments come before the Chamber. Let's give people the opportunity to make this bill as it came out of the committee better than it is. I think we have done a pretty good job. I described it yesterday, I believe, here on the floor as obviously not perfect but the first best effort toward taking the disorganization that exists now, that is dangerous, and organizing not just our Federal Government but our national strength to meet the terrorist threat.

I just came from a meeting with some families of victims of September 11. I have met with them several times before. There were about 120 who we lost, who were residents of Connecticut—a grievous loss. From the first time I met with them, they asked the question that echoes in my mind and my heart, which is, How could this have happened? And the subquestion is, Could this have been prevented so I would not have lost a spouse, a child, a parent, a friend?

This Department proposal is an answer to that question—not fully the answer to the question of how it could have happened, but surely an answer to the plea that we take action to make sure nothing such as September 11 ever happens again. It is for that reason I support the cloture motion and hope my colleagues, on a bipartisan basis, will vote for it so we may then go forward on a bipartisan basis to adopt a bill that will, as soon as possible, create a Department of Homeland Security.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BYRD. Mr. President, will the Senator yield briefly?

The PRESIDING OFFICER. Will the Senator withhold?

Mr. LIEBERMAN. Yes. Does the Senator wish to speak on the cloture motion?

Mr. BYRD. Not at length. Just a moment.

Mr. LIEBERMAN. I am happy to yield time to the Senator as he needs.

Mr. BYRD. Yes. Mr. President, John Stuart Mill said:

On all great issues, much remains to be said.

This is a great issue. Much remains to be said. I understand that some said that I have been filibustering and holding the floor. I would like to hear that again. I am not holding the floor.

On all great issues, much remains to be said.

I hope other Senators will say much on the pending amendment, the Reid-Byrd amendment. The floor is open.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be charged equally to each side.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum, and I ask the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, neither side seems to be interested in saying anything at the moment. I have a statement I would like to make if both sides would allow me to have the time, 10 minutes—I might be able to make it in 10 minutes.

Mr. LIEBERMAN. I have no objection.

Mr. NICKLES. What was the request?

Mr. LIEBERMAN. The suggestion Senator BYRD raises is since neither side is using the time allocated, he has a statement he would like to make in the remaining time.

Mr. NICKLES. I have a statement to make on the vote we will have in 10 minutes, and then I will be happy to yield.

Mr. BYRD. Mr. President, the Senator may have the floor if he wishes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I am happy to have the Senator from West Virginia speak. I do wish to speak on the issue we have before us.

Parliamentary inquiry: The unanimous consent calls for a vote at 12:30; is that correct?

The PRESIDING OFFICER. Twenty-two minutes remain, according to a subsequent unanimous consent agreement.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. May I ask how much time our side has remaining?

The PRESIDING OFFICER. There remain 10½ minutes.

Mr. NICKLES. The vote is anticipated to be at 12:30?

The PRESIDING OFFICER. It is 12:40.

Mr. NICKLES. Will the Senator yield me a few minutes?

Mr. THOMPSON. I yield such time as the Senator may consume.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I think we have had some good debate. I am not here to debate the substance of the two proposals, but I am here to debate strongly against voting for cloture. It seems like I was here yesterday doing the same thing on the Interior bill. I am going to do it again. My friend and colleague for whom I have the greatest respect, the Senator from West Virginia, knows the Senate rules better than any—I mentioned yesterday that we are getting way too frivolous about dropping cloture votes every time somebody wants to have a vote. It achieves no purpose whatsoever.

That is exactly what is going to happen here. Cloture is a very serious procedure. That limits a Senator's ability

to offer amendments. The Senate of the United States is one of the greatest institutions in the history of democracy, and we are going to have cloture. I have heard some colleagues say they hope it is invoked. If it is, that means the amendment the Senator from Tennessee, Mr. THOMPSON, is offering, along with Senator GRAMM and Senator MILLER, cannot be offered because it would be nongermane. Are we going to deny them the opportunity to offer an amendment they have worked hard on and which every colleague in this body knows they are entitled to offer? Are we going to file cloture so you can't offer amendments to it?

I am amazed at how quickly people draw their gun of cloture to deny Senators on both sides the opportunity to offer amendments. I know there are a lot of amendments that are floating around. I have heard people say, for example, I think I might do an amendment dealing with the intelligence operation. Those amendments, in almost all likelihood, would be nongermane.

I just urge my colleagues to let us respect the rights of individual Senators to offer amendments.

Mr. LIEBERMAN. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I would be happy to yield.

Mr. LIEBERMAN. I ask my friend from Oklahoma—I have not had an opportunity given to me to look at the substitute that may be offered by the Senator from Texas—why would it be germane if parts of it don't relate to homeland security?

Mr. NICKLES. I appreciate the question of my good friend. I am sure he is aware of the Senate rules postcloture. Germaneness requirements are so strict that they prohibit a lot of amendments; amendments that are, frankly, quite germane wouldn't be germane by the ruling of the Parliamentarian and by the history and precedents of the Senate.

We have all been around here for a while—some of us longer than others. Postcloture germaneness is very strict and would prohibit probably 90-some percent of the amendments to be offered. Any Senator could offer amendments to strike a section of the Senator's bill. I guess we have been doing that a long time, but that is not the way to do it. The Senator from Texas should be entitled to offer his amendment. Senator MILLER cosponsored the amendment. A lot of us have cosponsored the amendment. We want to have the right to offer that amendment.

I haven't asked the Parliamentarian. But I would guess, if the Parliamentarians have reviewed the language, they would find that amendment would be nongermane postcloture. It is germane to the subject. It would be germane by almost anybody's definition of germaneness because we are talking about homeland security. It would be germane because it is the President's proposal. The White House worked on it, but according to strict Parliamentarian procedures, it may well be ruled nongermane.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. NICKLES. I would be happy to yield.

Mr. BYRD. Mr. President, I know what the Senator is saying. We all know the Parliamentarian gives guidance, but I hope when the Senator talks about the Parliamentarian and the aid which the Parliamentarian gives, we are talking about the ruling of the Chair. It is not the ruling by the Parliamentarian, with all due respect to the Parliamentarian. The Chair gets the guidance of the Parliamentarian. But it is still the ruling by the Chair.

Mr. NICKLES. I appreciate my colleague saying it is the ruling of the Chair. And the ruling would be following the advice most likely of the Parliamentarian who would be following the precedents of the Senate. And the precedents of the Senate would be postcloture germaneness, which is very strict, indeed. And most germane amendments would fall. We have just begun this debate.

I will tell my friend and colleague, who is also the chairman of the Appropriations Committee, that we agreed to allow two bills to go simultaneously—Interior and the Department of Homeland Security. Neither bill is moving, much to my chagrin as a person who realizes we only have 10 days left in this fiscal year, and we haven't been passing appropriations bills. We dual-tracked some bills when the Senator from West Virginia was majority leader. We dual-tracked bills under Bob Dole as well. Sometimes it works. For the last 3 weeks it has not worked.

We haven't made adequate progress on Homeland Security, and we haven't made adequate progress on Interior. Maybe it is because all of us have to fight or to wrestle with too many issues simultaneously. I am not sure. But the progress on both bills has been rather poor.

If we want to—and I want to—pass every appropriations bill by the end of the fiscal year and have them on the President's desk for his signature, or for his veto. I think that is our constitutional responsibility. We are not getting it done. That is disappointing me.

I happen to think there probably is no greater issue confronting this Congress than the Department of Homeland Security. And I think we should have the opportunity to be able to offer alternatives. If cloture is invoked, I am afraid the primary alternative authored by Senators GRAMM, MILLER, THOMPSON, and myself wouldn't be allowed postcloture.

That is why I would say in fairness that we can count votes. I know you are not going to get cloture. I do not know why we are doing it. If we gave you cloture, we could tie this place up. Nobody is filibustering this bill.

No one—at least on this side. Maybe others are. Maybe others have different agendas, but no one on this side of the aisle wants to filibuster this bill in any way, shape, or form.

I will say the same thing for the Interior bill. We had a vote on cloture on the Interior bill. I heard the Senator from West Virginia say he wouldn't filibuster. We are not filibustering. Cloture is supposed to shut off debate. Why? We are not having extended debate. We are not stretching out debate, not on Interior—and not on Homeland Security. We are willing to vote on the amendments on the Department of the Interior, and vote. We may win; we may lose. I have won some; I have lost some. That is part of being a legislator.

The same thing for Homeland Security; let us vote on the alternative.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. NICKLES. I would be happy to yield.

Mr. BYRD. Mr. President, I wish we would get on with Interior and the other appropriations bills. The Senate Appropriations Committee, as I have said many times, has reported all 13 appropriations bills. We did that long ago. Senator STEVENS and I, and every Republican and every Democrat on that committee voted. We have 13 appropriations bills on the calendar.

If we cannot finish the Interior appropriations bill, will the Senator help us to get unanimous consent to proceed to other appropriations bills? We could take up Senate appropriations bills. We don't have all of the House appropriations bills. The House Appropriations Committee has not reported all 13 appropriations bills. But we have reported all of the 13 Senate appropriations.

Will the Senator and his side of the aisle help us to get unanimous consent to go to the other appropriations bills?

Mr. NICKLES. I would be happy to respond to my good friend and colleague. I will help you try to get the appropriations bills done. I will also tell you what I told my very good friend, Senator REID. I will object to dual-tracking on homeland security and appropriations bills simultaneously because it doesn't work. I think maybe we should have a little greater focus and stay on homeland security.

I don't care if we stay all night and all weekend, this is an important issue. We ought to finish it.

I will tell my friend and colleague from West Virginia that I will stay all night, and we will help finish these appropriations bills. I don't care if we have to work every weekend between now and the end of the year, let us do it. But I don't like this idea of dual-tracking unless we have a greater understanding on the Interior bill. Let us finish it.

I used to manage the Interior bill. I worked with my colleague. I was chairman of the committee. I was chairman, and I was ranking. We did the Interior bill year after year, I might mention, with my colleague, Senator REID, also

assisting on the floor. We did that bill generally in 3 days. We got it done. It is usually a bipartisan bill, and it would usually pass with 90 votes.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. NICKLES. I would be happy to yield.

Mr. BYRD. Mr. President, Shakespeare said the Senator ''is a man of my own kidney.'' Some would say ''a man after my own heart.'' The Senator said he is willing to stay here all night and get these appropriations bill done. Let us do that.

I believe the objections from the other side of the aisle on moving those bills is the word out of the White House. I am just thinking—I am presuming, some things which I have seen and heard are to that effect—that the word has come out of the White House. Has it come out of the White House to the Speaker of the other body?

That is where appropriations bills generally originate. Appropriations bills generally and customarily originate in the House.

Can the Senator inform me as to whether the word has come down from on high to the House to hold up those appropriations bills? The House has not moved those appropriations bills, and it is not because of the House chairman, Mr. YOUNG. He would eagerly move those bills.

Can the Senator elucidate on this question?

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

Mr. BYRD. I hope the Senator will have a minute at least to respond. Will the Senator from Connecticut yield?

The PRESIDING OFFICER. The Senator from Connecticut controls 11 minutes.

Mr. LIEBERMAN. Does the Senator wish unanimous consent for an additional moment?

Mr. REID. Mr. President, we are not going to extend the time for the vote. I don't mind Senator LIEBERMAN yielding him some of his time.

Mr. LIEBERMAN. Mr. President, I yield the Senator a minute of my time.

Mr. NICKLES. Mr. President, I appreciate my good friend from Connecticut doing that.

I just say, since I have taken all of Senator THOMPSON's time, I hope Senator THOMPSON, if he wishes, will be able to speak on the issue. We have had an interesting colloquy. And I am happy to extend that time.

I am happy to work with my friend and colleague. I happen to be one who thinks the Senate does not have to wait on the House. It is tradition. It is not constitutional. But the Senate has not been setting records. Well, maybe we are setting records on Interior. We have been on it for 3 weeks and have not finished it. So we are not doing our job. Maybe the House isn't getting its job done, either. Hopefully, both will get it done.

I would hope my colleague from Connecticut would yield some time to the Senator from Tennessee on the issue at hand. I appreciate the consideration of the Chair and my friends.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I wish to speak very briefly, and then I will yield. The Senator from Nevada has withdrawn his request to speak. Let me say a few words.

My friend from Oklahoma has talked about his concern that the substitute that the Senator from Texas, Mr. GRAMM, has fashioned would not be ruled germane. I don't know because I have not seen it. But, of course, there is another alternative here, which is the normal course.

I refer back to our Governmental Affairs Committee's deliberations on the bill in which, after we put our mark down, Senator THOMPSON, as ranking member, offered several amendments going to powers of the President to reorganize, the latitude over appropriations, obviously much interest in civil service, collective bargaining questions, some dispute over the exact powers of division of intelligence in the new Department that all of us agree ought to be created, but we disagree on what powers it should have.

Again, I am not the Parliamentarian, but picking up on what the Senator from West Virginia has said, it certainly would seem to me there would be ample basis for whomever the Presiding Officer is at the time to rule that the kinds of amendments that the Senator from Tennessee offered in committee—which put it in issue and give the Senate a choice of what I think are the remaining relatively small number of issues in controversy—would, in fact, be ruled germane. So that is the way to get this moving.

Mr. NICKLES. Will the Senator yield?

Mr. LIEBERMAN. For a question.

Mr. NICKLES. Just knowing postcloture, if the Senator from Tennessee offered the substitute section dealing with collective bargaining, dealing with Presidential flexibility, I can assure you—or my guess is—that 90 percent of those would be ruled nongermane. And that is just the facts of the postcloture rules in the Senate.

I understand what you are saying. One way we can nibble, we can strike. We can always strike, but if we wanted to have strike-and-insert language, most of those amendments would be ruled nongermane. That is the reason why I am urging my colleagues to vote no.

Mr. LIEBERMAN. I thank my friend.

My answer would be, again, I have not seen the exact components of the substitute from the Senator from Texas, but as my staff has heard it described, it follows pretty closely after the House bill, which, again, if I were in the chair I would think are germane.

I want to yield a few moments—as much time as he would like—to the distinguished Senator from Nevada.

Mr. REID. I thank the Senator.

Mr. President, I simply want to say this. It is obvious there are efforts made for us to do nothing in the Senate. And that is being accomplished almost 100 percent because we basically are accomplishing nothing.

The majority leader has attempted to invoke cloture on the Interior bill so we could move on. We are hung up with an amendment dealing with firefighting, which is too bad; Neither side has 60 votes. The rules have been in effect for 215 years, basically, with some minor changes. Those are the rules of the Senate. You need 60 votes on controversial issues. So we cannot move on Interior. That is too bad.

And on homeland security, the President has talked to every Senator in this room about the importance of that piece of legislation. Why can't we move on? If cloture were invoked on this, it would narrow the time with which we have to work on this bill. It would go to conference, of which the President has tremendous clout in the conference, and get this bill down to him.

I am seriously thinking that there are efforts being made here that we don't finish this bill, and then that we, the majority, can be blamed for not completing the homeland security bill. We want to complete this bill. Even Senator BYRD, who, as everyone knows—because he stated it on the floor—has problems with this piece of legislation, signed a cloture motion.

We all know we have to move on with this piece of legislation.

Mr. NICKLES. Will the Senator yield?

Mr. REID. I am happy to yield for a question.

Mr. NICKLES. Does the Senator think it would expedite completion of homeland security if we allow Senator GRAMM's and Senator MILLER's amendment to be adopted, or at least be voted on? Let's have an up-or-down vote on the Gramm-Miller substitute, let's have an up-or-down vote on Lieberman, and maybe a couple other amendments, and we can complete this bill.

Mr. REID. Well, Mr. President, we have spent days here. People are blaming Senator BYRD for slowing things down. All anyone has to do, when Senator BYRD sits down, is move to table his amendment, or what is going on at the time. There has been unending stalling on this piece of legislation.

I repeat, the President has talked to me. He has talked to the Presiding Officer. He has talked to the managers of the bill. He has talked to Senator NICKLES—everybody—about this bill. He believes this is important. Let's move on with it. If this bill comes out of the Senate, and it is not perfect, what he wants, he controls the House of Representatives. He has tremendous, I repeat, clout with the Senate.

We want to get this bill done. Let's move on.

Mr. NICKLES. Will the Senator yield?

Mr. REID. I am happy to yield for another question.

Mr. NICKLES. I don't think I heard an answer to the question. Shouldn't Senators GRAMM and MILLER be entitled to offer their amendment? And you also said there are some people stalling. There is nobody on this side of the aisle who is stalling this piece of legislation. And either side can move to table Senator BYRD's amendment. I am happy to do that. But I am going to always insist that our colleagues have a right to offer their amendment.

Won't you agree with me to give Senator GRAMM and Senator MILLER a vote on their amendment?

Mr. REID. Nobody is stopping them from having a vote on their amendment. Who says their amendment is not germane?

Mr. NICKLES. Cloture would stop them from having a vote.

Mr. REID. I would doubt that it is. But whatever are the rules of the Senate are the rules of the Senate.

Mrs. FEINSTEIN. Mr. President, as this Nation wages our war against terrorism, I rise today in support of the Lieberman substitute amendment to H.R. 5005, the Homeland Security Act. We must take this critical step now, in a way that protects both our liberties and our lives.

I commend my colleague, Senator LIEBERMAN, and the entire Committee on Government Affairs for drafting such meaningful and comprehensive legislation.

The Government Affairs Committee reported the bill on a strong bipartisan vote of 12 to 5—a clear sign of substantial support. It is unfortunate that the President has threatened to veto this legislation.

It fills me with a deep sense of sadness that it took the tragedy of 1 year ago to bring us this far. The deaths of nearly 3,000 people showed us, beyond a shadow of a doubt, that our Government was ill-prepared to tackle the multifaceted threat of terrorism.

We would be doing a great disservice to the memory of those that perished on September 11—and to the citizens this new department will be sworn to protect—if we fail to adopt a more effective system to combat terror.

As a member of the Senate Select Intelligence Committee and chairman of the Judiciary Subcommittee on Technology, Terrorism, and Government Information, I have been immersed in the debate on homeland security for a long time now.

I believe that we need to reorganize agencies to better fight the war on terror and I think that the creation of a Department of Homeland Security is a good first step.

This belief grew largely out of extensive hearings. In the 107th Congress alone, the Technology and Terrorism Subcommittee has held 16 hearings with 79 witnesses on counterterrorism.

Other subcommittee hearings covered narcoterrorism, seaport security, the National Guard, cyberterrorism, critical infrastructure, weapons of mass destruction, bioterrorism, biometric identifiers, and identity theft.

Above all, what stood out at these hearings was the lack of coordination among specific agencies involved in homeland security, bolstering the need for fundamental reorganization of our counter-terrorism effort.

For example, we dealt with the problems at the National Infrastructure Protection Center, NIPC, the chief body for coordinating the Federal response to cyber-terrorism attacks.

The hearing revealed that NIPC had strong investigative capabilities but was weak in analysis, warning and outreach.

Now, under the homeland security legislation, NIPC's investigative responsibilities will remain at the FBI but the other functions will be transferred to the Homeland Security Department.

These overall shortcomings in counterterrorism led me to introduce appropriate legislation.

Following the terrorist attack on the U.S.S. *Cole*, Senator KYL and I introduced the Counterterrorism Act of 2000. This legislation would have implemented a number of recommendations made by the congressionally-mandated National Commission on Terrorism.

The Senate passed this Counterterrorism Act unanimously, before the end of the 106th Congress. Unfortunately, the House did not act on the bill before it adjourned.

But we are in a dramatically different world now—and we are facing an enemy capable of any striking out anytime, anywhere, and by a wide variety of methods. The need for a Department of Homeland Security could not be greater.

More important than getting it done, however, is getting it done right.

There are four key areas that I would like to address: the overall structure of the new department, the critical role of immigration to homeland security and the future of the INS, my concerns about intelligence sharing, the need for strong oversight over the money we spend fighting terrorism, and the importance of protecting our civil servants.

The task before us is enormous—the largest restructuring of the federal government in half a century.

It come as no surprise that this last reshuffling was in response to a new and unexpected war—the cold war. The Department of Defense, the CIA and the National Security Council were created by the National Security Act of 1947.

Begun in the immediate aftermath of World War II, the restructuring took years of work and compromise between the executive and legislative branches. To think we could undertake a similar operation in a matter of days or weeks is simply not practical.

We are talking about some 200,000 federal jobs, from over 20 agencies, to be shuffled around. Add to this a large chunk of the federal budget—at least $40 billion, not counting transition costs.

As we begin this massive reorganization, it is critical to do everything we can to stay focused and organized in the fight against terrorism.

Nothing could be worse than if this reorganization effort distracted from the real work of the good people in these agencies—people who are continuing the difficult, complex, and ongoing fight to prevent future acts of terrorism.

We must also be sure to strike an appropriate balance regarding which agencies to move and why.

Nowhere is this more critical, in my mind, than with the Immigration and Naturalization Service.

One of the most alarming facts about September 11 is how the terrorists used our visa system to enter the United States with impunity. They lingered here, undetected and under the radar, while some were even reissued visas after the attacks.

Because of this—and because I have long believed our borders to be sieves—last year I introduced the Border Security and Visa Reform Entry Act, with Senators KYL, KENNEDY and BROWNBACK.

Now that this legislation is law, the Congress must work closely with the administration to ensure that its provisions are properly and timely implemented.

The main thrust of this legislation was to prevent terrorists from entering the United States through gaping loopholes in our immigration and visa system.

Yet there is still much more to do, because the future of the Immigration and Naturalization Service is critical to our homeland security efforts.

To do this means ensuring that the immigration agency has the sufficient personnel and resources to get the job done. Without doubt, this is a daunting task.

When the President first released his proposal to create a new Department of Homeland Security, I had major concerns about transferring all immigration functions into a department made up of more than 25 different agencies and burdened with 120-plus different missions. But if such a transfer is to take place, the Lieberman substitute would implement it in the best possible way.

The President's proposal contained a mere two and a half pages of legislative language abolishing the INS and permitting the administration to divide the immigration system.

The White House would divide the INS with little direction as to how the agency would meet its new homeland security mission, and with little input from Congress. It would also establish a weak executive to oversee the immigration functions.

Finally, the administration's proposed new structure fails to adequately respond to intelligence failures at the hands of our front-line agencies.

For example, the General Accounting Office and the Justice Department's Office of the Inspector General has repeatedly criticized the INS for its failure to adequately train its officers to properly analyze intelligence information it collects from the field and from other agencies.

Yet the administration's bill fails to create a mechanism by which Federal authorities can share critical information with INS more quickly, so that the agency's officers and adjudicators can make the right decisions about whom to admit and whom to deny entry into the United States.

The Lieberman substitute, on the other hand, would establish two separate enforcement and service bureaus with clear lines of authority. This would ensure that: the agency's missions are straight-forward, that they are properly managed and staffed, and that policies handed down from the Director or the deputy directors of the two bureaus are implemented and followed in the field offices.

The Lieberman substitute would also elevate the stature of the new immigration agency executive—the Under Secretary for Immigration Affairs—and put into place a strong agency executive.

Right now, the Commissioner's office is too low in the Justice Department hierarchy to hold much weight with other federal agencies.

It has little meaningful authority over the District Directors, who wield enormous power, but are difficult to hold accountable. This would not necessarily change under the administration's proposal.

The Lieberman substitute would also separate the enforcement and service functions of the INS, but place them within the same Directorate.

This would allow both bureaus to coordinate such functions as investigating visa fraud, and conducting background checks of applicants for visas, naturalization, other immigration benefits, and entry.

I am particularly pleased that the Lieberman substitute contains the Unaccompanied Alien Child Protection Act, bipartisan legislation I introduced in January 2001.

I also believe that this illustrates how important it is, given this enormous restructuring, that we be very careful not to lump every role of every agency under the umbrella of homeland security.

Unaccompanied children represent the most vulnerable segment of the immigrant population.

Clearly, most unaccompanied alien children do not pose a threat to our national security, and must be treated with all the care and decency they deserve, outside the reach of this new department.

More specifically, this measure, comprising Title XII of the Lieberman substitute, would make critical reforms to the manner in which unaccompanied alien children are treated under our immigration system.

It would also preserve the functions of apprehending and adjudicating immigration claims of such children and repatriating a child to his home country when the situation warrants within the Immigration Affairs Agency, under the larger umbrella of homeland security.

The unaccompanied alien child protection provisions would transfer the care and custody of these children to the Department of Health and Human Services. Its Office of Refugee Resettlement office has real expertise in dealing with both child welfare and immigration issues.

These provisions would also establish minimum standards for the care of unaccompanied alien children; provide mechanisms to ensure that unaccompanied alien children have access to counsel, and have a guardian ad litem appointed to look after their interests; and provide safeguards to ensure that children engaged in criminal behavior remain under the control of immigration enforcement authorities at all times.

Roughly 5,000 foreign-born children under the age of 18 enter the United States each year unaccompanied by parents or other legal guardians. Some have fled political persecution, war, famine, abusive families, or other life-threatening conditions in their home countries.

They often have a harder time than adults in expressing their fears or testifying in court, especially given their lack of English language proficiency. Despite these circumstances, the Federal response has fallen short in providing for their protection.

No immigration laws or policies currently exist to effectively meet the needs of these children. Instead, children are being force to struggle through a complex system that was designed for adults.

The Immigration and Naturalization Service detains some 35 percent of these children in juvenile jails. There they are subject to strip searches, shackles and handcuffs.

Even worse, their experiences of detention and isolation are often as traumatic as the persecution they fled in their home countries.

These problems are emblematic of our immigration system. It is managed by a bureaucracy ill equipped to help the thousands of unaccompanied children in need of special protection.

This is why I urge my colleagues to support these important measures.

These changes would guarantee that the proposed Department of Homeland Security is not burdened with functions that do not relate to its core mission.

Second, it would ensure that the INS dedicate itself to its central functions and not suffer mission overload. And finally, the move would ensure that the interests of unaccompanied alien children are protected.

The future of the INS highlights two distinct questions, which relate to the larger issue of homeland security.

First, how we protect innocent civilians, immigrants and citizens alike, while uprooting terrorists and preventing terrorist attack, and second, how we organize such a large department in a way that avoids duplication and inefficiency.

With respect to this last question, the Lieberman bill is a marked improvement from the present situation, where more than 100 Federal agencies across the government play some role within homeland security, not to mention all 50 states and literally thousands of localities.

On one level, success depends on how the federal merges with State and local government—the so-called ''first responders''—and from the cooperation of citizens.

This is true on a variety of issues, from preventing possible attacks, through shared intelligence, to reacting to when an attack strikes, and also how any emergency or rescue operations are able to respond.

Success also depends on the need to improve the collection, analysis and dissemination of intelligence on homeland security. To do this right, we must not side-step possible failures within the intelligence community that occurred before the attacks of September 11.

Understanding past problems is key to future successes. We cannot afford to make the same mistakes twice, especially mistakes of such consequence.

Earlier this year, FBI Agent Coleen Rowley's startling testimony before the Senate Judiciary Committee was a real wake-up call.

Her accounts of the many layers of bureaucracy at the FBI, and the many frustrations faced in reaching superiors to authorize investigations, point to a critical need to revamp the existing structure of key agencies outside the Homeland Security Department—a task as complicated as it is sensitive.

It has been suggested that this new Department of Homeland Security is destined to failure if it cannot gain access to all relevant raw intelligence and law enforcement data.

I for one agree with such a scenario. We can't be fixing major kinks in the system a few years down the road, in the wake of another intelligence failure and another nightmarish attack. We've got to get it right, as best as possible, the first time around.

This will require answers to some tough questions.

For starters: What kind of intelligence would the new department get? And what recourse will it have if it does not get the information it needs?

Both of these have yet to be adequately answered.

I want to emphasize a point that many commentators have overlooked: billions of taxpayer dollars are at stake in this debate over homeland security.

As a member of the Appropriations Committee, I have studied what we spend on combating terrorism and will spend in the near future—are the numbers are staggering. We must ensure

that this money is spent properly and not wasted.

According to the preliminary results of a General Accounting Office investigation of the terrorism budget requested by me, Senators KYL, GRAHAM, and SHELBY, Congressmen SENSENBRENNER and CONYERS, the combating terrorism budget increased 276 percent in just 1 year—and is going to increase even more. Consider the following figures: a $40 billion supplemental appropriation bill was passed shortly after September 11 last year; the August 2002 emergency supplemental amounts to $29 billion; and the fiscal year 2003 budget request is $45 billion.

The GAO also found that counterterrorism missions are spread over multiple agencies and appropriations, but no real cross-agency terrorism budget exists. Neither the President nor Congress has a clear idea of how much we are spending to fight terrorism.

The GAO recommends that extensive interagency coordination and oversight is needed not just to determine how much we are spending to fight terrorism but to figure out where our priorities are.

In addition, the GAO found a number of areas of potential overlap—areas where money seems to be wasted through duplication of efforts.

These areas cut across every agency and include law enforcement, grant programs for State and local government, weapons of mass destruction training, critical infrastructure protection, research and development to combat terrorism, and terrorist-related medical research.

The creation of a new Homeland Security Department alone will do nothing to solve these problems. Simply moving agencies into a new organization is insufficient to minimize duplication and waste.

We need to be sure that the President, his Homeland Security Adviser, and the Secretary of the new department work with Congress to assist agencies in consolidating terrorism programs, eliminating duplicate efforts, and coordinating complimentary agency functions.

The issue of how best to ensure oversight over funds to combat terrorism does not stand in the way of our getting this legislation passed. The same cannot be said for the labor provisions.

As we know, these provisions remain the major barrier between the White House and Congress.

I do not see any inherent clash between collective bargaining rights for Federal employees and homeland security.

And I support civil service protections at the new Department of Homeland Security.

I support management flexibility, and I think that the Lieberman bill provides it. Under the bill, the new Secretary will have broad powers to hire and fire whom he wants.

The bill also includes a number of new flexibilities in recruitment, hiring, training, and retirement.

The Lieberman bill gives the administration flexibility in these areas. While the collective bargaining rights of federal employees in the new department will be grandfathered in, the President will be free to strip them of their collective bargaining rights if the job of those employees changes.

To me, I could not imagine a more ill-timed attack on the Federal employee unions. After all, Department of Defense civilians with top secret clearances have long been union members and their membership has not compromised national security.

And many of the heroes of September 11 were unionized. The New York City firefighters who ran up the stairs to their deaths did not see any conflict between worker rights and emergency response.

At a time of such massive restructuring of the Federal Government, we must maintain as much continuity as possible. By weakening workers' benefits, the government risks losing many highly qualified individuals to the private sector. There is also a large percentage of workers who, if push comes to shove, can option for early retirement.

This is no time for the Federal Government to suffer a so-called ''brain drain,'' and be forced to train individuals from scratch.

The last thing we want to do in the middle of our war on terrorism is lose experienced employees on the front lines of this war—employees at the Coast Guard, the Department of Defense, the Federal Emergency Management Agency, the Border Patrol, the Federal Aviation Administration, and other agencies that work around the clock to prevent another attack.

In closing, I would like to emphasize my belief that, in this age of uncertainty, in these uneasy times, the United States deserves a unified, streamlined, and accountable Department of Homeland Security.

Equally important, is the need to guarantee that our efforts to combat terrorism, much of which will come under the jurisdiction of this new department, remain consistent to our democratic values and our commitment to an open and free society.

We must protect legal immigrants and innocent children, who have no part in this war. We have always been a nation of immigrants—and to change this fundamental truth would undermine one of the pillars of our society.

If we fail on either of these fronts, the forces of terror would triumph without another attack.

I believe that the Lieberman substitute amendment accomplishes this in a thorough and just way. A Department of Homeland Security under its guidelines will go a long way in making us more secure from terrorist attacks.

I stand in support the Lieberman bill. And I remain confident that the executive and legislative branches will be able to work out any existing differences.

We must be patient and thorough, and we must get this done right. Present and future generations depend on us.

Mr. LIEBERMAN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Three minutes.

Mr. LIEBERMAN. Senator THOMPSON asked me to yield him up to a minute, and then I ask that Senator AKAKA, a member of our committee, be allowed to close the debate with the remainder of our time.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I thank my friend from Connecticut.

The Senator from Oklahoma is exactly right. I go back to what I said when I made my opening statement a few minutes ago. The bottom line is, the important issues of national security authority for the President, management authority for the new Secretary, what kind of intelligence component we are going to have in this bill, what kind of reorganization authority we are going to give the President—all that would be wiped out if this passed. None of that is going to be germane.

Take the management part, for example. To be germane, it would have to be narrowing. If we struck the management structure from the current bill, that perhaps would be germane, but we don't do that. We suggest a different kind of management structure. I don't see how in the world that could be considered germane.

What it would do would be to take that whole debate of management flexibility——

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

Mr. THOMPSON. And do away with it. I respectfully suggest that is not a good idea.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, today I rise to discuss the current flexibilities available to agencies in the Federal Government and urge my colleagues to vote for cloture on this bill. The President has called for flexibility to manage the workforce. I agree and have said repeatedly that we must have the right people with the right skills in the right places. I have long been a proponent of providing agencies with tools they need to better manage their workforce. I agree with the President that agencies need flexibilities to carry out agency missions. However, according to David Walker, Comptroller General of the United States, agencies currently have many of the flexibilities they need. Current law allows managers to remove a Federal employee from his post and suspend him immediately without pay if the head of the agency finds that action necessary in the interests of national security, 5 USC 7532;

Swiftly reassign Federal employees to fight terrorism and reassign Federal

employees to similarly graded positions or detail them from other agencies or within the Department and the employees who refuse reassignments or details may be terminated, 5 CFR part 335;

Retrain, reassign and reshape their workforce;

Choose whether to fill a vacant position from the outside or the inside, eliminate positions due to changes in programs, lack of funding, reduction in workload, reorganizations, privatization, ''divestiture,,'' or contracting out; establish personnel ceilings, or decide to re-employ a returning worker; determine the job or jobs to be eliminated in the context of a reduction in force, and unilaterally reassign employees to vacant positions in the agency;

Have additional management rights including: promotions; adverse actions, suspensions for 14 days or less; suspension for more than 14 days; removals; demotions, reductions in grade or pay; permit the return of a career appointee from the Senior Executive Service, SES to the GS or another pay system; the power to reassign, transfer, and detail or fire of a career SES employee; determine the substance of a position description, its performance standards of an employee's position, and award, or not award, performance payments;

Decide whether employees have earned pay increases known as ''step'' increases, based upon performance, and are able to grant employees additional financial ''incentive awards'' such as performance-based cash awards, special act or service awards, and quality step increases; and

Decide whether to award recruitment, retention, and relocation bonuses worth up to 25% of base salary.

In addition, the Lieberman substitute provides additional flexibilities Governmentwide. The Voinovich-Akaka amendment, which was included in the Lieberman substitute unanimously by the Governmental Affairs Committee, allows agencies to hire candidates directly and bypass the current requirements under Title 5 once OPM has determined that there is a severe shortage of candidates for the position.

This provision allows agencies to streamline its staffing procedures by authorizing use of an alternative method for selecting new employees instead of the traditional rule of three. This will make the Government more competitive with the private sector by improving the Federal hiring process. Under the new system, the agency may divide applicants into two or more quality categories based on merit and select any candidate from the highest category while maintaining veterans hiring preference.

The amendment provides Governmentwide authority for Voluntary Separation Incentive Payments and Voluntary Early Retirement Authority, two provisions currently in place in limited situations. The expansion of this authority would give agencies the flexibility required to reorganize the workforce should an agency need to undergo substantial delayering, transfer of functions, or other substantial workforce reshaping. The provision would allow agencies to reduce high-grade, managerial, or supervisory positions, correct skill imbalances, and reduce operating costs without the loss of full time positions.

To address the impending human capital crisis, the government will need to retain Federal employees with institutional knowledge. To assist in this effort, the amendment increases the cap on the total annual compensation of senior executive, administrative law judges, officers of the court, and other senior level positions to allow career executives to receive performance awards and other authorized payments.

The Akaka-Voinovich amendments also helps ensure that we have a world-class Federal workforce and can retain talented Federal employees who wish to continue their education. This provision reduces restrictions on providing academic degree training to Federal employees and requires agencies to facilitate online academic degree training.

As a result of the current flexibilities and those provided in the Lieberman substitute, it is curious why the President continues to demand additional flexibilities. As I have previously stated, studies indicate that the flexibilities at the Federal Aviation Administration and the Internal Revenue Service have not provided the intended results and employee morale is very low. With such uncertainty in additional flexibilities and the great importance of this new agency, I question the need for such a broad grant of power. I believe the existing flexibilities and the Voinovich-Akaka provisions provide agencies the tools that they need to manage effectively their workforce. I urge my colleagues to support the Lieberman substitute and vote for cloture.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Lieberman substitute amendment No. 4471 for H.R. 5005, Homeland Security legislation.

Jean Carnahan, Herb Kohl, Jack Reed (RI), Richard J. Durbin, Kent Conrad, Paul Wellstone, Jim Jeffords, Max Baucus, Tom Harkin, Harry Reid (NV), Patrick Leahy, Jeff Bingaman, Barbara Boxer, Byron L. Dorgan, Mark Dayton, Debbie Stabenow, Robert Torricelli, Mary Landrieu, Joseph Lieberman, Robert C. Byrd.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the Lieberman amendment No. 4471 to H.R. 5005, an act to establish the Department of Homeland Security, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO) is necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 49, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—50

Akaka	Dodd	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Cleland	Johnson	Schumer
Clinton	Kennedy	Stabenow
Conrad	Kerry	Torricelli
Corzine	Kohl	Wellstone
Daschle	Landrieu	Wyden
Dayton	Leahy	

NAYS—49

Allard	Frist	Nickles
Allen	Gramm	Roberts
Bennett	Grassley	Santorum
Bond	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Chafee	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Kyl	Thomas
Craig	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner
Enzi	Miller	
Fitzgerald	Murkowski	

NOT VOTING—1

Crapo

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Senator REED of Rhode Island be recognized for up to 10 minutes to speak as in morning business; that when he has completed his remarks, a quorum call be entered, and that when the quorum call is ended, the Senator from Connecticut, as manager of the pending legislation, be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Rhode Island.

THE ECONOMY

Mr. REED. Mr. President, I thank the Senator from Connecticut for his gracious intervention on my behalf. We

are debating today homeland security. We are also engaged in another significant debate about international security in the context of Iraq and the war on terror. But as Senator DASCHLE reminded us, we also have to be concerned about economic security in the United States.

Frankly, the economic numbers we have been seeing lately do not give much confidence to the American people that their economic security is being protected. As the vice chairman of the Joint Economic Committee, I have the opportunity to review, along with the staff, the reports that are coming in about our economy. It is clear that GDP is growing, but too slowly to make much of a dent in the unemployment rate. People who have lost their jobs face a much more difficult job market, and many are beginning to exhaust their unemployment benefits.

Everyone is facing increased premiums for health care. Employers are cutting back their contributions to health programs. They are being stressed in terms of adequately funding pension programs. These are the real concerns of Americans today all across this country.

When we look at the numbers, when we look at the reports, the conclusion is, obviously, we are still in an economic slump. Indicative of this are the figures I have on this chart. This is the record of job growth, but it is not growth at all, it is job loss during the Bush administration. In January 2001, there were 112 million jobs, today, August 2002, 110 million jobs—a loss of over 2 million jobs that have not yet been replaced in this economy.

The unemployment rate in August was 5.7 percent. That is one and a half percentage points higher than it was when President Bush took office. The number of unemployed Americans was more than 2 million higher in August than it was when President Bush took office, as indicated by this chart.

There is also another telling statistic that is within these unemployment numbers. The number of long-term unemployed Americans—those who have been unemployed more than 26 weeks—has increased significantly. This chart reflects that increase. In January of 2001, 648,000 Americans had been unemployed more than 26 weeks; in August 2002, 1,474,000 Americans were unemployed more than 26 weeks—a significant jump. It is significant not just in terms of numbers but in terms of something else: Americans exhaust their basic unemployment benefits after 26 weeks. Unless we have an extended benefit program in place, after 26 weeks American workers have no support as they look for jobs, as they try to support their families, as they try to make ends meet. This problem is not going away.

Although as part of the stimulus package we have passed extended benefits, they are scheduled to expire at the end of this year, so we have a real obligation in these remaining days to protect a basic tenet of economic security in this country, and that is to provide extended unemployment benefits.

The 1,474,000 will increase, and these individuals will not have the support they need to provide for their families. The little bit of growth we have seen so far is not going to head off a jobless recovery.

It should be noted that when President George Herbert Walker Bush was President and we were in a recessionary period in 1991, the unemployment rate rose another full percentage point in the 15 months after the GDP started to grow again. So we can likely see increased unemployment.

There are forecasters who have suggested our economic growth will be about 2.8 percent for the rest of the year—that is the Blue Chip consensus forecast—but the economy has to grow at more than 3 percent to generate the kind of new jobs that will reverse this unemployment situation. No consensus forecaster fully expects that type of growth going forth. As a result, most economists suggest and predict that unemployment rates will rise to 6 percent. Again, this is a real challenge to the safety and security of the American family, just as real as the threats we are debating in terms of homeland security and international security.

The conclusion, as one looks at these numbers and the economic performance from the time the President took over, is that President Bush's economy looks a lot like his father's economy. It is in recession, unemployment is growing, it will continue to grow, and yet there has not been an adequate response to this problem by the White House. He seems to have one proposal with respect to every economic question, and that is cutting the taxes of the wealthiest Americans.

As this chart indicates, this is the effect of the proposed tax cuts of President Bush, tax cuts that were enacted last year. At year 10, when they are fully realized, the average benefits, based on income level, will be as portrayed in this chart. The lowest 20th percentile of Americans will receive about $66 a year in benefits. It goes up to about $375 for individuals making around $20,000, $600 for those making about $39,000 a year. The real gain, the real benefit, goes to the very wealthiest Americans—$55,000 roughly, on average, for the top 1 percent. That is their annual savings for the tax benefits generated by the Bush tax proposal. This is not fair, and it is not smart. Unless we get all Americans participating fully in our economy, having the disposable income to go to the store to keep consumption up, to keep demand up, we are not going to have an economy that works for any American. Indeed, this is a glaring example of what some criticized Democrats for—class warfare. What is more unfair, inequitable, and slanted toward a class than this tax cut which favors the wealthiest Americans?

In addition to these tax numbers, we have to understand that these tax cuts have put enormous pressure on other programs that are decisive for every American, but particularly important for low-income Americans: Medicaid Programs, Medicare Programs, a host of other programs that need Federal support. That support has been strained dramatically because of the pressure of the tax cut.

We are at a point now where we have to act. We have to act in the very short run to restore extended unemployment benefits for the growing number of long-term unemployed Americans. We have to act, also, to resist the temptation to make all of these tax benefits permanent. However unfair this situation is, it will be compounded, and it will be compounded dramatically, if we make the tax cuts of the last year permanent.

We have to go ahead and focus on those issues that are critical to the welfare of the American family today, for their economic security today. We have to be concerned about pensions, their strength. We have to protect, I believe, Social Security, which is the bedrock of America.

I wonder how many employees of Enron and WorldCom and other companies 2 years ago would have considered their Social Security as just a trivial benefit compared to their expanded and ever-growing 401(k) plans. Today, I suspect, they see their Social Security benefit, their defined benefit, as a lifeline, allowing them to make ends meet, or at least giving them a little extra to get through.

We have to be strong in terms of protecting the bedrock program, Social Security. We have to be concerned about rising health care premiums and prescriptions drug costs. None of these problems can be addressed unless we provide the leadership, the resources, and the attention the American people demand.

Let me conclude by saying, again, there is at least one thing we must do in the next several weeks: Extend long-term unemployment benefits. Unemployment, long term, is growing. It will continue to grow for many months. American workers deserve the opportunity for some support as they look for new jobs. They deserve the opportunity to help their families as they get through a very difficult period of time.

I yield the floor.

MORNING BUSINESS

Mr. REID. Mr. President, under the previous order, we go into a quorum call and, following that, Senator LIEBERMAN will be recognized. I ask unanimous consent that the Senate now proceed to a period of morning business until 3 p.m. today, and, following the morning business being terminated, the Senator from Connecticut, Mr. LIEBERMAN, the manager of the bill, be recognized.

There is a lot of work going on regarding homeland security and different ways of moving forward. Senator LIEBERMAN and his staff and Senator THOMPSON and his staff and the two leaders have been working.

I also note that at 2 p.m. there is a gold medal ceremony in the Capitol Rotunda for General Shelton. I think the time would be well spent if we were not working directly on the bill so people would not have to worry about procedure.

I ask unanimous consent we go into morning business until 3 p.m., and at 3 p.m. Senator LIEBERMAN be recognized, and during that period of morning business the majority and minority have equal time of 10-minute limitations.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VIOLENCE IN THE MIDEAST

Mr. WARNER. Mr. President, in the past 24 hours the world awakened again to another tragic incident causing great damage, death, harm, and destruction to the people of Israel. There are now news reports that, understandably, the Israelis are positioning their forces such that they, first and foremost, have to defend their sovereignty and the people of their nation, but that could again result in injury and death to others.

Regrettably, this has gone on for a very long time. Speaking for this one Senator, I feel it as an obligation on me, and I share that obligation with my colleagues, to address this subject and to put forth our own ideas as best we can fashion them. I am about to do that again. For the fourth time I have taken this floor and spoken about a concept I have had. I once again share it with my colleagues in hopes, if they have a better idea, if this administration has a better idea, then put it forward.

My thoughts were expressed on the floor on May 2 of this year in the CONGRESSIONAL RECORD, page 3812; June 21, CONGRESSIONAL RECORD, page 5891; July 24, CONGRESSIONAL RECORD, page 7299.

On August 2, roughly 6 weeks ago, I wrote the President of the United States. Copies were sent to his principal Cabinet officials having responsibilities in these areas. I am going to read that letter because it embraces my thoughts. Even though it was 6 weeks ago, I still steadfastly believe this is one approach to this tragic situation that deserves consideration.

I fully understand our President and his Cabinet are heavily engaged with regard to critical considerations on Iraq and the United Nations. But I believe there is a connection between the ongoing crisis and the unsettled situation and the death and destruction in this tragic conflict between Israel and the Palestinian people.

Six weeks ago I wrote to the President. This is the first time, of course, I have made public this letter. I respect the President of the United States of whichever party. In these 24 years I have been privileged to be in the U.S. Senate, I have written on occasion, as each of us do, to our Presidents. But I try not to write the letter and within the same day or days release it. So this is the first time I have released this letter. It was 6 weeks ago, August 2 of this year:

DEAR MR. PRESIDENT, the Nation recently celebrated our traditional 4th of July holiday—normally a time of joyful reflection about our history and patriotism. Thankfully, it was a peaceful day for America, but we entered that holiday period confronted with yet more warnings off possible terrorist attack. It is, indeed, prudent that our citizens be warned of such threats, even when specifics are lacking. However, if these warnings continue indefinitely, our people will begin to wonder what is the root cause of this hatred toward America and what is our government doing about it.

For the first time in the over 200 year history of our Republic we, under your leadership, are establishing a Department of Homeland Security and designating a new military command, U.S. Northern Command, to protect the fifty states. We've taken bold steps at home; others must join us in taking bold steps abroad.

As we all know, the scourge of terrorism in our 21st Century world is a complex, multifaceted problem. There is not a single cause, but many, including: disparate economic development around the world; lack of political and economic opportunity in many regions; the alarming spread of radical, fundamentalist religious dogma's—especially Islam—amongst those feeling disenfranchised from the mainstream; and, the parallel rise in ethnic conflict after decades of oppression by Communist and other tyrannical regimes.

In this environment of perceived hopelessness and despair for many of the world's youth, certain seemingly unsolvable events continue to fan the flames of anger and hatred that lead to irrational acts. This is manifested in the individual acts of terror we witness almost daily on the streets of Israel and in the recruitment of angry young men and women into radical terror organizations that encourage them to vent their anger in the most destructive, often suicidal, of ways.

Finding solutions for the conditions that have bred this hate and total disregard for peaceful solutions will be complex, but it must be systematically addressed. Clearly, you and key members of your Administration have shown, and continue to show leadership in this area.

But, we must ask the question, can more be done by others?

The prolonged Israeli-Palestinian conflict contributes, in part, to the unrest and anger in the Arab world. How much it contributes cannot be quantified, but it is a significant and growing factor. This conflict, often presented in a distorted and biased manner to citizens of Arab nations, must be confronted, if we are ever to meaningfully address the disaffection and dissatisfaction felt by the people of this region.

Each act of violence by either side in this unending conflict further erodes hope for a peaceful future for the people of Israel, the people of Palestine and others throughout the Middle East. In fact, each act of senseless violence in the Middle East further erodes hope that someday we can feel secure from terrorism here at home. All reasonable options to bring about an end to this violence and indiscriminate loss of life must be considered. We can never abandon hope. We must act in a way to renew hope in this land of faith, and we must continue to consider all options.

May I respectfully submit the following concept for your consideration concerning the use of NATO peacekeepers. My recommendation would be for you to request that the North Atlantic Council (NAC) formally consider a proposal to use NATO forces as peacekeepers. If the concept is acceptable to the NAC they could commence to draw up a plan for peacekeeping. Once consensus had been achieved within the NAC, the NAC would so advise the Government of Israel and the Palestinian Authority, making it clear NATO would assist, only if the two sides establish a genuine cease fire, and both sides accept NATO's plan. Further, both sides must commit to cooperate in preventing further hostilities until negotiations have been successful to the point that NATO forces could be withdrawn and a substitute security plan has been put in place. Obviously, these steps are and will be very challenging, but they are achievable, especially in light of the bold, balanced vision you have articulated for a resolution of this conflict.

The basic thoughts in this letter have been stated by me previously in speeches on the floor of the Senate, and in my remarks to a recent gathering of NATO ambassadors on Capitol Hill, and in open hearings of the Senate Armed Services Committee with the Secretary of Defense present. Time is of the essence. I am concerned that recent events in the region, including the unfortunate Israeli attack that killed women and children as Israeli forces pursued Palestinian terrorists and the subsequent terrorist attack on Hebrew University, will further delay meaningful progress toward peace.

I strongly encourage you to explore this option with our NATO allies, and determine if they are willing to consider such a proposal. The time for discussion and consensus building is now. When the conditions for a cease fire and negotiations are right, we must be able to act quickly and decisively with a credible peacekeeping force.

I believe a NATO force would be credible for the reason that Europe is perceived as being more sympathetic to Palestinian views and the U.S. as more sympathetic to Israeli views. NATO can bond these viewpoints to act as one with peace as its unifying goal, and dispel these perceived biases. NATO troops are trained and ''ready to roll'' on short notice. NATO is an established coalition of nations with a proven record of successful peacekeeping in the Balkans. Clearly, there are risks, but NATO peacekeepers can—with the cooperation of Israel and the Palestinian people—bring stability to this troubled region; stability that will allow for meaningful negotiations that have a chance to end the violence.

This is not a conclusion that I have reached lightly. Some of my colleagues in the Senate, as well as noted journalists and others, have discussed with me the broad issues associated with this proposal. Mine has been one of the many voices calling for well-defined principles and restraint in the employment of U.S. forces around the world. I fully recognize the risks to U.S. forces and our alliance partners. I strongly feel this is one of those unique circumstances that demand every resource and idea we can bring

to bear. If the opportunity arises, we must be prepared to give peace and hope a chance.

I respectfully submit these thoughts as you forge ahead and lead the world's efforts to find a path to peace for this important region of our global community, and in so doing, enhance the security of our people here at home. It is my fervent hope that by the time we pause to celebrate our nation's next birthday, the fledgling ideas we are collectively considering today will have blossomed into substantial progress toward freedom from the senseless violence we are witnessing today.

With kind regards, I am respectfully.—John Warner.

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

[From the Washington Post, Sept. 14, 2002]

NEVER MIND, MR. SHARON

Most of three months has passed since President Bush laid out his vision for resolving the Israeli-Palestinian conflict, and still there has been next to no follow-up by his administration. No. Cabinet-level officials have visited the region since the president's speech; despite pleas from the Arab leaders Mr. Bush asked for support, no details have been offered on how to move from the present situation to Mr. Bush's vision of side-by-side Israeli and Palestinian states. On the contrary: Despite Mr. Bush's announcement of an international effort to reconstruct Palestinian security forces, the CIA has taken only token steps to train new officers; despite the president's clarion call for Palestinian democracy, the administration has quietly joined Israeli Prime Minister Ariel Sharon in opposing the holding of Palestinian national elections anytime in the near future. In effect, what the president cast on June 24 as a major initiative for Middle East peace has all but vanished; in its place is a suddenly all-consuming campaign against Iraq that could soon lead to a new Middle East war. Vice President Cheney, among others, is arguing that overturning the regime of Saddam Hussein will make an Israeli-Palestinian settlement easier, but even if that is true, what is not clear is how a conflict that has cost more than 2,000 lives in the past two years, and is a primary source of Muslim grievance against the United States, can be contained between now and then.

In the now familiar absence of Bush administration engagement, halting progress has been made by the parties on the ground. There have been no major Palestinian suicide attacks against Israelis in six weeks, despite several attempts; both the Israeli army and the Palestinian administration claim credit, and both probably had something to do with it. Attempts by Palestinian political and military leaders to change the direction of their self-destructive uprising against Israel, and to force Palestinian leader Yasser Arafat to yield most of his power, continue in spite of Mr. Arafat's strong resistance; this week the legislative body of the Palestinian Authority delivered an unprecedented rebuff, forcing the resignation of Mr. Arafat's cabinet. The more moderate Labor Party ministers in Mr. Sharon's cabinet have been trying to negotiate incremental security agreements with the Palestinians, and there are signs of revival in the long-moribund Israeli peace camp.

But Israeli troops occupy six major West Bank towns and significant parts of the Gaza Strip, imposing curfews and other restrictions on movement that aid agencies say are breeding a mounting humanitarian crisis. Israeli forces killed more than a dozen innocent Palestinian civilians in the past two weeks, including several children; a hasty official investigation cleared the soldiers of any wrongdoing. Israeli settlement-building in the territories continues; Mr. Sharon refuses to rein it in, just as he rejects any discussion of Palestinian statehood or any negotiations—even with a post-Arafat leadership—about a permanent peace. For his part, Mr. Bush clearly remains unwilling to do or say anything that would cross Mr. Sharon. That reluctance largely explains his administration's failure to act on his broad promises of last June; in the coming months, it could also prove a serious impediment to building a coalition against Iraq.

Mr. WARNER. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

THE BUDGET AND THE ECONOMY

Mr. CONRAD. Madam President, appropriately, there has been a great deal of discussion over the past week about the fiscal status of the country, the condition of our budget, and our national economy. I would like to take a few minutes to respond to some of the false claims that have been made by the Bush administration and by some Members of the Senate over the last 10 days.

First, I would like to respond to some of the remarks made by the President when he was at a fundraiser in Iowa on Monday. The President said the following there. He said:

[W]e have a budget that focuses on setting priorities and focuses on getting us back to a balanced budget. But there has been no budget out of the United States Senate. They haven't passed a budget. They have no plan to balance the budget. . . . It's of concern, because if you have no budget, it means there's no discipline. And if there's no discipline, it's likely that the Senate will overspend.

If there was ever a case of someone accusing another of their own shortcomings, this is it. My grandmother once told me: Sometimes what people say about others reveals more about themselves than it does of those who they seek to characterize.

This is that circumstance. These comments by the President, I find deeply disturbing. It is unfortunate that the President continues to deny any responsibility for the Nation's dive back into deficits and for increasing debt.

Instead, he desperately tries to blame others for the deficits that his own policies have created.

Let's look at the President's first claim, that he and the House Republicans have a plan that ''focuses on getting us back to a balanced budget.'' No, they do not. That is not true. The President must know it is not true. They have no plan that gets us back into balance. In fact, the plan they have drives us deep into the deficit swamp. That is the truth.

You will recall 1 year ago, the President told us, with great confidence, that we could expect $5.6 trillion of surpluses over the next decade. We warned, at the time, that that was a risky gamble, that one could not count on a 10-year forecast, that there was enormous risk associated with it.

The President insisted not only that there was going to be $5.6 trillion of surpluses over the next decade, but he and his administration told us privately that there is probably going to be much more money than that.

We said: No, we think it is highly unlikely that we will see that level of surplus.

And just 1 year later, what we find is, if the President's spending and tax policies over the next decade are adopted, instead of $5.6 trillion of surpluses, we will see $400 billion of deficits. The President says it is the fault of the Democrats, that they are spending the money.

Madam President, this will happen without a dime of spending by Democrats. These numbers only include the President's own proposals for spending and additional tax cuts. They lead us from a circumstance of last year being told we had nearly $6 trillion of surpluses to one in which we now see $400 billion of deficits, if his policies are adopted.

In many ways, this is the best case scenario because it does not take into account that the President will be using trillions of dollars of Social Security money on top of this.

This chart shows—I will put it in the RECORD; I know it is too small to read from afar—but one can see the red. The red are the deficits. If you don't count Social Security money, if you don't take Social Security money, as the President proposes, and use it for other things, we see red ink throughout the entire rest of the decade. In fact, over $2.7 trillion of money is being taken from Social Security to pay for other things under the President's budget plan. That is a recipe for fiscal disaster. And it is the President's plan, make no mistake about it.

I ask unanimous consent the chart I just referred to be printed in the RECORD.

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

CHANGES IN BASELINE SURPLUS AND DEFICIT TOTALS, JANUARY 2001–AUGUST 2002

[In billions of dollars]

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002–11
Total CBO surplus—January 2001	313	359	397	433	505	573	635	710	796	889	5,610
Total CBO surplus/deficit—March 2002	5	6	61	111	135	175	213	263	309	454	1,733
Total CBO surplus/deficit—August 2002 [1]	−157	−145	−111	−39	15	52	88	133	177	323	336
Total CBO surplus/deficit with President's proposed budget policies	−157	−159	−138	−76	−44	−23	−2	36	70	108	−386
Without Social Security	−315	−329	−326	−282	−268	−265	−264	−245	−230	−211	−2,734

[1] The CBO baseline projection assumes no change in current policies governing taxes or entitlement spending and that discretionary appropriations in FY 2003 through FY 2011 will equal the level enacted for FY 2002 (including FY 2002 supplemental appropriations), adjusted for inflation.

Source: CBO estimates of January 2001, March 2002, and August 2002 baselines. SBC estimates of President's budget based on CBO baseline estimates and the President's proposed policies.

Mr. CONRAD. The President, again, says the problem is spending. Let's look at what the nonpartisan Congressional Budget Office tells us is the reason for this disappearance of the surplus. Nearly $6 trillion of projected surplus from last year, gone. There is nothing left. If we adopt the President's budget and spending plan, there are no surpluses, only deficits, some $400 billion. And that is the good news because that assumes that the President takes every penny of Social Security surplus over the next decade. So the real deficits are much worse than the $400 billion that I have shown under the President's plan. The true deficits, not counting Social Security, not taking Social Security money to use it for other purposes, is not $400 billion; it is $2.7 trillion.

Where did all the money go? Here is what the Congressional Budget Office told us.

Thirty-four percent of the disappearance of the surplus went to the tax cuts the President pushed through Congress that were passed last year, and that he signed into law.

Twenty-nine percent is from overestimations of revenue by his administration; that is, outside of the tax cuts. So revenue is down 63 percent, not counting lost revenue from the economic downturn; it accounts for 63 percent of the disappearance of the projected surpluses. Twenty-two percent of the disappearance is because of spending, spending on national defense and homeland security. That is where the increases have been. The President supported every penny of those increases in spending. That is where the money has gone. In addition, 15 percent of the disappearance of the surplus is the result of the economic downturn. That is where the money has gone.

For the President to assert it is Democrats who have been overspending is not supported by the facts. The facts are, the overwhelming reason for the disappearance of the surplus is the tax cuts the President proposed and pushed through Congress. The second biggest reason for the disappearance of the surplus is his administration's overestimates of revenue apart from the tax cuts. The third biggest reason is spending on defense and homeland security, every penny of which the President supported. And the smallest reason for the disappearance of the surplus is the economic downturn.

The President, regrettably, is pointing fingers at everyone else but refusing to acknowledge his own responsibility for this dramatic turn in the fiscal condition of the country. The President says: It is the attack on the country and the economic slowdown.

Those are two reasons, but, in fact, they are the smallest reasons for the disappearance of the surplus. The biggest reasons are the tax cut he pushed and his overestimations of revenue. Those are his responsibilities and his failures.

Remarkably, the President's answer to all of this is to advocate more tax cuts. Let's dig the hole deeper. We already see an ocean of red ink over the next decade. We see under the President's plan the taking of over $2 trillion from Social Security to pay for his tax cuts and other things. And the President's answer is: Let's have more tax cuts, $400 billion more in this decade for making the tax cuts passed last year permanent, and a cost in the next decade of $4 trillion.

I hope people are listening. I hope people are thinking about the implications of this. We already face an ocean of red ink. And what the President is proposing is, let's get it bigger; let's have more red ink.

The PRESIDING OFFICER. The Senator has used 10 minutes.

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

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

Mr. CONRAD. Madam President, if we adopt the President's proposal, this country will be digging a hole so deep that we will face enormously difficult choices in the future: massive cuts in benefits, massive tax increases, huge debt, unsustainable, all of them. But that is the direction the President has us headed in fiscal policy.

I know people are distracted and thinking about war with Iraq and thinking about a war against terrorism. And those command our attention. But we must also pay attention to the fundamental financial strength of America. The President has us on a disastrous fiscal course, with deficits all the rest of this decade, the President is proposing making them much deeper in the next decade, right at the time the baby boomers retire.

We must understand, we are in the sweet spot of the fiscal future of America. Right now the trust funds of Social Security and Medicare are throwing off huge surpluses. Yet under the President's plan, all that money, every dime of it over the next decade, is being taken and used for other purposes, used to fund the tax cuts, to pay for other priorities.

What is going to happen when these baby boomers retire and they are eligible for Social Security and Medicare? This is not a matter of projections. The baby boomers have been born. They are alive today. They will retire, and they will be eligible for Social Security and Medicare. But they are going to find the cupboard is bare because the President has advocated and pushed through Congress a policy that uses all of the money.

Let's now consider the President's second claim that the Senate has no budget plan. We reported out of the Senate Budget Committee back in March a 10-year plan that would have made available to the President all of the resources requested by him for defense and homeland security, but still we paid down as much as $500 billion more in debt than the President's budget. To say we have no plan is simply wrong. We have a plan, a very clear plan, a very detailed plan that also contained a circuitbreaker to put the Nation back on a path to balance without raiding the Social Security trust funds and to do it within 5 years.

I would like to do it this year but that is no longer possible. But it is critical we adopt a plan that does return fiscal responsibility. We have presented that plan. It has passed the Budget Committee. Sadly, our counterparts in the House, instead of adopting a 10-year budget plan, as is traditional, as the President proposed, that could have been sent to a conference with the Senate, the House of Representatives passed only a 5-year plan. Why? Because they wanted to hide the enormous cost in the second 5 years of the President's plan to make the tax cuts permanent and to add even more tax cuts.

Further, the House used overly optimistic OMB numbers instead of the Congressional Budget Office projections of costs and revenues; again, misleading the American public as to our true financial condition.

The House set spending for such priorities as education and law enforcement and highway construction at levels so low that the House Republican leadership can't even get their own Members to vote for the appropriations bills on the floor of the House of Representatives. They want to wait until after the election because they know they dare not go to the American people with proposals to do such things as the President proposed as cutting the highway program 27 percent or virtually eliminating the COPS Program

that has put 100,000 police officers on the street. How wise is it to eliminate the COPS Program when we are subject to terrorist attacks?

These factors have made it virtually impossible for the House and Senate to ever reach agreement on a budget resolution this year.

In June, in the Senate, a group of us, on a bipartisan basis, offered a budget agreement for the next year containing the key elements of what the Budget Committee proposed, including the setting of realistic spending limits and renewing expiring budget enforcement mechanisms so we could maintain fiscal responsibility.

What did the Bush administration do? They engaged in a furious lobbying effort against it—against setting a realistic cap on spending, against extending the budget enforcement procedures to help maintain fiscal discipline. It seems shocking now to hear the President say he is worried about deficits because he and his administration blocked the efforts to protect us against those very events.

The fact is that we got 59 votes for that proposal on a bipartisan basis. We needed a supermajority, which is 60. Even though we had 59, we needed 60. So that spending cap wasn't put in place and we did not get the budget enforcement procedures extended.

The bottom line is that we set a realistic and appropriate spending cap. The administration is opposing it in a desperate attempt to look fiscally conservative given the massive deficits that have returned on their watch. Yesterday, one of my colleagues came to the floor and complained that spending is too high and it is the reason for the return to deficits.

The place where spending has increased is in defense and homeland security, every penny of which the President asked for, every penny of which passed here with huge, bipartisan majorities. Those measures that are still pending will pass with huge bipartisan majorities.

While it is true that defense and homeland security spending has gone up, it is very important to put into context what has happened to overall Federal spending over the last 20 years. What one sees is overall Federal spending—going back to 1980, it was 22 percent of GDP. In the previous Bush administration, it was close to 22 percent of gross domestic product. It has come down to 18.4 percent. Federal spending has been coming down as a share of our national income.

It is true we have now had a blip up. We have had that blip up because of the attack on America. Yes, we have increased defense spending; yes, we have increased homeland security spending—at the request of the President of the United States. He was right to do so. Even with that, we see—looking ahead—a decline in the share of national income coming to the Federal Government.

Federal spending, while certainly a part of this calculation and a contributor to the increased deficits because of the increases for national defense and homeland security, is not the major reason for the return to deficits and the increasing debt. It is a reason, but it is a relatively small reason.

The same can be said of discretionary spending, which is for all of the things that are not mandatory. Mandatory spending is Social Security, Medicare, farm program—that is mandatory spending. Discretionary spending is for things such as parks, roads, law enforcement, and defense. You can see that discretionary spending has come down quite sharply since 1981.

Again, we see a blip up because of homeland security and national defense. It is also quite remarkable to see members of this administration complaining about the discretionary spending cap we proposed when they are coming out at the same time estimating that a war against Iraq could cost literally hundreds of billions of dollars.

Just this Monday, we saw the President's chief economic aide say the cost of the war with Iraq may top $100 billion. More than that, Mr. Lindsey dismissed the economic consequences of such spending, saying, ''It wouldn't have an appreciable effect on interest rates or add much to the Federal debt, which is already about $3.6 trillion.''

I am from North Dakota. In North Dakota, $100 billion is still real money. That is big money. The President's Chief Economic Adviser—maybe it is part of the reason we are in such financial straits as we are, because this man doesn't understand the significance of $100 billion. He said it really makes no difference. On the other hand, they say $9 billion more so that we don't cut the Federal highway program by 27 percent, so we don't eliminate the COPS program, so we don't cut education—that $9 billion is a disaster, but $100 billion doesn't matter. That is a policy that does not add up.

So where has the Bush fiscal policy left us? The fact is that the surplus is gone. The Federal debt has come roaring back. You will remember that last year the President promised us he would have maximum paydown of the Federal debt. Now we see that that is not true either. The debt held by the public in 2008, he told us last year, would be virtually eliminated. Now we see, instead of having virtually no debt, we are going to be stuck with $3.8 trillion of debt. That has serious consequences for the country.

The President, who said he would have maximum paydown of the national debt, came and asked for a maximum increase in the debt limit. In fact, the only larger request for an increase in the debt limit came from his father when he was President. He asked for a $915 billion increase in the debt. This President asked for $750 billion. The consequences of this enormously increased debt—increased from what we were told last year—is that the interest costs to the Federal Government have tripled, from $620 billion, over the next 10 years, to $1.9 trillion. These policies have real consequences, and real effects, and real impacts on our national economy.

Last year, the President said maximum paydown of the debt. Now what we see under his policy, instead of maximum paydown of debt, is that we will have maximum taking of money from the Social Security trust fund to pay for other things. In fact, the remarkable reality of what we confront is that the President, under his plan, will take every penny of the Social Security surplus over the next decade to pay for his tax cuts and other things. This is the time when we are on the brink of the retirement of the baby boom generation.

This is what we face in the longer term. Right now, the trust funds of Social Security and Medicare are throwing off large surpluses. But that money is being taken under the President's plan to pay for other things, including his tax cut. And we know that, starting in the year 2016, these trust funds go from cash positive to cash negative, and they do it in a very big way. We need to get ready for this reality. That is why we proposed less of a tax cut, more money to paying down debt, more money to secure the long-term solvency of Social Security. The President rejected that plan in a reckless way and has put us on a fiscal course that means more deficits, more debt, more economic insecurity, higher interest rates, lower economic growth, lower employment.

It is critically important that there be a balance in what we do in Washington. It is not healthy to have only one side to a debate. That is what we have seen in the last week. It is time for our side to speak up, to stand up, and to fight back because much is at stake for our Nation.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I rise to address a forest issue, but since Senator WYDEN and I have worked closely on this, I ask unanimous consent that his remarks directly follow mine.

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

Mrs. FEINSTEIN. I thank the Chair.

FOREST MANAGEMENT

Mrs. FEINSTEIN. Madam President, for some time now, Senator WYDEN and I have been working together to try to put forward a compromise amendment on two amendments which are on the Interior appropriations bill. One amendment is by Senator BINGAMAN; the other by Senator CRAIG.

At present, both amendments need 60 votes. Neither amendment has 60 votes. Both amendments deal with a very real emergency in American forests today. It would be a tragedy if we could not use this appropriations bill as an opportunity to move a plan forward to do

the emergency work we need to do to protect our people, our property, our forests, and our endangered species from the risk of catastrophic fire.

Right now, 190 million acres of public lands are at high risk of catastrophic fire. That is 190 million acres, and 73 million of these are in the highest fire risk category, called class III. Of that class III, 23 million acres have been designated by both the Forest Service and the Department of Interior as in vital need of emergency treatment. Those are the strategic areas that need hazardous fuels taken out of the forests to avoid catastrophic fire.

Today in America, moderate to severe drought covers 45 percent of the Continental United States. It is predicted that El Nino is returning, which means we can expect volatile weather patterns, more pronounced rainfall, more pronounced drought. All of this will only exacerbate the risk of catastrophic fire.

It is estimated that this is the third hottest summer on record in the United States. To this fact, we are adding that 2002 looks as if it is going to turn out to be the worst fire season on record in the United States.

This year, 6 million acres of land has burned. That includes nearly a half a million acres in California, and because we have an Indian summer, we are not out of the forest fire season yet.

More property will be lost, more vital habitat for endangered species will be destroyed, and more people will be in greater danger if we do not do something. We have firefighters laying down their lives on these fire lines in some of the worst fires we have ever experienced.

Today, fires burn hotter, faster, and more intensely than ever, and there is a reason for this. The reason is because of forest policy which is what has been called fire suppression. That means you go in and suppress the fires as soon as they begin. Of course, that takes a lot of money, and we have used over $1 billion just fighting these fires. It does not prevent a future fire from happening, but I believe fire suppression has to become the policy of the past rather than the policy of the future because what is happening in our forests is that we have an unprecedented buildup of materials on the ground, so-called biomass, fuels in plants and bushes.

We have a lot of nonnative species now springing up where certain ancient trees are fire resistant, such as the giant sequoias, for example. If other trees grow up among them, they become fire ladders so that when a fire starts, it has the fuel on the ground. It has the new young trees to use as ladders, and the fire whooshes up, hits the canopies of the old trees which are, for the most part, the habitat of endangered species and the greatness of our ancient forests.

The question comes up: How do we work at this? Senator WYDEN and I have chosen to see if we can put together a compromise between the Craig amendment and the Bingaman amendment which will allow us to move for the 1 year that is the life of the fiscal year 2003 Interior appropriations bill vigorously to treat some of those areas.

The areas that we would treat really is very small. Our recommendation would be up to 7 million acres out of the 24 million acres. We know the forest departments are going to try to do at least 2 million acres. What we are saying to them is: This next year triple your activity, move rapidly. Then we try to set the parameters of that emergency movement.

For a moment, I wish to share some of those parameters.

We make a number of findings in our amendment that document and reflect the emerging conditions we find in our forests, and I will talk about that in a moment. But the amendment establishes a 1-year pilot project to enable the Bureau of Land Management and the Forest Service to move rapidly to treat up to 7 million of the 24 million acres in those strategic areas.

Our amendment would have directed all of the work to be only on those lands at the highest danger level of catastrophic fire. It would stipulate that 70 percent of hazardous fuels reduction projects be done either within one-half mile of a community—that is what is called urban wildland interface—or within municipal watersheds. Those are the watersheds where the fire risk to the ecosystem is the greatest. So 70 percent of the program would be concentrated in the areas where we know there is the greatest risk. The urban interface has been broadly agreed to. There is some question on the watershed areas.

Having said that, for many States, rural States in particular, the only way they are going to get any emergency treatment is if we include these watershed areas because this is where they generate the big fires. These are, obviously, the more rural States. California can certainly use all of its funds just within urban interface, but that is not true for more rural States.

Our amendment would also allow the administrative appeals process to be truncated for these areas. What we are trying to do is speed things along, and we estimate this would save at least 135 days. Any fuels reduction projects, such as thinning or brush removal, within a half mile of any community would be excluded from what is called NEPA, the National Environmental Policy Act, thus preventing these projects from being stalled indefinitely. I think there is broad agreement about that.

I think the environmental community understands the need to work quickly in areas very close to communities and very close to property.

Additionally, any temporary injunctive relief, whether it is a TRO, which is limited in days, we know, or a preliminary injunction, which can go on for a substantial period of time—this is a big give on our part. This is, I think, for Senator WYDEN—and he will speak for himself—but certainly for me this is the last best offer to try to get an accommodation with the other side of the aisle. What we did was say that any temporary injunctive relief, preliminary injunction, or TRO, would be limited to 60 days with the authority to renew each temporary injunction without limitation.

What we believe it would do is cause the judge to reflect on our findings in the legislation, on the emergency situation, and on the problems directly on the ground at the time.

I understand my time is up. I ask unanimous consent for an additional 5 minutes.

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

Mrs. FEINSTEIN. This means in situations where the risk of fire is absolutely the greatest and projects are being held up in the courts, a judge must consider changing circumstances and whether to renew a preliminary injunction. Anybody filing an administrative appeal to a hazardous reduction project would be required also to raise the issue before the close of notice and comment; in other words, to have some standing to bring an appeal, not just to be able to jump in after all the periods have closed and go to court.

These were two of our biggest gives in the interest of trying to gain 60 votes. I truly do not think there is anything else we can do. These are very big concessions, at least as far as I am concerned, and I think that is echoed by Senator WYDEN as well.

I will quickly outline some of the additional safeguards in our amendment. There would be no road construction in any inventoried roadless area. An ecologically sufficient number of old and large trees would be maintained for each ecosystem; and for fuels reduction projects, agencies would be required to do all thinning from ground level up. This means that thinning would start with small trees and brush at ground level and act as a safeguard against the cutting of larger trees. And in special, or what is called extraordinary circumstances, such as areas with endangered species or tribal issues or where archeological findings may lie, the exclusions from the normal process do not apply.

Additionally, I will speak for one moment about the four findings in our amendment because they underlie the problems we are facing.

Firstly, in 2002, we find that approximately 6.5 million acres of forest land have burned, 21 people have died, and 3,079 structures have been destroyed. We find the Forest Service and Bureau of Land Management have spent a billion dollars fighting these fires. We find 73 million acres of public lands are classified in the highest risk of catastrophic fire. We find that forest management policy of fire suppression has resulted in an accumulation of fuel

load, dead and dying trees, infested trees, nonnative species, creating fuel ladders that allow fires to reach the crowns of large old trees and cause catastrophic fires. Fourthly, we find the U.S. Forest Service and the Department of the Interior should immediately undertake an emergency program to reduce the risk of catastrophic fire. Obviously, the emergency program is confined to those areas I spoke about.

In closing, I thank, first, Senator WYDEN. I also thank Senator BINGAMAN, Senator DASCHLE, Senator CRAIG, Senator DOMENICI, Senator KYL, and Senator BURNS, all of whom have spent an inordinate amount of time trying to reach some agreement.

I restate my belief that the forest fires raging throughout the Western United States represent one of the most severe crises facing our Nation. The devastation has and will continue to be immense. It is the greatest human and ecological threat now facing virtually every Western State. This is a crisis that transcends the issue of party politics, and I deeply regret our inability to reach a meaningful compromise, at least at this time. Because the Interior appropriations bill will be on the floor at least for the next few days, I urge my colleagues on both sides of the aisle to continue to seek a consensus and I, for one, remain open to one.

I am sorry we do not have an agreement to report, but I want to end by thanking Senator WYDEN for his leadership. He has a State that has glorious forests, as do I. He has been wonderful, and I hope there is a change and we may be able to work something out together.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, let me begin by expressing my thanks to Senator FEINSTEIN. I still hope the Feinstein wisdom will prevail upon the Senate and we can get to common ground on this contentious issue. I want my colleague to know how much I appreciate the many hours and nights we have been at this, shuttling back and forth between our offices and the offices of Senator CRAIG and Senator BINGAMAN.

I share the Senator's commitment that, despite the news we have to deliver that there is no compromise today, we are not going to give up and we expect to revisit this issue in the Senate again soon. I thank my colleague for all her leadership, and particularly for her passion on this issue.

When I came to the Senate, I never felt very comfortable when the news media said I was elected to fill the seat of Senator Morse or Senator Packwood. That is because I do not think the people of Oregon send someone to the U.S. Senate just to fill a seat. The people of Oregon send someone to the Senate to work for what is right. That is what they expect of their Senators: to do what is right and take your lumps. They can live with that.

With that in mind, Senator FEINSTEIN and I have now spent certainly 6 or 7 weeks trying to help find the common ground in the Senate for a balanced, narrowly focused bill to address the fire threat in our forests. We knew it would be a difficult task when we took it on, and it has certainly lived down to that promise.

This is what the Senate faced, as Senator FEINSTEIN and I tried to move forward. On the one hand, there is one camp of considerable passion that, unfortunately, would be willing to use this summer's horrendous fires to deny citizens the right to seek justice in a court of law or to severely limit those rights. In another camp, there have been many who have said we will accept no changes in these laws whatsoever, even changes that will benefit the environment. Their position, as far as I can tell, is that there is practically a constitutional right to a 5-year delay on forest management decisions.

Given these two camps, Senator FEINSTEIN and I, optimists by nature, said we know there are Senators who want to try to come together to find the common ground. We set out to do it. Unfortunately, as of this afternoon, it seems the Senate is not willing to seize the common ground which Senator FEINSTEIN and I believe is within the Senate's grasp.

Today, in a front page article of the Oregonian newspaper it was suggested that the Bush administration does not think it needs congressional authorization to pursue a solution to the forest health problem. My sense is they agree with Senator FEINSTEIN and myself that the use of, for example, what are called categorical exclusions offers a way to expedite the process required to reduce fire threats and restore diseased and damaged forests. The administration plans to pursue categorical exclusions though history shows there have been successful court challenges to administratively created categorical exclusions in the past. We believe the American people and the forests would have been better served with narrow specific congressional authorization of categorical exclusions—but, due to the lack of a compromise, that congressional action, as of this afternoon, will not happen on this bill.

Though, as we worked over the last few weeks, it seemed a core group Senator FEINSTEIN, Senator CRAIG, Senator BINGAMAN, Senator DOMENICI, and others—were very close to a compromise, we did not get there.

Instead, the result has been so many pieces of stray paper floating around Washington, the country, and the internet, as well as a whole host of poorly informed rumors. So much misinformation is out there that I have posted our joint Feinstein/Wyden proposal on my Web site so that people will see what it is we have sought to do to try to bring the Senate and our constituents together. I will touch on that proposal just briefly.

First, we allow the use of broad categorical exclusions to thin and salvage in the most fire-prone areas within the urban-wildland interface and allow the use of somewhat narrower categorical exclusions to manage fire-prone lands in other areas.

Second, we require people who may want to file an administrative appeal on a project at a later date to participate in the public comment process on that project.

Third, we require judges to periodically review temporary injunctive relief granted and to review those injunctions with updated information every time a project is brought before the court.

My sense is the administration could have accepted the proposal Senator FEINSTEIN and I have pursued—but not enough Senators could see their way there.

If Members want to get something done, they are going to have to take some political risk. I am not here to blame anyone. Senators have worked in good faith. However, I do not think it is too much to ask Senators to take a political risk to solve this critical problem so that families and forests are not facing the ultimate risk of devastating fires summer after summer.

There should be no confusion on this point. Unless there is some willingness on the part of the Senate to take the kind of political risk necessary to find common ground, we will see these devastating unnatural fires summer after summer after summer, as sure as night follows day.

There were a host of obstacles to a compromise today, though in the past we have been able to find common ground. Senator CRAIG and I, for example, led an effort in this body to write the county payments law, a critical law that is used to offer billions of dollars for rural communities to pay for services and schools. People said that could not be done. The Forest Service now calls it the most important law for that agency in 30 years. Senator CRAIG and I came together more recently to try to advance an old growth protection proposal for the Pacific Northwest, though we have a lot more work to do in that arena. My point is, it is possible to find common ground.

I am going to try again, probably a lot sooner than some people think or may want, on this issue. But I do know that two Democrats, despite all the pushing and pulling, do not make a winning hand in the Senate.

Senator FEINSTEIN and I faced some big challenges. I opposed those who hold out for a major overhaul of the judicial process on this bill, though, due to its controversial nature, that approach is not going to allow us, any time soon, to address the risk of fire. We opposed others who may want to grant very broad forest management exemptions for projects conducted within municipal watersheds. That will also make it impossible to find common ground and a compromise.

But like I said earlier, I don't want to blame anyone today. Certainly, with all the misinformation out there about what I have done and supposedly not done or said during the last few weeks—and I am sure other Senators feel the same—this is not a time to offer a litany of charges with respect to any Member of this body.

My bottom line is this: I hope these efforts, laborious though they have been, can someday soon yield fruit. Toward that end, I thank a number of colleagues. Senator CRAIG has worked in good faith, and certainly closely with me. I hold him in the highest regard. Senator FEINSTEIN, as I have already mentioned, was there night and day working on this issue and I appreciate her efforts. Senator DASCHLE and Senator BINGAMAN went out of their ways to try to accommodate Senator FEINSTEIN and me. For their efforts, I am appreciative, as well.

I chair the Subcommittee on Forests and Public Land Management. In Oregon, we have had tragic fires. I have been consumed by this day after day after day. I wish we were in the Senate today saying we had found the common ground. I think it is possible to do it. The Senate cannot leave this subject for too long and will return to it after this bill is done in some form or another. Too many lives and too many communities will be devastated if the Senate washes its hands of this issue. I am committed to working with all my colleagues, on a bipartisan basis, day after day after day, until this gets done.

I hope one day soon I will be able to come to the floor of the Senate and participate with my colleagues on something that all Members can believe is a positive step forward to make sure these treasures, our forests and lands across this country, are managed properly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

FORESTS

Mr. MURKOWSKI. Madam President, I congratulate my colleague from Oregon and my colleague from California for the effort to try to reach a rationalization relative to the decimation of the forests in the Pacific Northwest.

I am frustrated with regard to the extended negotiations associated with forest health. Any Member, if we are stricken, seeks the very best advice. We do not hold a townhall meeting. We seek out a specialist, a specialist who obviously is well trained, a specialist who bears the brunt of a suit if there is malpractice associated with the care given.

If I may draw a parallel, we have very sick forests. They are sick as a consequence of well-meaning environmental pressures to basically terminate access into the forests, which has always been provided by logging. Many people assume that old growth has always been. They overlook the reality that a forest is similar in many respects to a field of wheat. If it is harvested, it regenerates.

Depending whether selective logging is used or clearcut logging, the appropriate procedure is reforestation. Reforestation occurs by individually planting trees or it can be done by natural reseeding, which is much the case in my State. But we prolong this argument and take it beyond the realm of addressing in a timely manner the necessary correction. The necessary correction associated with our forests as a consequence of the tremendous exposure of fires is the management of underbrush that is predominant in the second growth. If that is not cleared, why, clearly we expose ourselves to complications associated with a huge fire moving through an area very rapidly and the inability to go in and fight it because we have eliminated access in much of our national forest.

So I beseech my colleagues to consider the ramifications. Let's make these decisions not on emotion; let's make them on the best forest management practice. We have foresters who spend a lifetime in the area of forest health. We have to listen to those people; otherwise, we are kidding ourselves and we are kidding the public. We should be taken to task by the public for not directing this corrective result.

While well-meaning environmental groups say let nature take its course, that is not, if you will, in the opinion of many of us, the appropriate procedure. We can help nature. We can help our forests. The forests are there, and we should recognize that we use the forests. They are a place of recreation; they are a place of productivity. If we have fires, we should take what the salvage capabilities are in the forests and move that timber out while it still has some value.

It is very frustrating to the Senator from Alaska. We have fires in the interior. The Tongass is a very wet area and we have few fires. But to see this debate go on and on with no conclusion, no recognition that decisions should be made on the basis of forest health, is extremely frustrating. I hope my colleagues will consider the bottom line. Let's make a decision on what is good for forest health.

DRAFT JOINT RESOLUTION TO AUTHORIZE THE USE OF U.S. ARMED FORCES AGAINST IRAQ

Mr. MURKOWSKI. Madam President, I am going to briefly turn to another matter, and that is the recognition that today OPEC announced they were not going to increase the production of oil from the OPEC nations. What does this mean? It simply means that as we look at going into a showdown with Iraq, the Mideast nations that control oil—basically OPEC—are not going to increase production. That means to the American consumer a continuation of high gasoline prices, high oil prices, perhaps well beyond $30 a barrel.

We have seen the development of that cartel over a period of time. It initiated a program that said, in effect, if the price fell below $22 a barrel, they would reduce supply to stabilize the price. They wanted a price structure of $22 to $28. That puts a tremendous burden on the structure of our society and our economy.

It is rather revealing to recognize that as we continue to address our situation with Iraq, we also continue to import oil from Iraq. I think currently we are importing about 600,000 barrels from Iraq each day.

We have delivered from the White House to the Speaker, majority leader, minority leader, as well as the House minority leader, a transmittal, which is the consequences of discussions with the President, identifying a suggested form of resolution with respect to Iraq. I ask unanimous consent this be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, September 19, 2002.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

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

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

Hon. RICHARD A. GEPHARDT,
Minority Leader, House of Representatives, Washington, DC.

DEAR SPEAKER HASTERT, LEADER DASCHLE, LEADER LOTT, AND LEADER GEPHARDT, As a follow-up to your discussion yesterday morning with the President, we enclose a suggested form of resolution with respect to Iraq. We stand ready to meet with you or your staffs to discuss our proposal.

As the President indicated to you, it is our hope that we can reach early agreement on the proposal at the leadership level to allow you to proceed to consider the resolution in your respective chambers as soon as possible.

Sincerely,

NICHOLAS E. CALIO,
Assistant to the President for Legislative Affairs.

ALBERTO R. GONZALES,
Counsel to the President.

JOINT RESOLUTION TO AUTHORIZE THE USE OF UNITED STATES ARMED FORCES AGAINST IRAQ

Whereas Congress in 1998 concluded that Iraq was then in material and unacceptable breach of its international obligations and thereby threatened the vital interests of the United States and international peace and security, stated the reasons for that conclusion, and urged the President to take appropriate action to bring Iraq into compliance with its international obligations (Public Law 105–235);

Whereas Iraq remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations, thereby continuing to threaten the national security interests of the United States and international peace and security;

Whereas Iraq persists in violating resolutions of the United Nations Security Council by continuing to engage in brutal repression of its civilian population, including the Kurdish peoples, thereby threatening international peace and security in the region, by refusing to release, repatriate, or account for non-Iraqi citizens wrongfully detained by Iraq, and by failing to return property wrongfully seized by Iraq from Kuwait;

Whereas the current Iraqi regime has demonstrated its capability and willingness to use weapons of mass destruction against other nations and its own people;

Whereas the current Iraqi regime has demonstrated its continuing hostility toward, and willingness to attack, the United States, including by attempting in 1993 to assassinate former President Bush and by firing on many thousands of occasions on United States and Coalition Armed Forces engaged in enforcing the resolutions of the United Nations Security Council;

Whereas members of al Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq;

Whereas Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of American citizens;

Whereas the attacks on the United States of September 11, 2001 underscored the gravity of the threat that Iraq will transfer weapons of mass destruction to international terrorist organizations;

Whereas the United States has the inherent right, as acknowledged in the United Nations Charter, to use force in order to defend itself;

Whereas Iraq's demonstrated capability and willingness to use weapons of mass destruction, the high risk that the current Iraqi regime will either employ those weapons to launch a surprise attack against the United States or its Armed Forces or provide them to international terrorists who would do so, and the extreme magnitude of harm that would result to the United States and its citizens from such an attack, combine to justify the use of force by the United States in order to defend itself;

Whereas Iraq is in material breach of its disarmament and other obligations under United Nations Security Council Resolution 687, to cease repression of its civilian population that threatens international peace and security under United Nations Security Council Resolution 688, and to cease threatening its neighbors or United Nations operations in Iraq under United Nations Security Council Resolution 949, and United Nations Security Council Resolution 678 authorizes use of all necessary means to compel Iraq to comply with these ''subsequent relevant resolutions;''

Whereas Congress in the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1) has authorized the President to use the Armed Forces of the United States to achieve full implementation of Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677, pursuant to Security Council Resolution 678;

Whereas Congress in section 1095 of Public Law 102–190 has stated that it ''supports the use of all necessary means to achieve the goals of Security Council Resolution 687 as being consistent with the Authorization for Use of Military Force Against Iraq (Public Law 102–1),'' that Iraq's repression of its civilian population violates United Nations Security Council Resolution 688 and ''constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region,'' and that Congress ''supports the use of all necessary means to achieve the goals of Resolution 688'';

Whereas Congress in the Iraq Liberation Act (Public Law 105–338) has expressed its sense that it should be the policy of the United States to support efforts to remove from power the current Iraqi regime and promote the emergence of a democratic government to replace that regime;

Whereas the President has authority under the Constitution to take action in order to deter and prevent acts of international terrorism against the United States, as Congress recognized in the joint resolution on Authorization for Use of Military Force (Public Law 107–40); and

Whereas the President has authority under the Constitution to use force in order to defend the national security interests of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the ''Further Resolution on Iraq''.

SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

The President is authorized to use all means that he determines to be appropriate, including force, in order to enforce the United Nations Security Council Resolutions referenced above, defend the national security interests of the United States against the threat posed by Iraq, and restore international peace and security in the region.

Mr. MURKOWSKI. This contains a number of ''whereas's.'' It is transmitted by the Assistant to the President for Legislative Affairs and the Counsel to the President. At the conclusion of the resolution that is going to be before this body is a joint resolution cited as ''Further Resolution on Iraq.'' I will read the ''resolved'' portion:

The President is authorized to use all means that he determines to be appropriate, including force, in order to enforce United Nations Security Council Resolutions referenced above, defend the national security interests of the United States against the threat posed by Iraq, and restore international peace and security in the region.

We undoubtedly will be addressing this issue in the very near future. I encourage my colleagues to recognize the significance of what this obligation means to each and every Member of the Senate. We know Saddam Hussein is unpredictable. We know he is dangerous. We know he has weapons of mass destruction. We know he has used those weapons—certainly chemical warfare—on his own people.

I had an opportunity several years ago, with a small group of Senators, to visit Baghdad. Later we had an opportunity to meet with Saddam Hussein. His ruthlessness was apparent at that time.

To reflect a little bit on that particular time, there was at issue an allegation that Iraq was importing a delivery capability consisting of a huge cannon-type device that had been intercepted in the docks of London. This was going to have the capability of delivering a projectile farther than any projectile had ever been delivered by conventional methods, as opposed to a missile-type system.

There was allegedly a triggering device also found on the docks of London. When we confronted Saddam Hussein, he advised us these were parts for his refinery, these were technical developments by the Baghdad Institute of Technology. This was prior to the Persian Gulf war.

My point is, he has been misleading, if you will, the Western World for an extended period of time and continues to do so. The announcement he made that he would welcome U.N. inspectors is a guise. He will not allow U.N. inspectors to have free rein in his country, and we will clearly see this as we continue the process of evaluating our position.

But we have an opportunity now to fish or cut bait. We are going to have this resolution before us. I encourage each and every Member of the Senate to review it in detail and recognize the insecurity of our Nation oil supply. Currently, we are importing somewhere close to 60 percent of our oil, primarily from the Mideast. We have the capability of reducing that dependence here at home. It is an issue in my State. ANWR has been debated in this Chamber. It has been supported by the House but not the Senate.

The technology that we have to develop this area is evident. To suggest we can do it safely is something that most people with an objective view would recognize clearly. The reserves are as much as we would import from Saddam Hussein in 40 years or from Saudi Arabia in 30 years.

This matter is in the conference. It is being discussed. It will be determined by the conference as to what the disposition will be. But I encourage Members to recognize that we have an opportunity to take a position that would affirmatively reduce our dependence on imported oil and send a very strong message to the Mideast that we intend to reduce that dependence.

Recognize that we do have an alternative. I think in future times, as we address our continued vulnerability and dependence on the Mideast, we are going to have to assert ourselves to find some relief. That relief partially might be in the joining together of Canada, Mexico, the United States, Alaska, and Russia as an offset to our dependence on imported oil from the Mideast. While we do not have the depth of reserves, we have substantial reserves collectively. The idea of an energy group made up of those nations could clearly send a message to the Mideast that we will not be held hostage by policies of the cartel which are designated to simply maintain high prices for oil by continuing to keep the availability of oil at a minimum.

As this matter comes before the Senate for further discussion and consideration, as well as the conference, I urge my colleagues to keep an open mind and recognize that, again, we are going to have to vote not on what is necessarily the litany of America's environmental community but what is right for America. To suggest we should not have these jobs in the

United States as if we do not have the technical capability to open up this area safely is not fraught with any degree of accuracy but it is simply misleading arguments that environmental groups continue to use to generate revenue in dollars.

I encourage each Member to recognize the obligation that we have. That obligation is do what is right for America. What is right for America is to produce more energy and and to produce clean energy here at home.

One of the inconsistencies we have is that nobody seems to really care where they get the oil as long as they get it. They do not concern themselves with whether it comes from a scorched Earth, lack of any environmental oversight a field in Iraq, or from fields in Saudi Arabia, or from the rain forests of Colombia. They only care if they get it.

As I have said time and time again, the world will continue to depend on oil, because that is what the world moves on. We have no other alternative.

Some people suggest we have alternatives, but hot air is not going to move us in an out of Washington, DC, although occassionally there is quite a bit of it here.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, under the order previously entered, the Senator from Connecticut is entitled to the floor. I ask unanimous consent that Senator KERRY be recognized, and that he be allowed to speak for—how long does the Senator from Massachusetts wish to speak?

Mr. KERRY. A few minutes.

Mr. REID. Up to 15 minutes.

Mr. KERRY. Not more.

Mr. REID. And following that, I would advise the Senate that we will be in a position, at that time, to ask unanimous consent to proceed with legislation today, tomorrow, and Monday, and maybe into Tuesday. The two leaders have worked this out. It is now being drafted, and the two floor staffs have agreed on what the language should be. It is being typed now, and we should be back in 15 minutes, following the statement from the Senator of Massachusetts.

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

Mr. REID. Mr. President, the business before the Senate is the homeland security bill; is that right?

The PRESIDING OFFICER. That is correct.

Mr. REID. Does the clerk need to report that or is it automatic?

The PRESIDING OFFICER. The clerk does not need to report that.

The Senator from Massachusetts is recognized for 15 minutes.

Mr. KERRY. Mr. President, thank you very much. And I thank the distinguished assistant majority leader.

UNANIMOUS CONSENT REQUEST—S. 2734

Mr. KERRY. Mr. President, I am going to be asking unanimous consent to proceed forward on the bill, but I am not going to do that until someone is here from the other side. And I know they are going to object, or most likely will object.

But let me bring to the attention of my colleagues in the Senate a situation that is not dissimilar to a situation we faced some months ago in trying to provide emergency assistance, under the Small Business Administration, to those who had been affected by the events of September 11 of last year.

We had a lot of small businesses in the country that were hurting that had collateral damage, if you will, as a consequence of those events. Many, many small businesses were dependent on the economy as it flows through all sectors. So whether it was a small drycleaner that was affected because they were not doing as much business because hotels were not doing as much business or a limousine company or a taxi company, there are many people who were affected tangentially because of the dropoff in air travel, and so forth.

It took us a number of months, almost six, unfortunately, in the Senate to respond in a way that many of us thought was both appropriate and adequate. And, again, we are sort of running into a strange kind of unexplained resistance by the administration to something that makes common sense, is very inexpensive but also very necessary for a lot of small entrepreneurs in our country. I am specifically referring to the Small Business Drought Relief Act.

In more than 30 States in our country, we have a declared drought emergency. And the drought is as significant in some places as it was during the great Dust Bowl years of the Depression in the United States.

Drought hurts more than farmers, more than ranchers. The purpose of this bill is to try to provide some emergency assistance, in an affordable and sensible way, for those small businesses that are not in agricultural-related fields but desperately cannot get help, and need it, and cannot get it because the SBA does not apply the law uniformly for all victims of drought.

The SBA makes disaster loans to small businesses related to agriculture that are hurt by drought, but they are turning away small businesses that are in industries unrelated to agriculture, and claiming that those businesses are not entitled to it because drought does not fit the definition of disaster.

That is just wrong. It is wrong because the law does not restrict them from making loans to those small businesses. It is wrong because that is not the intent of the Congress to turn away those small businesses, and they should be following the law and following the intent of Congress.

I might add that the SBA has in effect right now disaster declarations in 30 States that I just talked about. For instance, in South Carolina, the entire State has been declared a disaster by the SBA, but the administration is not helping all of the drought victims in South Carolina that are looking for help.

Let me share with you the declaration of drought itself. It addresses this question of intent.

> Small businesses located in all 46 counties may apply for economic injury disaster loan assistance through the SBA.

Let me read to you from the declaration:

> Small businesses located in all 46 counties may apply for economic injury disaster loan assistance through the SBA. These are working capital loans to help the business continue to meet its obligations until the business returns to normal conditions. . . . Only small, non-farm agriculture dependent and small agricultural cooperatives are eligible to apply for assistance. Nurseries are also eligible for economic injury caused by drought conditions.

What do I mean by other businesses that may be affected by drought? In South Carolina, conditions are so bad that small businesses dependent on lake and river tourism have seen their revenues drop anywhere from 17 to 80 percent. So you have victims of the drought that range from fish and tackle shops to rafting businesses, from restaurants to motels, from marinas to gas stations. Their livelihood is no less impacted and no less important than those who have been deemed to fit under only the agricultural definition.

Thousands of small businesses make their living in tourism, recreation industries, not just in South Carolina but in many other parts of the country, including my State of Massachusetts, in Texas, Michigan, Delaware, and elsewhere.

In fact, for a lot of States around the Great Lakes Basin, sport fishing, as reported by the Committee on Small Business and Entrepreneurship, brings into the region some $4 billion a year. There are many industries that are dependent on water that are affected by drought, and they ought to be eligible for this help.

Is this opening Pandora's box with respect to a flow of lending that we cannot afford? The answer is definitively no. The SBA already has the authority, but its lawyers have decided not to help these industries based on their own interpretation of a definition, despite the fact that Congress believes otherwise.

That defies both common sense and fairness. Small businesses with everything on the line desperately need this,

especially at a time when capital is a lot tighter for working capital purposes, where the lending is significantly tighter from the banks and from other traditional credit sources.

Our bill, the drought relief bill, does not expand the existing program. It simply clarifies existing authority. That is a matter of common sense.

In terms of cost, the Congressional Budget Office estimates a cost of about $5 million annually. What we have here is a resistance by somebody in the U.S. Senate to allowing this to go forward based on about a $5 million annual estimate by CBO.

This chart of CBO's estimate is a tally of the estimated spending under the SBA's disaster loan program which shows the differential with this particular bill.

This bill is bipartisan. The principal cosponsors are Senator BOND and Senator HOLLINGS. All the members of our committee—the Committee on Small Business and Entrepreneurship—voted in favor of this bill. There are 25 cosponsors, Democrats and Republicans; 17 Governors have written us to express their support of this legislation in hopes we will pass it, including 15 of the Southern Governors' Association.

I ask unanimous consent that letter, and others, be printed in the RECORD.

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

SOUTHERN GOVERNORS' ASSOCIATION,
Washington, DC, August 19, 2002.

Hon. JOHN KERRY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: We are deeply concerned that small businesses in states experiencing drought are being devastated by drought conditions that are expected to continue through the end of the summer. We urge you to support legislation that would allow small businesses to protect themselves against the detrimental effects of drought.

Much like other natural disasters, the effects of drought on local economies can be crippling. Farmers and farm-related businesses can turn in times of drought to the U.S. Department of Agriculture. However, non-farm small businesses have nowhere to go, not even the Small Business Administration (SBA), because their disaster loans are not made available for damage due to drought.

To remedy this omission, Sen. John Kerry (D–Mass.) introduced the Small Business Drought Relief Act (S. 2734) on July 16, 2002, to make SBA disaster loans available to those small businesses debilitated by long drought conditions. This bill was passed by the Senate Small Business Committee just eight days later. Also, the companion legislation (H.R. 5197) was introduced by Rep. Jim DeMint (R–S.C.) on July 24, 2002. Both bills are gaining bipartisan support, and we hope you will cosponsor this important legislation and push for its rapid enactment in the 107th Congress.

As 11 southern states are presently experiencing moderate to exceptional drought conditions this summer, we cannot afford to wait to act. We urge you to cosponsor the Small Business Drought Relief Act and push for its consideration as soon as possible.

Sincerely,

Gov. Don Siegelman of Alabama, Gov. Mike Huckabee of Arkansas, Gov. Roy E. Barnes of Georgia, Gov. Paul E. Patton of Kentucky, Gov. M.J. ''Mike'' Foster, Jr. of Louisiana, Gov. Parris N. Glendening of Maryland, Gov. Ronnie Musgrove of Mississippi, Gov. Bob Holden of Missouri, Gov. Michael F. Easley of North Carolina, Gov. Frank Keating of Oklahoma, Gov. Jim Hodges of South Carolina, Gov. Don Sundquist of Tennessee, Gov. Rick Perry of Texas, Gov. Mark Warner of Virginia, Gov. Bob Wise of West Virginia.

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, July 9, 2002.

Hon. JOHN KERRY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KERRY: The State of South Carolina is in its fifth year of drought status, the worst in over fifty years. Some parts of the state are in extreme drought status and the rest is in severe drought status.

99% of our streams are flowing at less than 10% of their average flow for this time of year. 60% of those same streams are running at lowest flow on record for this date. The levels of South Carolina's lakes have dropped anywhere from five feet to twenty feet. Some lakes have experienced a drop in water level so significant that tourist and recreational use has diminished.

State and national climatologists are not hopeful that we will receive any significant rainfall in the near future. To end our current drought, we would need an extended period of average to above average rainfall.

Droughts, particularly prolonged ones such as we are experiencing now, have extensive economic effects. For farmers who experience the economic effects of such a drought, assistance is available through the USDA. For small businesses, assistance is available only for agriculture related small businesses, i.e. feed and seed stores. For businesses that are based on tourism around Lakes and Rivers, there is currently no assistance available.

We have reports of lake and river tourism dependent businesses experiencing 17% to 80% declines in revenue. The average decline in revenue is probably near 50% across the board.

My staff has contacted Small Business Administration and they are not authorized to offer assistance to these businesses because a drought is not defined as a sudden occurrence. Nonetheless, a drought is an ongoing natural disaster that is causing great economic damage to these small business owners.

I am requesting that you assist us in this situation by proposing that the Small Business and Entrepreneurship Committee take action to at least temporarily amend the SBA authorizing language and allow them to offer assistance to small businesses affected by prolonged drought. This would allow Governors to ask SBA for an administrative declaration of economic injury because of drought. The low interest loans SBA can offer these businesses would allow many of them to weather the drought and remain in business for the long run.

My staff has also been in contact with Senator Hollings' legislative staff. I hope together, we can find an expedient solution to the plight of these small business owners. Short of finding a way to control the weather, this may be our only option to help their dire situation.

Sincerely,

JIM HODGES,
Governor.

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, NC, July 18, 2002.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: I am writing to urge your support for legislation recently introduced in the Senate to add drought as a condition for which small businesses may apply for Small Business Administration Economic Injury Disaster Loans.

The Small Business Drought Relief Act (S. 2734) will correct the current situation facing our small businesses in North Carolina. SBA disaster assistance is not available despite a historic drought that is impacting not just our agriculture sector, but causing real business and revenue losses, which threaten some firms with job layoffs or even bankruptcy.

These businesses need help, and access to low-interest SBA loans can offer a lifeline to allow paying bills and making payrolls until business returns to normal.

I urge you to push for rapid action on this important enhancement to SBA's ability to help our people through this time of trouble.

With kindest regards, I remain

Very truly yours,

MICHAEL F. EASLEY,
Governor.

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, NC, July 18, 2002.

Hon. JOHN EDWARDS,
U.S. Senate,
Washington, DC.

DEAR SENATOR EDWARDS: I am writing to thank you for your support for legislation introduced in the Senate to add drought as a condition for which small businesses may apply for Small Business Administration Economic Injury Disaster Loans.

The Small Business Drought Relief Act (S. 2734) will correct the current situation facing our small businesses in North Carolina. SBA disaster assistance is not available despite a historic drought that is impacting not just our agriculture sector, but causing real business and revenue losses, which threaten some firms with job layoffs or even bankruptcy.

These businesses need help, and access to low-interest SBA loans can offer a lifeline to allow paying bills and making payrolls until business returns to normal.

I urge you to push for rapid action on this important enhancement to SBA's ability to help our people through this time of trouble.

With kindest regards, I remain

Very truly yours,

MICHAEL F. EASLEY,
Governor.

OFFICE OF THE GOVERNOR,
July 23, 2002.

Hon. JOHN F. KERRY,
Chairman, Committee on Small Business, Washington, DC.

Hon. CHRISTOPHER BOND,
Ranking Member,
Washington, DC.

DEAR SENATORS KERRY AND BOND: Much of Nevada and the Nation have been experiencing extreme drought over the past several years. In Nevada we have seen the effects of this situation through catastrophic range and forest fires, insect infestations and loss of crops and livestock.

Prolonged drought causes a drastic reduction in stream and river flow levels. This can cause the level of lakes to drop so significantly that existing docks and boat ramps cannot provide access to boats. In the case of range and forest fires we have seen small innkeepers and hunting and fishing related

businesses that have their entire season wiped out in a matter of a few hours.

Unfortunately for some small businesses, drought assistance is available only for agriculture related small businesses, such as feed and seed stores. For businesses that are based on tourism around lakes and rivers, there is currently no drought assistance available.

The Small Business Administration (SBA) is not currently authorized to help these businesses because a drought is not a sudden occurrence. Nonetheless, a drought is an ongoing natural disaster that causes great damage to these small businesses.

I would like to lend my support to S. 2734, The Small Business Drought Relief Act. This bill would amend the guidelines and authorize the SBA to offer assistance to small businesses affected by prolonged drought. With passage of this bill, Governors would be allowed to ask SBA for administrative declarations of economic injury because of drought. The low interest loans SBA can offer these businesses would allow many of them to weather the drought and remain economically viable for future operation.

Sincerely,

KENNY C. GUINN,
Governor.

COMMONWEALTH OF KENTUCKY,
OFFICE OF THE GOVERNOR,
Frankfort, KY, July 23, 2002.

Hon. JOHN F. KERRY,
Chairman, Committee on Small Business and Entrepreneurship, U.S. Senate, Washington, DC.

Hon. CHRISTOPHER S. ''KIT'' BOND,
Ranking Member, Committee on Small Business and Entrepreneurship, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KERRY AND SENATOR BOND: As you know, much of our nation is struggling to overcome ''moderate'' to ''extreme'' drought conditions. Droughts, especially prolonged droughts, have extensive, devastating effects that damage crops and livestock, deteriorate soil, and fuel raging wildfires. These are only some of the irreparable effects that droughts can have on small businesses, communities, and state and local economies.

In general, federal disaster assistance is available for agriculture and agriculture-related small businesses that are impacted by drought. However, droughts hurt more than agricultural, forestry, and livestock businesses.

Prolonged drought also causes a drastic reduction in stream and river flow levels. This can trigger such a significant drop in the level of lakes that existing docks and boat ramps cannot provide access to boats, which impacts many additional small businesses.

As a result, many non-farm small businesses that are water-reliant also suffer staggering revenue losses in the wake of a drought disaster, yet they do not currently receive disaster relief. Unlike other natural disasters such as hurricanes or floods, the effects of drought build up over-time, last for several years, and are jeopardizing the future of these small business owners. The lack of federal disaster assistance available to these non-farm small businesses only forces undue job layoffs and bankruptcies and further disrupts drought-impacted communities.

I thank you for recognizing that many fish and tackle shops, rafting businesses, restaurants, motels, camp grounds, marinas, gas stations, and other small businesses in Kentucky and other states are severely impacted by drought but are unable to receive federal disaster assistance. I strongly support your resulting efforts, the Small Business Drought Relief Act (S. 2734), which would allow the Small Business Administration to offer low-interest disaster loans to these businesses and afford them the same opportunity as agriculture-related businesses to recover and survive.

I appreciate your assistance and support and look forward to working with you and your colleagues on this very important matter.

Sincerely,

PAUL E. PATTON,
Governor.

Mr. KERRY. This is a letter from the Southern Governors' Association, with 15 southern Governors signing and asking us to pass this assistance. They have sent letters to Members of Congress asking them to support and pass the bill.

Finally, we are not talking about grants. We are talking about loans. These are going to be repaid. The default record of the SBA over the last 10 years is really quite extraordinary on the positive side of the ledger. The question is whether we are going to look to small businesses that are equally hard working as anyone else in the country, who, like farmers, are suffering the economic consequences of a drought that is beyond their control.

I thank Senator BOND for working with me to try to address this problem. I thank Senator HOLLINGS, particularly, the chairman of the Commerce Committee, for introducing the bill with me. I am particularly grateful to the small business owners who have brought this issue to our attention and who hope we can break out of any partisan resistance within the Senate in order to do what is right.

I hope my colleagues will permit us to proceed forward on this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. 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. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 535, S. 2734; and that the Bond amendment, which is at the desk, be considered and agreed to; the committee-reported substitute amendment, as amended, be considered and agreed to; the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD at the appropriate place as if read, without further intervening business or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KERRY. Mr. President, my hope is, again, that Senators on the other side, who are also cosponsors of this bill, will assist us in trying to proceed forward because there is no rationale for delay—I underscore—there was an e-mail circulated by somebody with some gargantuan unofficial estimate of cost that has no relationship to any legitimate estimate that has been made here. The CBO estimate clearly demonstrates that this measure is sensible, with a cost of about $5 million a year.

What is happening is we are seeing a little bit of partisanship—maybe we are seeing a lot of it these last days here in the Senate. I hope we can overcome this in the next days. I look forward to working with Senator BOND and others to see if we can proceed forward on this legislation.

I yield the floor.

HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we all agree that one of the many important tasks of the new Department of Homeland Security will be protecting our country's computer infrastructure from cyber attacks. Computer technology is at the heart of our country's economy and has improved every aspect of our lives. Terrorists and others who wish to harm our country recognize that cyber attacks on our vital computer and related technological systems can have a devastating impact on our country, our economy and the lives of our people. The threat of cyber attacks, be it from foreign and/or domestic actors, is not new, but we all understand that the risks today are even greater.

The threat of a devastating cyber attack is real and the potential for harm is great.

A recent study found that cyber attacks on the Internet were projected to increase this year by as much as 65 percent. Just last year, two Russian hackers infiltrated American banks and businesses, stole private data, including credit card numbers, and extorted those companies by threatening to destroy their computers or release their customers' private information.

Since September 11, there has been growing concern about the risk to our country of a serious cyber attack, particularly one against our infrastructure which could have devastating consequences. Late last fall the FBI traced a suspicious pattern of surveillance against Silicon Valley computers originating from the Middle East and South Asia involving emergency telephone systems, electrical generation and transmission, water storage and distribution, nuclear power plants and gas facilities in the bay area. Recently, it was reported that energy companies have suffered a significant increase in cyber attacks—up 77 percent this year—which have raised concern that the country's power system may be within the cross hairs of cyber terrorists.

Given the vital role that computer and related technologies play in our

country's economy and infrastructure, it is not difficult to imagine an assault on a computer system which might cause death or serious bodily injury. For example, a hacker who infiltrates a hospital database to erase records may thereby cause a patient to be deprived of necessary medication or treatment. As another example, consider the possibility of a cyber attack on a natural gas distribution pipeline that opens safety valves and releases fuel or gas. Attacks on sophisticated control systems, such as those involving natural gas, oil, electric power and water, which typically use automated supervisory control and data acquisition systems, would have a far-reaching effect.

We have acted before when necessary to protect our country and our economy from cyberterrorists. The Patriot Act included several important provisions to improve our nation's cyber security in response to the increasing threats to our country. The amendment I am offering today continues that work.

The amendment I am offering today is noncontroversial, and was passed by the House, on July 15, 2002. The House bill, H.R. 3482, was sponsored by Representative LAMAR SMITH from Texas, and passed with overwhelming bipartisan support by a vote of 385 to 3. We need to act in the same bipartisan manner and pass this amendment.

The amendment will strengthen our criminal laws and provide greater flexibility to communications providers and law enforcement when necessary to prevent and protect against devastating cyber attacks. Specifically, the amendment would increase the criminal penalty in section 1030 of title 18 of the United States Code for a cyber attack to a maximum of 20 years imprisonment where such an attack causes serious bodily injury, and life imprisonment where such an attack causes death. Currently, section 1030 provides a maximum punishment of only 10 years imprisonment for a cyber attack which results in serious bodily injury or death.

The amendment directs the Sentencing Commission to review the Federal sentencing guidelines for cyber crimes to reflect the significant harm caused by such crimes and the need for deterrence. Such a review was not included in the Patriot Act, and is clearly necessary in light of the changes to the federal computer crime statutes contained in the act as well as in this amendment. Such a review based on the factors included in this amendment should give judges greater latitude to increase a defendant's sentence to better account for the seriousness of the cyber attack.

The amendment also includes provisions to give communications providers and law enforcement greater flexibility when dealing with emergency situations where there is a risk of serious bodily injury or death. Specifically, the amendment creates a ''good faith'' exception to allow communications providers to disclose communications to a governmental entity—e.g. hospital, law enforcement—in an emergency situation involving danger of death or serious bodily harm. The amendment also expands the list of ''emergency'' situations where law enforcement may obtain pen register and trap and trace information to include ongoing attacks on a protected computer and when necessary to protect national security interest. In order to address privacy concerns, the amendment includes increased penalties for illegal interceptions of cellular telephone calls and intrusions of stored communications.

Finally, the bill establishes the Office of Science and Technology as an independent office under the general authority of the Assistant Attorney General, Office of Justice Programs. This modification will help OJP to focus the necessary resources on the development of technology and hard science research. This measure will enhance OST's ability to assist state and local law enforcement in developing new cutting-edge technologies, such as computer forensics, firearms and ballistics technology, and crime mapping. Law enforcement is increasingly relying on new and innovative technologies, and we need to make sure that they have all of the tools available to fight terrorists and other criminals.

Mr. President, I urge my colleagues to join in support of my amendment. Once again, we need to demonstrate to our country that working together, in a bipartisan fashion, we can accomplish great things, and we can protect our country from the dangers of potentially devastating cyber attacks.

Mr. President, I pay special tribute to Senator SCHUMER from New York, who is a cosponsor, and tell him how much I appreciate the work of him and all the others who are cosponsors of this particular amendment.

The PRESIDING OFFICER. The assistant majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be laid aside and that Senator HATCH be recognized to offer his amendment dealing with cybersecurity; that Senator HATCH be allowed to speak for up to 5 minutes—and we have been informed there is no one on our side who wishes to speak on this matter—that there be no second-degree amendments in order; that at the conclusion or yielding back of time, the amendment be agreed to and the motion to reconsider be laid upon the table.

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

Mr. REID. Mr. President, if the Senator will withhold 1 minute, we are in the process of trying to work out the next step of our unanimous consent request. We think we are going to be able to do that. Senator THOMPSON is on his way to the Chamber.

If that is the case, the next amendment that will be offered in the next few minutes will be that of Senator LIEBERMAN and Senator MCCAIN. That should occur, hopefully, momentarily. That amendment will be debated tonight. The leader is expecting to vote sometime tomorrow morning before noon.

The PRESIDING OFFICER. The Senator from Utah is recognized.

AMENDMENT NO. 4693 TO AMENDMENT NO. 4471

(Purpose: To provide greater cybersecurity)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. SCHUMER, proposes an amendment numbered 4693 to amendment No. 4471.

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

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. HATCH. Mr. President, I yield back the rest of my time. Of course, the amendment will be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4693) was agreed to.

The PRESIDING OFFICER. The motion to reconsider is laid upon the table.

Mr. HATCH. 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. LIEBERMAN. 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. LIEBERMAN. Mr. President, I ask unanimous consent that the pending amendment of Senator BYRD be laid aside so I might offer another amendment.

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

AMENDMENT NO. 4694 TO AMENDMENT NO. 4471

(Purpose: To establish the National Commission on Terrorist Attacks Upon the United States and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself and Mr. MCCAIN, proposes an amendment numbered 4694 to amendment No. 4471.

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

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. LIEBERMAN. Mr. President, this is an amendment which embraces legislation that my friend and colleague

from Arizona, Senator MCCAIN, and I introduced last December and then joined up with similar legislation introduced by the Senator from New Jersey, Mr. TORRICELLI. Ultimately, we have 22 Members of the Senate from both parties who have joined as cosponsors of the legislation.

The underlying bill went to the Senate Governmental Affairs Committee, which I am privileged to chair, and was reported out favorably earlier this year.

This amendment now embraces that legislation. It would create an independent, nonpartisan citizens commission to investigate how and why the tragic terrorist attacks against the United States happened on September 11, 2001.

The underlying measure we are considering to create a Department of Homeland Security, to better organize the Federal agencies whose disorganization, I fear, created some of the vulnerabilities that the terrorists took advantage of in striking us on September 11, is a proposal that also came out of our committee.

This amendment would improve the Department that will be created as a result of the underlying proposal. Up until this time, the Joint Intelligence Committees of the House and Senate have been pursuing investigations focused particularly on how the intelligence community performed and what lapses there were in that performance that may have contributed to the attacks of September 11.

Senator MCCAIN and I, and our colleagues, introduced this measure last December because we believed, first, that there was a need now, after this truly unprecedented attack of September 11, 2001. People compare it to Pearl Harbor. It is comparable, but remember, Pearl Harbor was primarily an attack against Americans in uniform. September 11, 2001, was an attack against innocent civilians, a classic terrorist attack. After Pearl Harbor, there were investigations in Congress, not unlike the ones being carried out by the Joint Intelligence Committee. But there were also citizens' commissions involved to carry out broader investigations, and that is exactly what this commission, as created by this amendment now, would do, if adopted.

This commission would build on the work done by the Intelligence Committees which began their reports yesterday.

The testimony from the staff director of the committee, I found chilling, insofar as it reported that as far back as 1998, if I remember the date correctly, there was intelligence traffic intercepted that indicated that the al-Qaida terrorists were, in fact, discussing the use of civilian aircraft as weapons targeted against prominent buildings in the United States of America. Along the way, the Director of the CIA, so the testimony yesterday went before the Intelligence Committees, effectively declared an intelligence community war against al-Qaida but only assigned a single analyst to that task; there was intelligence information, of course, and law enforcement intelligence, not being coordinated.

Senator MCCAIN and I, as well as Senators TORRICELLI and SPECTER, met earlier today with some of the families of the people who lost their lives on September 11. The question they continued to ask is: How could this have happened and was it preventable? They strongly support the adoption of this independent commission. Why? Because they have had the heroic strength to turn their grievous loss into active advocacy for the kind of investigation that will go as far as we can humanly go to determine the causes of September 11 so we make sure it never happens again.

The commission, to be appointed by legislative leaders of both parties of both Houses, is to have 10 persons on it, not Government employees, not Members of Congress—an equal number of members of both political parties. They choose the chair and vice chair. This ought to be, and I am confident will be, a commission that will not consider itself in any sense limited or truly identified by party affiliation. This is a commission that will have a public purpose: To go beyond the focus of the Intelligence Committees; directed towards intelligence; to consider the widest array of possible causes of September 11; to look at our defense policies, our foreign policies, our international economic policies, our international public diplomacy policies, our intelligence, our law enforcement; to leave no stone unturned in trying to answer the question of how September 11 could have happened, so we make sure it never happens again.

It will have the credibility of an independent, nonpolitical, nonpartisan commission composed of a mix of citizens whose experience and capacity will bring great credibility to this report.

I am so pleased there has been a twist of fate and procedure, often quite important in this body, that has allowed us now to introduce this amendment. I am, therefore, honored to move its adoption.

I yield the floor.

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

Mr. MCCAIN. Madam President, I thank my friend, Senator LIEBERMAN, for the privilege of working with him on an issue that I think is of some importance. I appreciate again the fact that he moved this legislation through the committee of which he is chairman. At that time, the debate and the discussion lent weight to the passage of this legislation.

We are simply seeking a commission to investigate all of the factors that led to the tragic events of September 11. We believe there is more than an intelligence aspect of this scenario that needs to be addressed. We believe there were a variety of factors that need to be made known to the American people. Whether they be economic, diplomatic, intelligence, there are a number of factors which led up to the tragic events of September 11.

Obviously, the lawmakers and those who are involved so far in the investigation are not satisfied with the information we have received. There is an article in the Washington Post, dated Thursday, September 19, today, which says in part:

> Lawmakers from both parties yesterday protested the Bush administration's lack of cooperation in the congressional inquiry into September 11 intelligence failures and threaten to renew efforts to establish an independent commission.

The article continues:

> ''Are we getting the cooperation we need? Absolutely not,'' Sen. Richard C. Shelby (Ala.), the ranking Republican on the Senate Intelligence committee said in a joint appearance with Chairman Bob Graham (D-Fla). . . .
>
> Graham added: ''What we're trying to do is get people who had hands on these issues. . . .And what we're being told is: no, they don't want to make those kind of witnesses available.''
>
> Both Graham and Shelby yesterday endorsed the idea of independent panels. In his remarks at the start of the hearings, Shelby warned that ''there may come a day very soon when it will become apparent that ours must be only a prelude to further inquiries.''
>
> Shelby acknowledged that the congressional probe would be incomplete. ''I'm afraid if we try to publish at the end of this session a definitive paper on what we found, that there will be things that we don't know because we hadn't had time to probe them and we have cooperation.''

I quote Senators SHELBY and GRAHAM because they are two of the most respected Members of this body, the chairman and ranking member of the Intelligence Committee, both highly regarded in all areas but particularly in carrying out their responsibilities as members of the Intelligence Committee.

I go back for a second to the issue of what brought about September 11. I will give an example of a factor that needs to be examined which has nothing to do with any secret information or intelligence information.

In 1989, with the active help of the United States of America and our allies, the then-Soviet Union was driven out of Afghanistan. At that point in time, we, as a policy, the United States of America, turned our back on Afghanistan. We provided very little assistance, we paid very little attention, except to celebrate a great victory for the then-Afghan freedom fighters.

We all know what transpired in the ensuing 10 to 11 years. The Government of Afghanistan basically became a series of fighting warlords, and chaos prevailed throughout the Nation, and up came, as happens in history, a group called the Taliban that promised order to the people of Afghanistan. Over time they welcomed the Taliban and, of course, the Taliban assumed power. As part of their regime, they not only allowed but encouraged and provided help and assistance—all this is a matter of public record—to Osama bin

Laden. It was well known that Osama bin Laden maintained and built his terrorist training camps there, his financial network, and was the breeding ground for the terrorists, including those who hijacked the airplanes on September 11.

What is it that led the United States of America to make a policy decision that what happened in Afghanistan was not of sufficient concern to the United States of America and our policymakers to intervene at any time as this scenario unfolded? That is just one example of the areas that need to be explored.

Where was the economic aid? Did the United States of America, because of a variety of reasons, not encourage or even countenance the behavior of the Saudi Government? The Saudi Government, as we all know, is funding the Madrasas. They are giving money to the Islamic extremists who recruit young Middle Eastern men off the streets and teach them to hate the United States of America, our culture, our values, the West. Indeed, 15 of the 19 hijackers on September 11 were Saudi citizens. They were not uneducated. Many of them, as we all know, had received pilot training in the United States of America.

Why did the United States fail to realize that the Saudis, in the guise, perhaps, of being the guardians of the most sacred places of the Muslim Islamic religion, were funding very generously these radical Islamic elements whose influence spread all over the Middle East?

There was a tragic bombing of the Marine barracks in Beirut in 1983. What was the reaction of the United States to that, beside an eventual very rapid withdrawal from Beirut?

The U.S.S. *Cole*, in port in Yemen, was attacked by Islamic extremists. U.S. Embassies all over the world were attacked. What was the response of the United States to those tragedies?

My point is there is a broad variety of issues that need to be addressed. Those issues, as credible as the U.S. Congress is, need to be examined by the most respected people in the United States of America—men and women who have spent their entire lives in public service and are highly regarded by the American people whose assessment and evaluation and, most importantly, recommendations will be given enormous credibility by the Congress of the United States, the President of the United States and, most importantly, the people of the United States, who still are confused as to how these events came about to their great surprise, astonishment, and sorrow.

The makeup of the commission should be of the most respected people in America. Exactly who appoints who—the President, the majority leader—we have a formula in our bill, but we are willing to negotiate that. In a bipartisan spirit, we can select the most respected people in America to serve on this commission.

But let's have no doubt that a commission is called for, just as a commission was called for following December 7, 1941, when Franklin Delano Roosevelt felt that the United States of America was not too busy to appoint a commission to examine the events that led up to what he called the day that will live in infamy.

I thank Senator LIEBERMAN. I will quote from several articles that appeared in the newspapers in previous days that are bound to ratchet up concern and, in some cases, the frustration of the American people about this issue.

L.A. Times headline: U.S. Overlooked Terrorism Signs Well Before September 11:

A House-Senate panel report says al-Qaida was focusing on a domestic attack and the use of planes as far back as the mid-1990s.

New York Times editorial, September 19, 2002, ''While America Slept'':

The initial findings of a Congressional committee that has been reviewing the performance of America's intelligence agencies before Sept. 11 are profoundly disturbing. While the investigation has not found that the agencies collected information pointing to the date and targets of the attacks, it has discovered reports that Osama bin Laden and his followers hoped to hit sites in the United States and that they might employ commercial airliners as weapons. The response of spy organizations—and the government at large—was anemic.

One of the great unanswered questions has been whether the government had enough intelligence in the months before Sept. 11 to fear an imminent blow within the United States and to take aggressive steps to heighten security, especially at airports. The answer now appears to be affirmative. Investigators working for the Senate and House intelligence committees found numerous reports in the archives of the Central Intelligence Agency and other spy organizations suggesting that the bin Laden network was eager to mount attacks within the United States.

One of the articles here from USA Today is entitled ''Intelligence Fails.'' It is very curious:

Almost 3 years before the September 11 attacks, CIA Director George Tenet sent a memo to his deputies. ''We are at war against Osama bin Laden. I want no resources or people spared in this effort.''

I want to repeat what CIA Director George Tenet sent in a memo 3 years prior to September 11:

We are at war. . . . I want no resources or people spared in this effort.

But the article goes on to say that, by the morning of September 11, the war effort had yet to be mounted.

According to a report released Wednesday by the House and Senate in their first public hearing. . . . Lawmakers revealed CIA's Counterterrorism Center had just five analysts assigned full time to tracking bin Laden's network. The FBI put one lone al-Qaida analyst assigned to the agency's international terrorist unit. A lack of attention devoted to al-Qaida before 9/11 helps explain why the $30 billion a year spent on intelligence did not turn up the terrorist plot.

But the report raises new questions about the failure of the FBI and CIA to redirect resources from cold war enemies to new age terrorists.

The New York Times:

Despite DCI's declaration of war in 1998, there was no massive shift in budget or reassignment of personnel to counterterrorism until after September 11.

I ask unanimous consent that these articles I just quoted from be printed in the RECORD.

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

WHILE AMERICA SLEPT

The initial findings of a Congressional committee that has been reviewing the performance of America's intelligence agencies before Sept. 11 are profoundly disturbing. While the investigation has not found that the agencies collected information pointing to the date and targets of the attacks, it has discovered reports that Osama bin Laden and his followers hoped to hit sites in the United States and that they might employ commercial airliners as weapons. The response of spy organizations—and the government at large—was anemic.

One of the great unanswered questions has been whether the government had enough intelligence in the months before Sept. 11 to fear an imminent blow within the United States and to take aggressive steps to heighten security, especially at airports. The answer now appears to be affirmative. Investigators working for the Senate and House intelligence committees found numerous reports in the archives of the Central Intelligence Agency and other spy organizations suggesting that the bin Laden network was eager to mount attacks within the United States. There were also warnings that terrorists were considering using airplanes.

The accumulation of alarming evidence led George Tenet, the director of central intelligence, to tell his top aides in December 1998 that ''we are at war'' with Osama bin Laden and ''I want no resources or people spared in this effort.'' That was exactly the right reaction, but the mobilization of resources that followed did not match the threat.

The Congressional investigators learned that almost no one at the Federal Bureau of Investigation was aware of Mr. Tenet's declaration of war. On Sept. 11, the F.B.I.'s international terrorism unit had just one analyst to deal with Al Qaeda. Even the C.I.A. itself did not make major readjustments to evaluate the threat. The agency increased the number of analysts assigned full time to the bin Laden network from three in 1999 to five in 2001 before the attacks. Despite the indications that airliners might be used as weapons, including one August 1998 report that terrorists might fly a plane into the World Trade Center, intelligence analyst apparently made little effort to assess the aerial threat. The Federal Aviation Administration did not take the threat seriously.

Since Sept. 11, the C.I.A., F.B.I. and other agencies have poured resources into the fight against terrorism, and addressed many of the inadequacies depicted in the Congressional study. The findings underscore the urgent need for greater alertness, more coordination between agencies and the recognition that intelligence agencies must constantly be looking not just for familiar threats but also for new and unexpected methods of attacking America.

INTELLIGENCE FAILS

As the massive FBI investigation uncovers more details of the scope, complexity and long-term planning behind the Sept. 11 terrorist attacks, it is revealing an equally massive failure in the nation's counterintelligence efforts.

Earlier this week, the FBI suggested that two more planes might have been targeted for hijacking. That's on top of what is already known—that more than a dozen terrorists spent years training and preparing for the attack inside the USA, almost certainly with the help of many more accomplices. How could so many terrorists operate for so long in the U.S. piecing together a complex attack plan without detection?

President Bush took the first much-needed step to addressing that question Thursday with a call for a new Cabinet-level homeland-defense agency. It is a recognition of what many terrorism experts have long seen as a key weakness in national security, one that has left the country not just scrambling to piece together the Sept. 11 attack, but also wondering whether the nation's counterterrorism efforts will be able to detect the next attack before it is launched.

The nation's checkered history of tracking Osama bin Laden and anticipating the evil deeds later linked to his network is anything but reassuring.

Since the U.S. Embassy bombings in Tanzania and Kenya in 1998, the government has claimed that it is taking substantial efforts to root out bin Laden's terrorist network. As recently as June of this year, the CIA and Senate Intelligence Committee members were reassuring the public that bin Laden was being kept ''off balance'' and ''on the run.'' Yet this diligence didn't detect or deter either the Sept. 11 tragedies or the October suicide bombing of the USS Cole in Yemen, both of which were only later linked to bin Laden's terrorist network.

These missteps come as no surprise to terrorism experts. In recent years, studies by those inside and outside government have repeatedly warned that the intelligence system, built during the Cold War, was ill-suited to counter the modern terrorist threat. The focus was too much on monitoring troop movements and acquiring hardware and spying technology, not utilizing the kind of human intelligence needed to penetrate multinational, loosely organized terror cells.

Responsibilities have been spread across several federal agencies that don't always coordinate. As a December 2000 RAND report put it, the nation's anti-terrorism program ''is fragmented, uncoordinated and politically unaccountable.''

At the same time, reports were detailing the growing threat of massive attacks posed by rogue terrorists. The spread of technology made greater levels of destruction possible, and the advance of religious fanaticism made use of it more likely. As a June 2000 National Commission on Terrorism report noted, ''today's terrorists seek to inflict mass casualties, and they are attempting to do so both overseas and on American soil.''

With all efforts now devoted to tracking down leads in the wake of the Sept. 11 attack, law enforcement and intelligence communities have little time to analyze their failings. As CIA spokesman Mark Mansfield put it Tuesday, the agency ''won't be distracted'' by criticism.

That's fine. Their failings will get plenty of airing in Congress and elsewhere. The Senate Intelligence Committee has already promised hearings on the failure to detect the suicide hijackings.

More important, though, is that problems identified in these postmortems should be corrected. Recommendations made in the wake of previous attacks tended to result in piecemeal reforms. What's needed is a wholesale review of how the U.S. collects, studies and uses foreign and domestic intelligence. Preferably with an eye toward better coordination.

In this context, Bush's new Cabinet position makes perfect sense.

There are almost certainly other terrorist plots in the works designed to take advantage of previously identified weaknesses in the system.

Finding out who perpetrated the unimaginable horror inflicted on the U.S. last week is important. Preventing any future attacks on U.S. citizens is critical.

Madam President, there is an editorial from the Weekly Standard, ''Time For An Investigation.''

If President Bush knows what's good for the country—and we think he does—he will immediately appoint an independent, blue-ribbon commission to investigate the government's failure to anticipate and adequately prepare for the terrorist attacks of September 11. Make George Shultz and Sam Nunn co-chairmen. Give the commission full and unfettered access to all intelligence from the CIA and FBI and to all relevant internal administration documents.

This is a very important point in this commission. This commission must have access to all relevant documents. I think the frustration articulated by Senators SHELBY and GRAHAM cannot be a part of this independent commission.

There are three reasons such an investigation is necessary. First, the administration is now in danger of looking as if it has engaged in a cover-up. The carefully worded and evasive statements by various administration spokesmen in response to the report of the president's August 6 CIA briefing have raised as many questions as they have answered. We understand the conundrum that administration spokesmen face. They can't be precise about what they did or didn't know without revealing classified information. We also presume the administration has nothing to hide. But the cat is out of the bag. The ranking Republican on the Senate Intelligence Committee, Richard Shelby, says that ''we've just scratched the surface.'' The country needs to be assured that a reputable and unbiased group is going beneath the surface to find the truth.

Nor can we assume that the investigation already in progress by a special joint congressional committee will do the trick. Given the vulgar partisanship into which most elected officials descended last week, we have no confidence that any congressional committee can come up with a reputable and authoritative report.

Furthermore, regardless of what congress does, the president should order an investigation for the sake of accountability within the executive branch.

I think my colleagues and the American people may know that not one person has been replaced, removed, fired, asked to resign, retire or held responsible for the events of September 11—remarkable. Remarkable.

Ever since September 11 we have been troubled and puzzled that almost no one in the government seems to have been held responsible—much less, heaven forbid, stepped forward to assume responsibility—for failure. Was what happened on September 11 the consequence of everyone doing their job perfectly? Can it really be that no one made a mistake? And if someone did make a mistake, shouldn't that someone be held accountable, just a little? People lose jobs in government for hiring nannies and forgetting to pay their taxes. In the military, officers resign when something goes wrong on their watch, even if they were personally blameless for what happened. Isn't it possible that some people should be reprimanded, or even lose their jobs, when 3,000 Americans are killed in a terrorist attach? For the past eight months the Bush administration has essentially been saying that everything and everyone worked just fine. That is absurd and unsustainable.

And, of course, it's perilous. The third reason we need an investigation is that the system did not work. Either we didn't have the intelligence we should have had before September 11. Or the information was not adequately distributed and therefore key signals were missed. Or the intelligence was assembled but wasn't taken seriously enough. Or it was taken seriously but insufficient action was taken to prevent an attack. We don't know there the system broke down. We only now that it did.

Surely the first step in fixing the system—and thereby defending ourselves against the next attack [and that is really what this commission is about, fix the system and defend ourselves from the next attack] is to identify what went wrong or who performed badly. Isn't anyone troubled by the fact that if the failure stemmed partly from incompetence, then the incompetent people are still at their vitally important posts? Isn't President Bush troubled? If it was the system that failed, then should that same system be left in place because no one is willing to take a hard look at how and why it failed?

We understand the administration's reluctance to go through this wrenching process. We understand, too, why the president's supporters are reluctant to demand an investigation. It was nauseating last week to watch Democratic politicians trying to score cheap points against President Bush, treating this most serious of questions as if it were another made-to-order Washington scandal. ''What we have to do now is to find out what the president, what the White House, knew about the vents leading up to 9/11, when they knew it, and, most importantly, what was done about it at that time,'' said Dick Gephardt smarmily, desperately trying to fasten blame on the president à la Watergate.

Unfortunately, the Bush administration, too, has gone into scandal mode—into a defensive crouch. Vice President Dick Cheney came out swinging, claiming that any criticism, even a call for an investigation of the administration's actions before September 11, was ''thoroughly irresponsible . . . in a time of war.'' But he's wrong. It's precisely because we're in a war that we need an investigation to find out where we failed. After Pearl Harbor, there were half a dozen such investigations. Franklin D. Roosevelt ordered the first—just after Pearl harbor. President Bush should follow that war president's lead. Then he should get back to the business of winning the war.

Again, I believe everyone who is responsible for anything, as a matter of public service, should be held responsible. That is obvious. But the reason why Senator LIEBERMAN and I have fought so hard is because the American people deserve to know one fundamental fact; that is, that we know all of the factors and causes of the tragedy of September 11. Once we know all of those factors and causes, we will then be able to take the necessary action to prevent a repetition.

I don't know how in the world we can assure the American people that there will not be a repetition unless we know everything that caused it. That seems to me so obvious on its face that that alone is a compelling reason for the appointment of this commission.

I have had the great honor, as have most Members of this body, to have the opportunity to know the family members and survivors of those who perished or were wounded in the tragic events of September 11. They have come to me and to Senator LIEBERMAN and many other Members of this body and said: We deserve to know. We deserve to know what happened that brought about the deaths of our loved ones.

They make a very compelling case. They make an argument that I think is hard to refute. We owe them a great debt because of the service and sacrifice of many of their loved ones. Incredible feats of heroism, as we all know, were performed on September 11. I hope we will give some weight to their opinions and desires. I think it is perfectly legitimate and understandable that they have a right to know what caused the events that took away their husbands, fathers, wives, sons, daughters, brothers, sisters, and friends.

I hope we can get a large majority vote so we can go to conference with the House, get this commission appointed, and give them the tools they need to make sure we appoint in a nonpartisan—not bipartisan, nonpartisan—fashion the members of this committee who are the most respected men and women in America. We could come up with a list in a very short period of time, give them the tools they need, and within a reasonable length of time they could report back to the President, to the Congress, and, most importantly, to the American people.

In that way, as far as those who lost loved ones in the tragic 9/11 attacks are concerned, at least they may have some comfort in the knowledge that we will be prepared to take whatever necessary steps to ensure that no other family member ever experiences the tragic loss they experienced.

I hope we can discuss this issue at the proper length.

I again thank my friend from Connecticut. I see my friend Senator THOMPSON on the floor, who probably knows as much as or more than, on many of these issues, any Member of this body. I am obviously very interested in hearing his views on this legislation.

Finally, I say again that this legislation is not carved in stone. Senator LIEBERMAN and I are willing to make adjustments to it. We are willing to take input from the administration or any of our colleagues or anyone else who is concerned about it. That is why we have the amending process. But we also think we ought to get it done, and we also think that time is not on our side because the sooner we get the results of this commission, the sooner we can take the necessary measures to defend against a repetition.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. I thank my friend from Arizona for a very eloquent statement. I thank him for the work we have done together on this proposal. I also thank him for clarifying something about which I misspoke. I said there had only been one analyst at the CIA committed to targeting al-Qaida even after al-Qaida had been determined to be the source of terrorism against us in a very committed act. In fact, there were five—still not a significant enough number—in the counterterrorism center of the CIA, and one analyst at the Federal Bureau of Investigation.

For the record, the amendment we have offered today differs in a few respects from the bill reported out of committee.

We are calling for an even division between Republicans and Democrats in choosing commission members. As Senator MCCAIN said, I certainly hope this is a nonpartisan commission—not even bipartisan—with the majority parties of the Senate and House each receiving three picks and the minority parties in each House having two nominations. This is the configuration of an equivalent commission recently created by the House of Representatives. And it has another notable precedent in the form of a National Commission on Terrorism created by Congress in 1999 headed by former Ambassador Paul Bremer, which produced some work that had an effect on our foreign policy.

There are three other minor changes in the text of our original bill. The bill emphasizes that the commission should build on the progress of Congress and its committees, and other inquiries, especially the joint inquiry of the Senate and House Intelligence Committees regarding terrorist attacks.

I hope they will come to the floor and speak for themselves. But I want to say that Senator GRAMM, chairman of the Intelligence Committee of the Senate, and Senator SHELBY, vice chairman, have each said to me—although originally earlier in the hearings—that they have some concerns but now fully support the creation of the commission that this amendment would bring about.

The amendment, as we have submitted it, provides that the chair and the vice chair of the commission, in addition to the chairpersons, can issue subpoenas. And it makes technical improvements to the bill's alternative subpoena enforcement mechanism.

I wanted my colleagues to know that there have been those changes from the bill as it came out of our committee, and to echo what Senator MCCAIN has said. This is an idea. It is an idea that we believe is a necessity, in the public interest, to answer the plaintive cries of the families of those who died on September 11: How did this happen? And how can we know everything that is possible to know so we can make sure it never happens again?

But as to the specific details, we welcome the questions and inquiries of the Members of the Senate before this amendment comes to a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, while the two sponsors of this amendment are in the Chamber, and the two managers of this bill, we have had a number of inquiries in the cloakrooms about what the rest of the day is going to hold. There is the question of whether or not we will have any more votes tonight.

I know the Senator from Tennessee has looked at the proposed unanimous consent request, which basically would give several hours of debate on this amendment today and an hour set aside for Monday to complete debate on it and vote on it on Monday. But I am wondering, without pressing the Senator from Tennessee too hard, could the Senator give us some indication when he might be in the position to see if we can enter into this unanimous consent request so we can better field the questions in the cloakrooms?

Mr. THOMPSON. I am not sure exactly what is in the unanimous consent request. But I can possibly be a little bit more definitive after we have had a chance to discuss what is going on here.

Mr. REID. What it simply says is that there would be a total of probably 3 hours for debate equally divided, and then we would come back on Monday and debate it for another hour. At that time, the Senate would vote in relation to the amendment. There would be no second-degree amendments in order prior to the disposition of the amendment.

It is very simple and direct. But we are trying to get something set up for tomorrow and Monday. We have left a lot of Senators without any direction. We need to do that. As soon as the Senator from Tennessee feels confident that we can enter this agreement, let us know, and we will do that as quickly as possible. If we can do that, I think the leader will be in a position to announce that there will be no more votes tonight. Until that happens, we can't do that.

Mr. THOMPSON. I will be happy to respond to the Senator a little later this afternoon.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Madam President, I welcome the opportunity, while I have two of my close friends and respected Members who are sponsoring this amendment here on the floor, to hopefully enter into a discussion under the rules of the Senate and with the consent of our colleagues as to some of the details of this proposal, as to what is

intended, as to what we are trying to accomplish, and as to whether or not this is the best way to accomplish it.

I commend my colleagues for their effort. I think they have had for a long time the idea of a commission—a long time before a lot of other people who are now calling for one. They have had this vision. Quite frankly, I have tried to keep an open mind with regard to the wisdom of it. I sit on the Intelligence Committee. Right now, we are having bipartisan and bicameral hearings with regard to many issues, some of which have to do with 9/11.

I ask my colleagues—either or both of them—how they view the role of the commission with regard to the intelligence issues.

I am wondering whether we could probe very deeply and successfully into what happened with regard to 9/11, including any intelligence breakdown, and still come away with a not very good analysis of the difficulties we are having in the intelligence community.

Is it the best thing to do to have a commission that has a rather broad mandate with regard to anything and everything and at any level of Government with regard to September 11 of which intelligence would be a part? Is that better than maybe a deeper probe that is more narrowly focused with regard to our intelligence failures? Because most of us believe that is at the heart of the difficulties we saw in relation to September 11.

I have had the opportunity to read the amendment once. I notice the functions of the commission are to conduct investigations that may include relevant facts relating to intelligence agencies. But ''intelligence agencies'' is mentioned, along with a lot of other agencies: ''law enforcement agencies;'' ''immigration, nonimmigrant visas, and border control;'' ''the flow of assets to terrorist organizations;'' and other areas of concern that are not agencies, such as ''commercial aviation'' and ''diplomacy.'' I am not sure what that means.

But I would ask my colleagues what went into their thinking, what is the state of their thinking with regard to that issue. Is it best to have the broader scope that might trip lightly over intelligence issues? Would that be better than having a more detailed and narrow inquiry as to intelligence failures?

I would ask my friend from Arizona what his thinking is with regard to that.

Mr. MCCAIN. Madam President, I ask unanimous consent that Senator LIEBERMAN, Senator THOMPSON, and I be allowed to enter into a colloquy for the exchange of comments to one another.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. I thank you, Madam President.

I say to my friend from Tennessee, first of all, our amendment explicitly states—and we would be glad to report language, with the assistance of the Senator from Tennessee, to point out that clearly intelligence is a central and perhaps most important aspect of any investigation of this nature. The Senator mentioned that there are a number of other factors we would want to take into consideration.

While the Senator was off the floor, I pointed out that we turned our back on Afghanistan after 1989. What were the reasons for that? And what were the diplomatic or national security factors that led to that decision being made?

However, having said that, it is clear intelligence plays a featured role in any investigation. But I am also a little bit concerned—and I wonder if the Senator from Tennessee is concerned—about a report in the Washington Post where, ''[Senator] Shelby acknowledged that the congressional probe would be incomplete. 'I'm afraid if we try to publish at the end of this session a definitive paper on what we found, that there will be some things that we don't know because we hadn't had time to probe them and we have not had enough cooperation,' he said.''

As I respond, I wonder if the Senator from Tennessee has that concern, as expressed by Senator SHELBY.

Mr. THOMPSON. I would say, in response, that I indeed have had that concern as that investigation has gone along. And we have seen the various problems we have had with it and the various difficulties we have had internally and externally, and with the time limitation we placed on ourselves in this intelligence investigation. And I was concerned a long time about where we were going to end up and whether we were going to be in a position of assuring the American people that we had done more than we had really done.

I will have more to say on that later. I still want to keep my powder as dry as I can for as long as I can because it is ongoing and hope springs eternal.

But I certainly do have concern about that, which gets me back to my original concern about where intelligence ought to play in this inquiry.

I appreciate the Senator's reassurance with regard to that, and its importance and, perhaps, central function, central role. But I wonder; it concerns me when I see that put together with immigration issues, and aviation issues, and diplomacy issues.

For example, I would be interested and would like, if we could get the right kind of people and the right kind of objectivity, to have a session as to our policies with regard to reaction ever since the bombings in Beirut, to the attack on the USS *Cole*, to the events in Somalia, and all of that.

What effect did all of that have on all of this? Did that embolden people around the world, who have ill intent toward us, to do some of these things? Those are very interesting, important issues. But can we take on all of that within—what do we have here?—a year's timeframe for this investigation?

Mr. LIEBERMAN. Responding to the Senator, a total of 18 months, with a preliminary report due after 6 months.

Mr. THOMPSON. All right. Well, that is more than the Intelligence Committee has had. I must concede that. But the question really is, Can we do all of that? We are combining some things that would be very subjective, very politically sensitive. Hopefully, we will have the kind of people on this commission to be able the deal with that, along with some very detailed inquiry with regard to the intelligence community.

Is that the best way to go? Can we really hope that at the end of the day we have been able to do all of that?

That leads me to my second question, I suppose, and that is in regard to access to information. As I read through this, there is a provision for ''Information From Federal Agencies'' for this commission. On page 9 of the amendment, it says:

> The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title.

I am not sure that—let's just say for the purposes of this discussion—having access with regard to intelligence agencies, with regard to suggestions, estimates, and statistics would do us very much good.

Now, the right kind of information would be helpful, but is the intent here that this commission will be able to go into these agencies, regardless of what they are?

Also, you have another provision in here that provides for clearance and providing access to people with sensitive information.

But is the intention to provide the members and/or staff of this agency with the authority and the ability to go into these agencies and to review the most sensitive information?

I think back to the Rumsfeld Commission, which I think most people would agree was a very successful enterprise, dealing with issues of missile technology and nuclear capability of various countries, and so forth, very sensitive information. It was done successfully.

A lot of these people were scientists and the same kind of people, perhaps, in many respects that your commission would adopt. They have done that very successfully. I am wondering if someone some months hence would read this document and say: We did not intend to do that. Whatever reports are out there, analyze those reports. But we didn't have any intention for you going in and really getting something that they didn't want to give you.

I think that is relevant because apparently we still have to make the White House a believer that this is a good idea. I am wondering, in terms of

the wording of the bill or legislative history, what would be the proper way to address that question.

Mr. LIEBERMAN. Madam President, I will respond to the Senator from Tennessee. I thank my friend for his very thoughtful and directly relevant questions.

I will try to respond to the first one very briefly and add to what the Senator from Arizona said.

The commission is given a broad mandate, in section 604 of this proposal, to conduct an investigation of all relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, and then it goes on to say, that ''may'' include relevant facts and circumstances relating to, first, intelligence agencies, and then all the rest. Obviously, intelligence is listed first, though I emphasize the ''may.''

This commission has discretionary authority to go ahead as it will decide to conduct a very broad investigation called for under that section A that I read from. I certainly hope they will do some work on the intelligence community, building on the work the joint intelligence committee has done.

The uniqueness of our proposal is to have it be more comprehensive, to get into exactly the kind of broader questions that may seem remote but are not, about what impact the USS *Cole* and Somalia, et cetera, had on both our foreign policy and the attitudes of others abroad that may have all contributed to what happened on September 11. The breadth is very important.

We are trying to build a complementary structure because if you want to end this commission's work feeling that you asked every question that could have been asked about how September 11 happened, there would have to be a lot of questions about intelligence agencies but a lot as well about things that may seem remote, like commercial aviation policies or immigration policies. That is what the intent is.

I do want to respond to the second question, which is very important. It seems to me this commission will not be able to successfully complete its work unless it has full access to all the relevant documents in our Government. That is why we have required in the wording of the proposal that the various departments expeditiously respond to requests for security clearances by members of the commission and their staffs.

There was an earlier time when some criticized the idea for this commission, saying it might be a circus; I guess on the presumption that it would all be in public. That is not our intention.

Mr. THOMPSON. Do you provide for closed hearings?

Mr. LIEBERMAN. That is right. The legislation provides for closed hearings. It is my guess that most of the work of this commission, though not all of it, would be done in closed classified investigations. But some of it, hopefully, presumably, would be done in public, certainly to engage public testimony at various points.

Mr. MCCAIN. I have one additional comment for my friend from Tennessee. One, I believe some of these hearings have to be held in a classified environment. There is just too much raw data out there. I believe the Warren Commission, in their investigations, held closed meetings as well.

I also want to say to the Senator from Tennessee, he was an integral part, as all of us know, in probably the most successful and best known investigation in this century. That, of course, was the Watergate committee. There are certain parallels, there are certain nonparallels, obviously, because we are dealing with different issues. But I know the Senator from Tennessee learned a number of lessons from the Watergate hearings. Those that apply to this legislation that he thinks could improve our efforts and get a better product—we now will have that vote on Monday, I understand—I would be eager to work up an amendment or amendments with the help of the Senator from Tennessee to bring this commission to the quality and level which would achieve the goals that we seek.

I would like to engage in those discussions, if we could.

Mr. THOMPSON. I appreciate that very much. I would ask, just narrowing down a little bit more, how do my colleagues see the work of this commission in relation to the work of the joint intelligence committee?

Mr. LIEBERMAN. Responding to the Senator from Tennessee—another very important question—it is the intention of the sponsors that the work of this commission build on and complement the work of the joint intelligence committee in investigating the events of September 11, 2001. The joint intelligence committee has done some very important work. It already produced some material, just yesterday released publicly, that was riveting and in its way raised an additional set of questions to be answered either by the committee and its later investigation or by this commission.

Again, the purview, the focus of the commission we intend to create is much broader and would build on what the joint committee on intelligence has done but then go into other areas we talked about: Defense, foreign policy, immigration policy, law enforcement, commercial aviation, et cetera.

Mr. THOMPSON. I say to my colleague, it seems to me the situation is basically this: We have concerns, some with regard to our intelligence community and our intelligence difficulties; some have to do with nonintelligence areas. We have talked about the area of diplomacy and action and reaction to attacks, for example. We have a committee that is about to wind up its work dealing with the intelligence area. I think many people are very concerned that they are not going to get to the heart of the issue.

Your commission would come along and overlay that and take up where that leaves off but would have quite a bit broader mandate. It makes me wonder whether you really could pick up where they leave off and do the same kind of job they would have done had they been in business for a while longer, which leads me to the additional question: Has my friend considered—I haven't discussed this with anyone because it just occurred to me—whether or not it might be wise to extend the inquiry of the joint intelligence committee? We placed an end-of-the-year limitation on this. We had the first, I guess you might say, substantive public hearing yesterday. We know about how much longer we are going to be around here from a practical standpoint in terms of Members.

I don't think anybody wants a result and a report that is totally staff driven. It is not even a permanent staff. It is a very good staff, assembled from various places. Some of us know who these people are and some of us don't. But on something this important, with this kind of time limitation, there is going to be an awful lot of uneasiness about all of that.

I have some uneasiness about the ability of this commission to just pick up from there and go on, when we are considering these other broad categories that perhaps need to be considered, either in a commission or otherwise. I am not sure. But one of the things that occurs to me—I don't see why we would shy away from putting it on the table and talking about it—is perhaps extending the joint committee's work into next year.

Mr. LIEBERMAN. Responding again to my friend from Tennessee, let me direct myself to the first part of your question. If this commission functions as its sponsors want it to, this national commission on terrorist attacks upon the United States, it will have the high-quality commissioners devoted to its work, as well as a large, first-rate staff that will have the capability both to pick up the work in the intelligence community and carry it as far as it can be carried forward to answer all relevant questions relating to the causes of September 11, but also to investigate the other subject matter areas we have talked about—diplomacy, law enforcement, aviation policy, et cetera.

Of course, the question of whether the Intelligence Committee investigation goes on is a separate question. And this commission idea stands on its own. I am encouraged, as I mentioned, that the chair and vice chair of the Intelligence Committee, Senators GRAHAM of Florida and SHELBY, both support the establishment of an independent commission. So I conclude they believe its work can be complementary.

Mr. THOMPSON. I thank my colleague. Does the Senator from New Jersey have a contribution to make?

Mr. LIEBERMAN. If I might first note the presence of the Senator from

New Jersey on the floor, he was an early, outspoken, and passionate advocate for an independent investigation—and I have another adjective—persistent. Acting separately, he introduced a bill with Senator GRASSLEY, and Senator MCCAIN and I introduced another measure. We all agreed we have the same goals, and we put our two proposals together.

I thank him for his advocacy of this idea, and I am glad he is on the floor. I welcome him now to this discussion.

Mr. TORRICELLI. I thank my friend. Is the Senator from Tennessee controlling the time?

The PRESIDING OFFICER. The Senator has used his time. The Senator from New Jersey is recognized.

Mr. TORRICELLI. Madam President, on September 12, 2001, I came to the floor of the Senate to suggest to my colleagues that the magnitude of what had happened to the United States of America in the terrorist attack required an independent analysis and establishment of a national commission of inquiry. I am proud to have led this effort, but it was not either my creation or principally my idea.

In New Jersey, a week after the terror of September 11, I began to hear from the widows and the families—simple Americans who believe in their country, pay their taxes, and felt secure behind our borders, recognizing that the United States is the most awesome military power ever assembled on the face of the earth. Intelligence and law enforcement services are larger here than in every other nation combined. Just 24 hours before, 19 men with $250,000 had delivered the most devastating attack on these United States in our history.

Their inquiry of me as their Senator was simply: What do we tell our children? What are we to believe about our country and our Government that we were unable to defend our most vulnerable citizens; that thousands had been left dead and thousands were orphaned and lives will never be the same again? I did not have any answers to their questions, so I brought their questions to my colleagues.

It has been a long struggle to bring this commission to this point. I am more grateful than I can explain that Senator LIEBERMAN and Senator MCCAIN have taken this effort to the point of legislation and possible adoption.

No one seeks to cast blame. No one seeks to unfairly lay responsibility upon those who may not deserve it. But something is wrong—370 days have passed, after thousands of lives were lost in a complete and total breakdown of the security of the United States of America, and I am unaware that one individual has been transferred, demoted, held responsible, fired, noted, or criticized. It cannot be that the security of the United States was breached, thousands of lives were lost, and every agency performed perfectly, everybody did their job, all 1 million Federal employees performed as expected.

Madam President, I cannot give that explanation to the hundreds of widows or orphans and parents and brothers and sisters in the State of New Jersey who have survived and dealt with the unimaginable. I do not simply hope that this commission is adopted, but that, on a bipartisan basis, Members of this Senate send an unequivocal message that this Government is accountable, its agencies are accountable, and the American people will get answers.

It is not that I have come to the floor with a suggestion that is somehow a compromise with our tradition or unusual in our practice. This commission will respond, exactly as every other generation of Americans has responded in every other crisis of similar or lesser proportions. This Congress demanded an answer from a commission about the reasons of the causes of the Civil War. They were still collecting bodies in the North Atlantic and this Senate went to New York and met in midtown Manhattan to get answers for how the *Titanic* could have sunk. The Depression was still ongoing when we demanded a commission for its reasons. And 11 days after Pearl Harbor, Franklin Delano Roosevelt, before the U.S. even counterattacked, wanted the American people to know how their Armed Forces had let them down. He would not allow American sons and daughters to die in a war until their parents knew what happened to our military, our preparedness, so their parents would know that their lives were in good hands.

Lyndon Johnson did no less after the Kennedy assassination, and President Reagan did no less after the *Challenger* accident.

None of these reports were perfect. It was always a painful experience. None of us ever want to admit that anyone in our Government, anyone in the service of our country did not perform perfectly. The truth is that terrible things happen even when people do perform well, and that may be the conclusion of this commission, as it has been with others. I don't know. But the truth is, no Member of the Senate knows either. Unless this commission is established, we will never know.

The simple truth is the Senate might reject this commission, the President may fail to sign it, or the House of Representatives may fail to adopt it. But that does not mean that there will not be a commission.

Sometimes justice is so overwhelming, a cause so obvious and powerful that you can delay it, but you cannot stop it. Defeat this commission today and it will be voted on next year or the next year—even if it is 10 years, even if it is 20 years. No event of this magnitude can happen in a country, inflicting this much pain, this much change in a society, without the accountability of its Government. Either the widows and the widowers and the parents of these victims will get this commission or their children will.

Either the Members of the Senate will establish this commission or our successors will. But make no mistake about it, there will be answers. Something very wrong happened.

Somebody has to provide answers. First, we were told that a commission was impossible because it would interfere with the war in Afghanistan. What an extraordinary notion: A nation with a $2 trillion budget, a quarter of a billion people, a million men under arms and confronting al-Qaida in Afghanistan prohibited us from using resources or personnel to conduct an investigation—an extraordinary notion, considering that Franklin Delano Roosevelt was willing to undertake an investigation while fighting the Germans and the Japanese with sufficient resources.

Then we were told this was better done in the Intelligence Committee—possibly a good explanation if the only issues of failures were in the intelligence community. What about immigration? How about the FAA? How about law enforcement? How about the coordination of policies to save the lives of those firefighters or police officers? How about 100 other Government agencies? This may be a CIA issue, but it is not only a CIA issue. Still the belief was this could be done in the Intelligence Committee. Only now the bipartisan leadership of the Intelligence Committee, Senator SHELBY and Senator GRAHAM, report to us that they cannot get cooperation from the necessary Government agencies to even conduct their limited review in this narrow focus.

How dare they. How dare anyone withhold information or cooperation from this Senate or the families of the victims who have demanded answers? How dare anyone.

Are there those in this Government who believe their principal loyalty is to their agency, the reputation of their bureau, someone in the bureaucracy rather than the people of the United States of America? Does it mean so much to be an agent of the CIA, an employee of the FBI, or the National Security Agency? Is that so important that you would withhold information from the American people in a search for justice for the United States of America?

I have served in institutions, and I believe in institutional loyalty, but that means nothing compared to loyalty to the United States of America. Yet we have the spectacle of the bipartisan leadership of our Intelligence Committee claiming they cannot get cooperation from the bureaucracy itself.

There are issues so large in this debate that they can only be settled by an overwhelming vote for this commission. It is about the accountability of the Government itself to the people. It is about many things, but most fundamentally it is that: Can the people of the country hold their Government and its agencies accountable? I do not know.

For one of the first times in my life, I am not sure the bureaucracy or its

components in the intelligence or law enforcement agencies genuinely can be monitored and controlled by the Congress of the United States. But we are going to find out because that is what this commission is about, more than anything else.

One year has passed. Billions of dollars have now been appropriated to deal with terrorism and homeland security. The Congress has been asked for the most sweeping reorganization of the Government in American history. There is not a Member of this Senate who in good conscience either cast these votes or can cast votes in the future without knowing the results of this inquiry. Spend $10 billion, $20 billion, $30 billion. On what basis is the money spent? Is there a Member of the Senate who knows which agencies failed, which should be improved, which should be expanded, which should be curtailed, what new activities would make a difference? What is the sum of our knowledge of what happened on September 11? I do not know. More importantly, neither do the other 99 Members of the Senate, and they will never know until we know what happened, why, who failed and who succeeded, who met their responsibilities, and who did not.

Does this reorganization, the underlying legislation before the Senate, make sense for the country? Mr. President, I am going to be asked to vote upon that issue and, in good conscience, I cannot tell you. On what basis is this reorganization done? Because we have learned which agencies did not perform?

It is no different than the financial recommendations. There is not a Member of the Senate who knows which agencies were not in control, which were, which met their responsibilities, how a chain of command might have been different. Some day we will know but not without this commission.

What we are learning about the failures of intelligence and law enforcement since September 11 is shocking. Naming a national commission dealing with the realities of what happened is going to be a painful national experience.

We now know that the CIA had advised the FBI of the names of a hundred terrorists and to watch for their entry into the United States. They failed. We now know as early as 1998 intelligence agencies received information about Bin Laden planning an attack involving aircraft in New York and Washington.

We now know, as late as July 2001, the National Security Agency reported 33 communications involving a possible and imminent terrorist attack. We now know the U.S. Government was put on notice by foreign intelligence agencies and our own of the possibility of such attack.

This will be a painful national experience—painful for the country, painful for the families. But this problem is not going away. Time will not heal it. The distance between ourselves and the events will not lessen the intensity of the need or the demand for the inquiry.

I want nothing but the truth for the families, the communities in my State of New Jersey which have suffered so badly, and mostly for my country. The U.S. Government failed our people. It does not mean that we are not a good people or that this is not a great Government, but good and great governments learn by experiences and their failures. We can be a better country better able to protect our people with a more accountable Government, with intelligence and law enforcement agencies that understand their responsibilities and their needs based on this process.

It will be a painful process of growth, but it will happen. We will learn how it is that the FBI, given all these warnings, could not have had people who were possibly trained in Arabic translation, how piles of documents may have accumulated having never been analyzed. We will learn how information about flight schools and the possible warnings of the ill intent of its students never came to proper attention.

We will learn how over the course of years a conspiracy was built, signals were received, but we were unable to see the dimensions of a plot that would so change our country.

Put aside your loyalties to institutions. Put aside your commitment to individuals. This is not about the bureaucracy. We have passed the point of being able to preserve the reputations of agencies that failed our country. It is no longer about them. It is about the accountability of the United States Government. Whoever is found at fault, whoever is found to have performed their duties, it is time to face the truth.

This is the issue that will never go away. This is the one part of the Government, the formation of an independent commission on September 11, 2001, that will happen no matter what we do, no matter how we vote, or whatever is said. It is as inevitable as tomorrow morning's sunrise because the cause is so powerful, so just and so necessary.

Give those few widows, parents, and children the one thing they have been demanding. Writing them checks will not change it. Laying wreaths will not change it. Prayers will not change it. They are asking for an answer. They want an answer, and so do other Americans. And I intend to get it for them. I intend to get that answer. I hope it is today.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Who yields time?

The Senator from Connecticut.

Mr. LIEBERMAN. I thank my friend from New Jersey for his comments. I used the words ''passionate'' and ''persistent'' to describe his advocacy of an independent inquiry into the events of September 11. He has brought that passion and eloquence to the floor today. We will persist together, in growing numbers in this body, until the questions that he asks, that the families are asking, are answered. He is right, there is an inevitability to this idea, but ''inevitable'' can be a long time. We have to make it happen sooner rather than later, and the adoption of this amendment will do just that.

I do want to say to my friend from New Jersey, he raised a question about the underlying bill—I know it was done in the context of what he was saying. I do want to assure him, which I know he knows, that the underlying proposal for the Department of Homeland Security does derive from the Hart-Rudman Commission, which saw these vulnerabilities before September 11, and called for a new department, and the National Commission on Terrorism—the Bremer Commission did the same—and from the various hearings of our committee. So I think there is an ample record that cries out for the establishment of a Department of Homeland Security, but as I have said all along in this debate, this is our first best effort to create such a department.

It will be, in my opinion, hope, and belief, measurably improved over time, by experience but also by the results of the inquiry that this amendment will create because the more we know about how September 11 happened, the better we will be able, through this new Department of Homeland Security, to make sure it never happens again.

This morning, I spoke to one of the family members of someone who was killed in New York on September 11, and she said that sitting at the hearing of the joint intelligence committee yesterday, hearing the staff director report on findings to date, forced her to a conclusion that she did not want to reach; that the attacks were preventable.

I am not one who believes that another September 11 type of attack is inevitable. It is not. We all know that if somebody is crazy enough to strap explosives around their waist and walk into a crowd, it is hard to stop that; but even that, with proper intelligence and infiltration of terrorist groups, can be stopped. A terrorist event as large and as comprehensive as September 11, involving all of the context it had with financial resources, with aviation, with Governmental agencies, immigration and otherwise, when one considers all the money we are investing every year in satellites and conversation surveillance devices, that should have been noted and prevented, and that is the aim of the commission and the department, to make sure that September 11 never happens again.

The Senator from New Jersey made reference to the *Titanic*. I will share with my colleagues very briefly an excerpt from an article that appeared in the New York Times on September 11, 2002, just last week, on the first anniversary of that day. It is written by Jim Dwyer, and it says:

Of course the country had to understand what went wrong. One of the largest structures ever built had failed, at a terrible cost in lives. When warned of danger, those in charge had shrugged. Many died because the rescue effort was plagued by communication breakdowns, a lack of coordination, failure to prepare.

These findings on the sinking of the Titanic entered the public record after the Carpathia docked at the Chelsea piers in Manhattan on April 18, 1912, with the 705 survivors plucked from the North Atlantic. Starting the next morning at the Waldorf-Astoria, the barely dry witnesses provided a rich body of facts about the accident, the Titanic, the maritime practices to the United States Senate Commerce Committee, which held 18 days of hearings. Their testimony gave form to a distant horror, shaping law and history. No inquiry remotely similar in scope, energy, or transparency has examined the attacks of last September 11, the devastating collapse of two of the world's tallest structures, the deaths at the Pentagon, or on United Airlines flight 93 in Pennsylvania. A handful of tightly focused reviews have taken place mostly in secret, conducted by private consultants, or by Congressional committees.

One year later, the public knows less about the circumstances of 2,801 deaths at the foot of Manhattan in broad daylight than people in 1912 knew within weeks about the Titanic, which sank in the middle of an ocean in the dead of night.

That hardly seems possible, considering that 9/11 iconography has been absorbed into everything from football pageants to pitches by speakers peddling lessons in leadership. And yet, says John F. Timoney, once a senior police commander in New York and the former police commissioner in Philadelphia, the events of September 11 are among the most rare in American public life: true catastrophes that have gone fundamentally unscrutinized.

''You can hardly point to a cataclysmic event in our history, whether it was the sinking of the Titanic, the Pearl Harbor attack, the Kennedy assassination, when a blue-ribbon panel did not set out to establish the facts and, where appropriate, suggest reforms,'' Mr. Timoney. That has not happened here.''

That is the dreadful gap and omission that this amendment aims to fill. I hope my colleagues will support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, my colleague is very eloquent in the promotion of his cause, which is the creation of this commission. I appreciate the response of Senator LIEBERMAN and Senator MCCAIN to the concerns I have. I appreciate the offer they have made to work with us to see if we go in this direction and make sure we can put forth our best effort. I suppose I look at the whole endeavor a little bit differently than my friend from Connecticut.

Probably the best reason for going forward with some additional activity, whether extension of the joint committee or creation of a new commissioner, is not necessarily because we can do something that will prevent future catastrophes. I wish we could. But there is too much hate and too much technology in the world to be able to ever guarantee our citizenry that we can do that. It is not that we can even resolve the issue. Tragedies have happened before in this country, and we are still debating what happened or what did not happen.

It is a matter of doing what we can to find out what happened in the best way possible. It is a matter of simple justice. We owe it to the people involved. We owe it to the American people. We owe it to ourselves. We owe it to our world to do the best we can to do all those things to make it a little more preventable, to resolve key issues, do the best we can. It is the right thing to do. It is a matter of simple justice—not that there will be a pot of gold at the end of the rainbow.

I have become more realistic as I look into these things. When I hear about the ''connecting of the dots,'' we should have been able to connect these dots, or this is preventable, what I know is these dots were in a sea of dots, a veritable sea of dots. The problem we had with regard to September 11 is not just the fact we did not have the analytical capability there at that time, before that time, in order to put this together, but for a long time now we have lost our ability, analytically and technologically, to pull together these disparate facts. Technologically, we ought to be able to evaluate the disparate facts and put our computers to work and get analyses and estimates as to what is likely to happen.

It will be a long, drawn-out deal. We did not get there overnight, and we will not get a solution to it overnight. Even if we do everything right, we are never going to be totally safe. There is too much hatred, too much fanaticism in the world, and too much high technology. It is too easy for those things to come together. We will have to be vigilant for the rest of our lives and the lives of our children and our grandchildren—and spend a lot of money and have a lot of effort.

The idea that we can come together and have a little investigation or have a commission, and we can tell the American people and those tragic victims who lost loved ones, and imply we are going to find out exactly what happened, we will prevent this thing from happening again—I wish that were true. I don't think it will be.

As I said, we need to do what we can. We need to do as much as we can. What we are struggling with is trying to determine the best way to do that and the best forum. We should not be afraid.

People say it is not a blame game. Of course, it is a blame game, to a certain extent. Why shy away from assessing blame if there is blame to be assessed? We are talking almost 3,000 lives here. That is part of it. Prevention is a part of it. But also a very important part of it is doing what we can to assess the nature of the problem so that we are as strong as we can be—not that we can prevent any potential problem, but be as strong as we can be. That is what I think my friend is trying to do with this commission. I appreciate that effort.

I want to continue to study this bill, this amendment.

I want to talk to my friends who support this amendment between now and the time we vote. I want the opportunity to discuss our process with my colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, the majority leader has asked me to announce there will be no more rollcall votes tonight.

Mr. GRASSLEY. Mr. President, I rise to support Senator LIEBERMAN's amendment establishing a National Commission on Terrorist Acts Upon the United States. This amendment would direct the new independent commission in both investigation of the facts and circumstances relating to the September 11 attacks, and evaluation of the lessons learned from the attacks regarding the Federal Government's abilities to detect, prevent and respond to such attacks. Further, the bill empowers the commission to hold hearings, collect relevant materials and subpoena witnesses for the purpose of studying the systemic problems within the intelligence and law enforcement communities and to discover what part these problems played in the September 11 attacks. I support this amendment with the expectation that the recommendations coming from this commission will assist us in strengthening our national security by improving our intelligence and law enforcement as well as our intelligence efforts. We need to do everything possible to make sure that this type of attack never happens again.

As we learn more from the investigation into the September 11 attacks, it is increasingly evident that there are many barriers of communications between the several agencies involved in the battle against terrorism. I have been concerned about this problem for a number of years. There is no place for jurisdictional battles and unnecessary statutory barriers when America's security is at risk. We also need to determine where our national security shortcomings are, and what can be done to remedy them, so that we can look at potential legislative initiatives or the appropriate allocation of resources.

Make no mistake, this commission will not be a witch hunt. We are not trying to place blame. Our goal in creating this commission is to find the best way to make our law enforcement and intelligence the best that it can be.

Although I support this amendment and the general idea of a commission

for this purpose, I would like to note that I have concerns regarding the changes to the composition of the commission. Focusing on the party affiliation of the officials who select the commission members unnecessarily politicizes the commission's work. This commission should be staffed by men and women with knowledge and expertise necessary to develop solutions that will prevent further terrorist attacks.

That having been said, I would like to reiterate the importance of this amendment and the need for an independent commission that will dedicate its time to fleshing out these problems and in turn allow us to prevent further attacks and most importantly to protect the American people.

Mr. MCCAIN. Mr. President, more has changed in the last year than any of us, 1 year ago, would have cared to imagine. It was on a September day not unlike this one that terrorists committed mass murder in America, transforming forever the way we think about our security and our role in the world. One year later, we are in the midst of restricting our entire apparatus of Government to protect against future acts of terror in our homeland. But we have yet to comprehensively assess what went wrong last September 11—how our defenses failed us, why our worldwide intelligence network did not provide us warning of imminent attack, how terrorists operated and trained within our borders, how policy decisions may have made the events more likely, and how various Government agencies failed to analyze information in their possessions that could well have provided us a blueprint of the terrorists' intentions.

The anniversary of September 11 is past us, and with it the celebration of heroism and sacrifice that will forever mark that day. Now is the time to take a harder look at the other side of that tragic event: the utter failure of the United States Government to predict and prevent the slaughter of Americans in America's greatest city.

The September 11 attacks were incredibly depraved but not, as it turns out unimaginable. As early as 1995, an accomplice of Ramzi Yousef revealed that the mastermind behind the 1993 World Trade Center attack intended to plant bombs on 12 U.S.-bound airliners and crash a light plane packed with explosives into CIA headquarters. The accomplice had trained as a pilot at three separate U.S. flight schools. In 1999 the Library of Congress prepared a report for the National Intelligence Council warning that al-Qaeda suicide bombers ''could crash-land an aircraft packed with high explosives'' in the Pentagon, the CIA, or the White House.

Two months before the September 11 attacks, Kenneth Williams, an FBI field agent in Phoenix, suspected that terrorists had enrolled in an Arizona pilot training school. He urged the FBI to begin investigating whether other U.S. flight schools might be training terrorists to fly. His prophetic warnings went unheeded. Similarly, FBI agent Coleen Rowley, whose efforts to have the FBI and CIA investigate hijacker Zacarias Moussaoui were rebuffed, believes such an investigation could have uncovered the terrorists' plot in the weeks before the attacks.

Yesterday, the joint congressional intelligence committee reported that U.S. intelligence received a number of reports indicating that terrorists were plotting to use planes as weapons and planning to attack domestic targets. According to the committee, U.S. intelligence learned in August 1998 that a ''group of unidentified Arabs planned to fly an explosive-laden plane from a foreign country into the World Trade Center.'' This information was given to the FBI and the FAA, which took little action.

CIA Director Tenet told the intelligence community in December 1998 that ''We are at war,'' and ''I want no resources or people spared in this effort.'' According to the joint committee, ''Despite the D.C.I.'s declaration of war in 1998, there was no massive shift in budget or reassignment of personnel to counterterrorism until after September 11, 2001.'' The committee's report continues: ''By late 1998, the intelligence community had amassed a growing body of information—though general in nature, and lacking specific details on time and on place—indicating that bin Laden and the Al Qaeda notework intended to strike within the United States, and concern about bin Laden continued to grow over time and reached peak levels in the spring and summer of 2001, as the intelligence community faced increasing numbers of reports of imminent Al Qaeda attacks against U.S. interests. . . .''

According to the congressional investigators, senior government officials in July 2001 were briefed on the threat in the following language: ''Based on a review of all source reporting over the last five months, we believe that [Osama bin Laden] will launch a significant terrorist attack against U.S. and/or Israeli interests in the coming weeks. The attack will be spectacular and designed to inflict mass casualties against U.S. facilities or interests. Attack preparations have been made. Attack will occur with little or no warning.'' National Security Agency intercepts on September 10th warning in Arabic that ''The match is about to begin'' and ''Tomorrow is zero hour'' went untranslated until the attacks, when their meaning became all too apparent.

Asking for, urging, and demanding answers for why various agencies of the Federal Government failed to understand the enormity of the danger facing the United States is an obligation shared by all elected Federal officials. As is the responsibility for understanding why and how the previous administration failed to combat the growing menace of international terrorism more effectively. As is responsibility for questioning Congress' inability or unwillingness to exercise more diligently its oversight responsibilities for those agencies. As is the expectation that officials who did not competently discharge their responsibilities be held accountable.

Congress is on the verge of creating a Department of Homeland Security that constitutes the largest reorganization of the Federal Government in many of our lifetimes. But there has been no comprehensive diagnosis of the state of our preparedness for terrorism prior to last September, no proper analysis of the security loopholes in our immigration and airline security organization that provided the terrorists with the access they needed to kill Americans; no systematic review of the failure of Government agencies to analyze and share information on the terrorists' planning that coordinated analysis could have revealed prior to the attacks; and no formal assessment of the consequences of policy decisions dating back years that led to a climate in Afghanistan in which a terrorist network could train and flourish, with consequences that need no retelling.

We need an honest search for answers, so that we and the people we represent can arrive at fair conclusions about what went wrong and develop ways to repair it. The independent commission we are proposing to look into these and all matters concerning our vulnerability and our initial response to the attacks would provide a blueprint for reform of the way we defend America. The insights of a blue-ribbon panel of experts, removed from the pressures of partisan politics, would add to the reforms we are making with creation of a Homeland Security Department by highlighting additional areas where the way our Government is organized have made us vulnerable.

Eleven days after the attack on Pearl Harbor, President Roosevelt mandated an investigation into how such tragedy could have struck an unknowing America. Ultimately, four different major panels appointed by the President and Congress investigated this ''Day of Infamy.'' Seven days after President Kennedy was murdered, President Johnson appointed a commission of distinguished leaders to investigate the assassination. The independent commission we are proposing would carry on this requirement for answers, which has gone unquestioned and been deemed necessary in previous crises of this magnitude.

There is a crisis of confidence in America today. Americans are more proud than ever to be American. But large percentages deeply distrust the institutions that shape our daily lives—the Federal Government, corporate America, the Church. Corporate corruption, the scandals of campaign financing and corruption of the political process have deprived many Americans of the sense that they have a stake in the way they are governed. In

the same way, I believe the lack of a fundamental accounting for the greatest tragedy in the Nation's history—one that touched all Americans and permanently altered the way we live and think about ourselves—is another source of alienation and insecurity.

I do not believe the administration and the Congress have given the American people reason to be confident that we no longer remain vulnerable to terrorist attack, despite the admirable leadership our President has shown in prosecuting the war on terror, and despite the important work of Congress to create a Department of Homeland Security. The congressional intelligence committees have been conducting a very limited investigation into the intelligence failures related to September 11 and even this narrow inquiry has been sidelined by staff disputes that disrupted its operations and an FBI investigation into leaked material. Strangely, the FBI is now investigating the same people who are investigating the FBI. Indeed, until this week the joint committee has not held any open hearings. Ranking Republican Senator SHELBY in particular has been outspoken in criticizing its lack of progress before it goes out of existence when the 107th Congress adjourns.

Both Senator SHELBY and joint committee co-chairman Senator BOB GRAHAM support the establishment of an independent commission to carry on the work performed by the congressional intelligence investigation they helped to lead. I am pleased that a number of the Senate members of the joint congressional intelligence committee have endorsed our proposal to establish a panel that would build upon their work. The rationale for an independent commission seems indisputable if the very leaders charged with a more narrow inquiry do not believe their own investigation met the necessary standards to authoritatively report on and learn from our past failures.

Many in Congress and the administration voiced concern last year that an independent investigation into September 11th's causes and consequences would interfere with Congress' investigation into these matters. With Congress planning to adjourn very soon, the congressional investigation represents only a first step into the intelligence and other failures that gave the terrorists their opening. The independent commission Senator LIEBERMAN and I are proposing would explicitly build on the work of the congressional investigation and would go far beyond it by examining Government practice and policy in a host of other areas, including foreign policy, border control, aviation security, and law enforcement.

Americans deserve answers after the events of September. This issue rises above politics, as the families and friends who lost loved ones will attest. Indeed, a commission would remove the issue from the political realm and serve the needs of both the administration and Congress by providing a blueprint for action, above and beyond any conclusions the joint congressional intelligence investigation may draw from its limited review.

Leaders of the joint congressional investigation into the intelligence failures of September 11th have said the attacks may well have been preventable, based on everything we have learned since then about what we knew and how it fit together in a way that formed a blueprint for attack. I find it unfathomable, and frankly unacceptable, that we would accept that we could have prevented the attacks, but in the same breath say we should move on. We should move on—after we have answered all the lingering questions about why we were neither prepared nor organized to meet the challenge of terrorism, and after we have made the kind of reforms that only a panel of distinguished experts separated from politics could propose.

An independent inquiry will not impose a serious burden on the administration as it prosecutes our just war on terrorism, any more than a similar inquiry after Pearl Harbor impeded Franklin D. Roosevelt's prosecution of World War II. Nor should it prevent members of Congress, the press, or any American citizen from questioning or criticizing the Government's apparent failures over the course of successive administrations. All wars and national security failures have occasioned contemporaneous criticism, and the Republic has managed to thrive.

It is irresponsible in a time of war, or any time for that matter, to attack or defend unthinkingly or because partisan identification is one's supreme interest. But it is not responsible or right to shrink from offering thoughtful criticism when and to whom it is due, and when the consequences of incompletely understanding failures of governance are potentially catastrophic. On the contrary, such timidity is indefensibly irresponsible especially in times of war, so irresponsible that it verges on the unpatriotic.

Two years before the attacks, the distinguished Hart-Rudman Commission on national security warned that as a result of the threat of catastrophic terrorism, ''Americans will likely die on American soil, possibly in large numbers.'' Congress and successive administration ignored the commission's recommendations for reform to defend against this threat—many of which are now embodied in the homeland security legislation we are considering this week. We shouldn't wait for the next attack to investigate what more we need to do to protect the American people.

Until we have comprehensive assessment of needed reforms across the spectrum of our Government, based on what went wrong last September, we will not be prepared to predict and prevent the next attack. Americans need answers. I urge my colleagues to join us to create a commission that will tell them the truth—and put in place the protections that will prevent future generations from judging us for abdicating our responsibility to that truth.

Mr. THOMPSON. Mr. President, I have been asked by Senator HATCH to request unanimous consent that Senator SCHUMER be removed as a cosponsor of amendment No. 4693.

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. Mr. President, I ask unanimous consent that the Senate be in recess subject to the call of the Chair.

There being no objection, the Senate, at 5:56 p.m., recessed subject to the call of the Chair and reassembled at 7:13 p.m., when called to order by the Presiding Officer (Mrs. MURRAY).

DOMESTIC NEEDS

Mrs. BOXER. Madam President, I want to thank publicly the majority leader, TOM DASCHLE. Yesterday, Leader DASCHLE took to the floor and talked about something that, frankly, is just not talked about by this administration, and that is the very sad state of our economy. Somebody needs to focus on that because, while we must devote much of our time to the war against terrorism, while we must devote much of our time to figuring out the best way to meet the threat that Iraq poses in terms of her weapons of mass destruction and the frightening prospect of those weapons being used, while we address those issues, I think we know very well that an administration must also pay attention to domestic needs, to the job needs, the educational needs, the health care needs. We must do both things in a great nation like this.

So as the Democratic leader made his statement yesterday, it is stunning to see that, in some categories, this economy under this administration is the worst we have seen in more than 50 years. It is very serious. We must address it. We must have a plan to address it. We must look back at the success of the Clinton administration and other administrations, Democratic and Republican, which had good economic records. We are seeing record stock market losses because there is a loss of confidence. There is a decrease in earnings and there are massive layoffs. We have seen a maiming or loss in private sector jobs—the worst in 50 years—and the weakest economic growth in 50 years.

Madam President, I hope this Senate will take care of the two most important things we could do: Foreign policy concerns and also domestic concerns, with a prime focus on this economy and turning it around and giving Americans the kind of confidence they had in the 1990s. That was a good time for America.

CHARITABLE GIVING

Mr. SANTORUM. Madam President, I rise to talk about a plan that is being discussed here in the Halls of the Senate and a very important plan in this time of economic recovery when we are looking at the 1-year anniversary a week ago of September 11 and the tragedy that has befallen so many people.

When we look at a lot of hardships going on in America, and while we had a great response and outpouring of support from the American public to the victims of 9/11, if we look at the rest of the charitable world, charitable giving is off about 20 percent. Part of that is the stock market, and part of it is because of the funds and worthy causes supporting the victims of 9/11. A lot of the service needs, artistic needs, and educational needs in communities all across the country are doing with a lot less money this time of year—at a time when the need is very great.

We are looking at a piece of legislation and working on a piece of legislation in the Senate. The Finance Committee marked up a bill in June to try to help the situation as part of the President's faith-based initiative. It is a charitable giving package that will strengthen the nonprofit sector of our economy—those who help in the human service area—as I mentioned, education and the arts.

We have been working very hard to try to get this legislation on the floor. Senator DASCHLE, I know, has given a commitment to the President that he will in fact bring this measure to the floor of the Senate and have a vote before the end of this session. We are winding down to the final days of the session, and that has yet to happen.

Senator LIEBERMAN, I know, has been working very hard, as have I, to get this legislation to the floor and do it under a unanimous consent agreement. Obviously, there are a lot of important issues being discussed, and we want to have the opportunity to have debate and amendments offered.

We are willing on our side of the aisle to have a limitation on amendments and a limitation on debate. We have had a discussion back and forth. The majority leader has suggested the way he would feel comfortable bringing this legislation up is to have one amendment on each side.

I have been working very hard on our side. I thank our leader, Senator LOTT, and our ranking member on the Finance Committee, Senator GRASSLEY, for getting together as a team and working our side of the aisle to make sure we get that down to one amendment.

We shared that amendment with the Democratic side of the aisle last week. So we had that amendment out so everybody would know what our amendment is. There are two other amendments. One will be an amendment on the Democratic side. I understand Senator REED from Rhode Island will be the offerer of that amendment. And then there will be a managers' amendment. There will be a managers' amendment because there are certain issues in the underlying CARE Act that Senator LIEBERMAN and I worked out with the White House several months ago that are not under the jurisdiction of the Finance Committee and cannot be reported out of the Finance Committee. They have to be added on the floor.

Senator LINCOLN had concerns about provisions in the act. We worked diligently. Again, I thank Senator BAUCUS and Senator GRASSLEY for working this issue. We now have agreement, I understand, on Senator LINCOLN's provision and that is going to be included in the managers' amendment.

We had an amendment on our side of the aisle from Senator HUTCHISON of Texas which had bipartisan support, as Senator LINCOLN's did, and we put that in the managers' amendment.

We had things pop up, and we have been able to work out compromises and make this happen.

I was just informed a few minutes ago that the majority committee staff has actually given us the managers' amendment. I thank them for moving the ball down the field. We are reviewing that amendment. We can now, with that managers' amendment, actually go through the process of hotlining the bill on our side of the aisle.

I am very sanguine about our chances of getting approval on our side of the aisle for this very important legislation affecting millions of people in need in our society and the thousands upon thousands of volunteers, people who are committed to helping those less fortunate in our society. They are waiting for this legislation to pass.

I know the President in speech after speech has asked the Senate to move forward on this legislation during this time of economic need. We are approaching that point. I encourage this work to continue.

I understand there is a good-faith effort ongoing, but we are reaching the end of the session. We have 3 weeks to go. If we pass this legislation, we have to get our colleagues in the House to act on it. We do not know how they are going to act on it, but I am hopeful we can work out something to get this bill to the President before we adjourn on the 11th of October.

I wish to report that progress is being made. I am hopeful that, with this information, we can get approval on our side of the aisle for an agreement. I am hopeful an agreement also can be reached on the Democratic side so we can move forward and get this very important bipartisan legislation passed. Senator LIEBERMAN and I are sponsors of it. I know Senator DASCHLE announced publicly he is in support of it. There is broad support on this side of the aisle for the legislation.

This bill affects the people, the armies of compassion on the front lines meeting the needs of Americans in every State of the country. This is something very good we can do. It looks small, but it has a huge impact on millions of Americans if we do this before we leave.

I encourage all those who have an interest in this legislation to come forward and make sure a unanimous consent agreement is accomplished very quickly.

Mr. President, I yield the floor.

FOOD SECURITY IN AFRICA

Mr. FEINGOLD. Madam President, I rise today to call attention to the tenuous food security situation in sub-Saharan Africa.

The United Nations estimates that 14.4 million people are in need of immediate food aid and humanitarian assistance in southern Africa, where drought and poor harvests have combined with manmade factors—including economic mismanagement and politically-motivated disruption of agriculture in Zimbabwe—to create deadly conditions for the people of Zimbabwe, Zambia, Malawi, Mozambique, Swaziland, and Lesotho. This food crisis is striking a population already devastated by HIV/AIDS, compounding the difficulty of African families' struggle for survival. I have asked the General Accounting Office to investigate the causes of the food shortage and the obstacles to successfully addressing it in the hopes of gaining greater clarity as the relationship between natural and manmade obstacles to food security in the region.

In the Horn of Africa, food shortages are again threatening the well being of millions. As the people of Ethiopia and Eritrea struggle to recover from a costly war and severe food shortage in 2000, many have had no opportunity to reestablish their own economic security. Large numbers of people are living on the margin, and are extremely vulnerable to food shortages. In Angola, the brutal civil war is finally over, but the legacy of that conflict and of years of neglect has left hundreds of thousands malnourished and seeking assistance. And in West Africa, disturbing reports suggest that the people of Mauritania and Senegal are also threatened by food shortages linked to drought. Sadly, from Burundi to Liberia, populations living in conflict zones also suffer from resulting food shortages.

As the Chairman of the Subcommittee on African Affairs, I know that our interests throughout the sub-Saharan region are many, from promoting democracy and development to combating terrorism and other international criminal activity. None of those aims can be vigorously pursued when populations are weakened and governments distracted by desperate hunger and humanitarian catastrophe. I also know that our foreign policy agenda today is a crowded one, and that many crucially important issues compete for resources and attention.

There are some baseline conditions that we must strive to maintain if other elements of our policy are to have a meaningful impact around the

world. Basic food security is one of those baseline conditions. We need strong partners, and the strength of the region is being sapped every day by hunger. Working with others to fight off starvation, and then to help strengthen food security systems to avoid future crises, must always be a priority. I will work with my colleagues and the administration to ensure that the United States finds a way to give food security issues throughout sub-Saharan Africa the attention that they deserve, and I urge my colleagues to support efforts to address the problem in the region.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam 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 July 31, 2001 in Browns Mills, NJ. Two white men attacked a black couple while they were sleeping in their home. The attackers beat the victims with baseball bats, causing severe cuts and broken bones. Neighbors said that the assailants had previously indicated their intention to ''beat up'' the victims, and used racial slurs to describe them.

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.

THE COMMUNITY ORIENTED POLICING SERVICES PROGRAM

Mr. FEINGOLD. Madam President, I rise today in support of the Community Oriented Policing Services program, commonly known as COPS. The COPS program was established in 1994, due in large part to the efforts of my distinguished colleague from Delaware, Senator BIDEN, and the support of then President Clinton. Since its inception, the program has greatly enhanced community oriented policing across the Nation. The COPS program has facilitated the hiring and training of over 116,000 police officers who help keep our communities safe. I am especially pleased that this program has been a shining example of an effective partnership between local and Federal Governments. It provides Federal assistance to meet local objectives without imposing mandates or interfering with local prerogatives, and it provides federal dollars directly to the police departments and communities.

COPS has had a positive and very tangible impact on communities throughout the country, including in my home State of Wisconsin, by putting more police officers on our streets and making our citizens safer. In the State of Wisconsin alone, COPS has funded over 1,300 new officers by contributing more than $100 million to communities.

The effects of community-based policing cannot be understated. The COPS program has succeeded because it helps individual officers to be a friendly and familiar presence in their communities. They are building relationships with people from house to house, block to block, school to school. Community policing helps law enforcement to do their job better, makes our neighborhoods and schools safer, and, very importantly, gives residents peace of mind. Increasing the number of local law enforcement on the streets and in our neighborhoods fosters an environment of mutual respect between officers and their neighbors, and community pride from home to school to fire station to corner store. Reducing crime and keeping our communities safe has been and should continue to be a top priority for all of us. As the tragic events of September 11 have shown our Nation, local police officers play a vital role to protect and secure our communities. We should give them the support they need.

As I travel through Wisconsin and talk to sheriffs, police chiefs and other law enforcement officers, I hear the same refrain, time after time: the COPS program is vital to their work and has enabled them to get more officers out from behind their desks and onto the streets. Wisconsin is not alone. Since 1994, the COPS program has provided funding for thousands of law enforcement agencies across the country, and has expanded to include the COPS in Schools Program and the COPS Tribal Resources Program, and now funds the Community Policing to Combat Domestic Violence grants.

As the COPS program has grown, crime rates have decreased. But in order to maintain a low crime rate, we must continue to provide the necessary resources. The COPS program gives us an opportunity at the federal level to send a strong signal of support back to local police officers that we value community-oriented policing as integral to the protection and safety of all Americans.

We have taken up funding for the COPS program in this body numerous times since its inception. I am pleased that the Judiciary Committee reported favorably a bill calling for its re-authorization this spring, the PROTECTION Act, S. 924, introduced by Senator BIDEN. I commend and thank Senator BIDEN for his leadership on this issue. I was very pleased to support his bill re-authorizing the COPS program in Committee, and I urge the full Senate to work to ensure that the COPS program is authorized again before we adjourn.

ADDITIONAL STATEMENTS

TRIBUTE TO THE OAKLAND ATHLETICS

● Mrs. BOXER. Mr. President, there are times when the achievements of an individual athlete or sports team are so dramatic, so sensational and exciting, that the entire country stops what it is doing to simply watch in wonder. The sport of baseball, in particular, has supplied us with many such moments over the years.

I recall the thrill of Joe DiMaggio's 56-game hitting streak; Bobby Thompson's ''Shot Heard Round The World'' home run; pitcher Don Larsen's perfect World Series game; Hank Aaron's 715th trip around the bases; Cal Ripken Jr.'s 2,131st consecutive game; and Barry Bond's 71st home run of the season. All of these milestones are embedded in America's sports memory.

There is another baseball milestone that I believe deserves a place in the pantheon of remarkable sporting achievements, an accomplishment as exciting as Carlton Fisk's 12th inning World Series home run or ''The Catch'' by Willie Mays in another, earlier World Series. That accomplishment, Mr. President, is the 20-game, American League record winning streak set this season by the Oakland Athletics—the longest win streak in baseball in 67 years.

Until the Oakland Athletics rewrote the American League record book, many had considered the 19-game win streak record held jointly by the New York Yankees and the Chicago White Sox to be untouchable. Indeed, there are only three teams in the entire history of baseball—the New York Giants, the Chicago Cubs, and now the Oakland Athletics—that have ever won 20 or more games in a row.

This summer, baseball fans from around the world were caught up in the excitement as the Athletics continued to win game after game after game. At work, in the car, and at home, and regardless of time zone, Americans watched with fascination as the Oakland Athletics approached the magic number of 20 victories. I shared in that growing sense of excitement and cheered along with the rest of the country when the team set the new record on September 4th.

My hat is off to the Oakland Athletics, to the players and staff, Manager Art Howe, and to the fans. I know how proud the Oakland community is of its team, and of a win streak record that is one for the ages. With this amazing achievement, the 2002 Oakland Athletics have secured a special place in baseball history and lore.●

TRIBUTE TO MICKIE PAILTHORP

● Mrs. MURRAY. Mr. President, I rise today to share with the Senate a tribute to Mickie Pailthorp, a leader in my home State of Washington who passed away on July 31, 2002. On August 8, I was honored to speak at a memorial service for Mickie, and today I want to

share her accomplishments with my colleages.

I will never forget my first meeting with Mickie Pailthorp. It was early in 1992, and I had just announced that I was running for the U.S. Senate. Many in the established political community had written me off. They said I hadn't paid my dues. They said I couldn't raise the money. They even said I was too short.

Many dismissed me sight unseen, but Mickie decided to find out for herself. Shortly after I announced, Mickie called my campaign office. She said she was thinking about supporting me because I was a woman candidate, but she absolutely had to meet me first. I thought, ''No problem.'' We met at a restaurant for what I thought would be a casual dinner.

Instead, Mickie grilled me for over an hour. She wanted to know very specifically what I was going to do about this issue and that issue. She wanted to know why I thought I could win, and she wanted to know that I would work hard. To be honest, by the end of our dinner, I really wasn't sure whether she was going to help me.

But before I knew it, she was one of my strongest behind-the-scenes supporters, and her support made a difference. Mickie quietly opened doors for me. She got me into places that I couldn't go on my own.

When I won the election, she didn't come after me seeking favors or demanding credit, but I knew she was watching. Every year at Joel and Mickie's Christmas party, she would come up to me and say very quietly either: ''I was really proud of what you did here.'' Or more sternly, ''Now you've got to be careful about this.'' So I knew she was watching.

When I think about Mickie, I remember her as whirlwind of passion and energy. She was there fighting the good fight for women on the ERA and so many other issues before it was popular and before it seemed possible. One of the things that made Mickie so unique is that she didn't seek any credit. She was happy to work behind the scenes. Mickie never needed to be the ''picture'' for the cause, but she clearly painted every line.

Some leaders climb up to the top and when they get there they pull up the ladder behind them and leave everyone else stuck below. But Mickie's whole purpose was to help other women make it to the top, and she did that well. So today, while a generation of young women might not know Mickie's name, they know the women she helped elect. And they know that they can make a difference, too.

Mickie Pailthorp was not a visible women's leader, but she made a lot of other women leaders visible. And because Mickie didn't trumpet her own accomplishments, it's up to us to make sure that others know about this remarkable woman and carry on her legacy. So I invite Mickie's friends and fans in Washington State to tell their children and grandchildren about an energetic, passionate woman named Mickie Pailthorp, and the opportunities she gave all of us.●

THE POEM AMERICAN PRIDE

● Ms. LANDRIEU. Mr. President, the events of September 11 were very tragic and very traumatic for our Nation, especially our children. This poem, written by 10-year-old James Dillon Hughes of Bourg, LA, demonstrates, very simply, what is great about America. In these few lines James captures the spirit of his country, stronger now than ever before. It is our job to ensure that the freedoms we enjoy now will still ring true for our children and future generations to follow. James wrote this on September 13, 2001, only two days after the terrible events of September 11. Even after those tragic events, James was still able to show his American Pride. I was so moved upon reading this poem that I ask that it be printed in the RECORD.

The poem follows:

American Pride
I am proud to be an American
I am proud to be free
I'm proud to be able to choose anything I want to be.

I can be a doctor, a lawyer or a priest
Because I live in a country
That allows me to be free.

Our country was somewhat divided
Now it has united
Let's keep it strong and free.

Where leaders teach and guide us
Always stand beside us
And show us the way to be.

Our country is rich
Our army is strong
Living in America
Could never be wrong.●

2002 IOWA WOMEN'S HALL OF FAME

● Mr. HARKIN. Mr. President, I wanted to take a few minutes to recognize four outstanding women who the Iowa Commission on the Status of Women have selected for this year's inductees to the Iowa Women's Hall of Fame.

Each year, the Commission solicits nominations of women, living or deceased, who have had a significant impact on society or their communities. Four nominees are selected by a five-member committee and the Commission and then are honored by the Governor and the Lieutenant Governor at a special ceremony. I'd like to add my voice to this tribute to four accomplished Iowa women.

Bonnie Campbell has been a strong leader since she first began her private practice in Des Moines. In 1990, she became the first female elected Iowa attorney general in our State's history. She used her position to author and pass one of the Nation's first anti-stalking laws. By 1995, her work was recognized nationally and she was appointed director of the U.S. Department of Justice's Violence Against Women Office. She played a critical role in the implementation of the Violence Against Women provisions of the 1994 Crime Act. Now in private practice, Bonnie continues to serve as a role model for women. On a personal level, Bonnie is a good friend of mine and I congratulate her on this well-deserved recognition.

Sue Ellen Follon's impact on women's issues was once described in the Des Moines Register this way: ''You may never have heard her name, but there's a good chance she has touched your life.'' A Volga native, Follon served as the executive director of the Iowa Commission on the Status of Women from 1976 to 1984. Throughout her service, Follon worked to expand the Commission's influence and scope, to strengthen rape and sexual abuse laws, and help public hearings on domestic abuse, displaced homemakers and the feminization of poverty. In fact, her efforts helped to make Iowa the first State in the Nation to legislatively address gender inequities in many facets of life. Follon went on to become the first woman to serve as Vice President at the University of Iowa. Throughout her career, she made over 150 presentations from the local to the international level on the subjects of women's equality, leadership, higher education and mentors for women and minorities. Born in 1942, Follon died on November 4, 1998, the day after voters passed the equal rights amendment to the Iowa Constitution.

Alice Yost Jordan is internationally known as one of the most distinguished and published American composers. A Des Moines resident, Jordan is best known for her choral and organ works numbering over 200, which have sold over 250,000 copies. Her recital song, Take Joy Home, commissioned by Sherrill Milnes of the Metropolitan Opera and pianist Jon Spong, received world-wide exposure on concert tours and was performed at a White House State Dinner in 1983. Her arrangement of America the Beautiful, commissioned by the Iowa High School Music Association for the All-State Chorus and Orchestra, opens the All-State Festival Concert biennially. She has composed another 40 works that were commissioned by churches, universities and organizations across the Nation. Born in Davenport in 1916, she graduated from Drake University, where she studied composition for her undergraduate and graduate studies with the late Dr. Francis J. Pyle and received an Honorary Degree, Doctor of Letters from Grand View College.

Shirley Ruedy of Cedar Rapids is a nationally recognized journalist, speaker and cancer survivor. Twice diagnosed with breast cancer, Ruedy launched a biweekly ''Cancer Update'' column that the Cedar Rapids Gazette began publishing in 1991. The column focused on her own experiences as well as providing the latest expert information on cancer treatment and prevention to her readers. ''Cancer Update'' is

now carried in a publication from the Mayo Clinic Women's Cancer Program. Each October, in recognition of Breast Cancer Awareness Month, Ruedy runs a column she co-wrote with a surgeon about the life journey of a breast cancer cell. Through her writing and speaking, Shirley Ruedy serves as a role model of courage and positive advocate for all of those who have been diagnosed with cancer.

These women have aspired to high standards in their career fields and in serving their community. They also serve as an inspiration to young Iowans who can look to them for direction and leadership. I applaud the Iowa Commission on the Status of Women for recognizing their outstanding contributions. They are strong role models for all of us and deserve the highest praise. And they are some of the many special people who make Iowa such a great place to call home.●

PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO PERSONS WHO COMMIT, THREATEN TO COMMIT, OR SUPPORT TERRORISM—PM 109

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith the 6-month periodic report prepared by my Administration on the national emergency with respect to persons who commit, threaten to commit, or support terrorism that was declared in Executive Order 13224 of September 23, 2001.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 19, 2002*.

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO PERSONS WHO COMMIT, THREATEN TO COMMIT, OR SUPPORT TERRORISM IS TO CONTINUE IN EFFECT BEYOND SEPTEMBER 23, 2002—PM 110

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the national emergency with respect to persons who commit, threaten to commit, or support terrorism is to continue in effect beyond September 23, 2002, to the *Federal Register* for publication.

The crisis constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, Pennsylvania, and against the Pentagon committed on September 11, 2001, and the continuing and immediate threat of further attacks on United States nationals or the United States that led to the declaration of a national emergency on September 23, 2001, has not been resolved. These actions pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to persons who commit, threaten to commit, or support terrorism and maintain in force the comprehensive sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 19, 2002*.

REPORT ON THE NATIONAL SECURITY STATEGY OF THE UNITED STATES OF AMERICA—PM 111

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report: which was referred to the Committee on Armed Services:

To the Congress of the United States:

As required by section 108 of the National Security Act of 1947, as amended (50 U.S.C. 404a), I am transmitting a report prepared by my Administration on the National Security Strategy of the United States.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 19, 2002*.

MESSAGES FROM THE HOUSE

At 4:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1701. An act to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

ENROLLED BILLS SIGNED

At 4:23 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1834. An act for the relief of retired Sergeant First Class James D. Benoit and Wan Sook Benoit.

H.R. 4687. An act to provide for the establishment of investigative eteams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

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.

MEASURES REFERRED

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5308. An act to designate the facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, as the ''Barney Apodaca Post Office''; to the Committee on Governmental Affairs.

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1701. An act to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 19, 2002, she had presented to the President of the United States the following enrolled bill:

S. 2810. An act to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2005.

*Roger P. Nober, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2005.

*David McQueen Laney, of Texas, to be a Member of the Reform Board (Amtrak) for a term of five years.

*Coast Guard nominations beginning Capt. Jody A. Breckenridge and ending Capt. James C. Van Sice, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

*Coast Guard nomination of Stephen W. Rochon.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science,

and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

*Coast Guard nominations beginning Christine D Balboni and ending Steven E Vanderplas, which nominations were received by the Senate and appeared in the Congressional Record on September 17, 2002.

*Coast Guard nomination of David C. Clippinger.

By Mr. LEAHY for the Committee on the Judiciary.

Ronald H. Clark, of Texas, to be United States District Judge for the Eastern District of Texas.

Lawrence J. Block, of Virginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Antonio Candia Amador, of California, to be United States Marshal for the Eastern District of California for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DODD (for himself and Mr. ALLEN):

S. 2966. A bill to enable the United States to maintain its leadership in aeronautics and aviation by instituting an initiative to develop technologies that will significantly lower noise, emissions, and fuel consumption, to reinvigorate basic and applied research in aeronautics and aviation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND (for himself and Ms. COLLINS):

S. 2967. A bill to promote the production of affordable low-income housing; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SARBANES (for himself, Mr. JEFFORDS, and Mr. SESSIONS):

S. 2968. A bill to amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself and Mr. GREGG):

S. 2969. A bill to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 2970. A bill to amend title XVIII of the Social Security Act to assure fair and adequate payment for high-risk Medicare beneficiaries and to establish payment incentives and to evaluate clinical methods for assuring quality services to people with serious and disabling chronic conditions; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2971. A bill to amend the Transportation Equity Act for the 21st Century to provide the Highway Trust Fund additional funding for Indian reservation roads, and for other purposes; to the Committee on Indian Affairs.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 2972. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to provide for a cooperative research and management program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2973. A bill to to designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the ''Joe Skeen Federal Building''; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself and Mr. NELSON of Florida):

S. 2974. A bill to provide that land which is owned by the Seminole Tribe of Florida but which is not held in trust by the United States for the Tribe may be mortgaged, leased, or transferred by the Tribe without further approval by the United States; to the Committee on Indian Affairs.

By Mr. BREAUX (for himself and Ms. LANDRIEU):

S. 2975. A bill to authorize the project for hurricane and storm damage reduction, Morganza, Louisiana, to the Gulf of Mexico, Mississippi River and Tributaries; to the Committee on Environment and Public Works.

By Mr. BREAUX (for himself and Ms. LANDRIEU):

S. 2976. A bill to provide economic disaster assistance to producers of the 202 crop of rice in the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAYH (for himself and Mr. LUGAR):

S. 2977. A bill to authorize the Secretary of the Army to assist in the continued development of the Indianapolis Central Waterfront project in Indianapolis, Indiana; to the Committee on Environment and Public Works.

By Mr. BAYH (for himself and Mr. LUGAR):

S. 2978. A bill to modify the project for flood control, Little Calumet River, Indiana; to the Committee on Environment and Public Works.

By Mr. ALLARD (for himself, Mr. NELSON of Nebraska, and Mr. HAGEL):

S. 2979. A bill to identify certain routes in the States of Colorado, Nebraska, and South Dakota as part of the Heartland Expressway, a high priority corridor on the National Highway System; to the Committee on Environment and Public Works.

By Mr. BOND (for himself, Mr. DODD, Mr. FRIST, and Mr. KENNEDY):

S. 2980. A bill to revise and extend the Birth Defects Prevention Act of 1998; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VOINOVICH:

S. 2981. A bill to exclude certain wire rods from the scope of any anti-dumping or countervailing duty order issued as a result of certain investigations relating to carbon and certain alloy steel rods; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. FITZGERALD, Mr. SARBANES, and Mr. AKAKA):

S. 2982. A bill to establish a grant program to enhance the financial and retirement literacy of mid-life and older Americans and to reduce financial abuse and fraud among such Americans, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRIST (for himself and Mr. THOMPSON):

S. 2983. A bill to authorize a project for navigation, Chickamauga Lock and Dam, Tennessee; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DEWINE (for himself and Mr. VOINOVICH):

S. Res. 328. A resolution designating the week on September 22 through September 28, 2002, as ''National Parents Week''; to the Committee on the Judiciary.

By Mr. SMITH of Oregon:

S. Con. Res. 142. A concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes; to the Committee on the Judiciary.

By Mr. INHOFE (for himself, Mrs. CARNAHAN, Mrs. CLINTON, Ms. LANDRIEU, Mr. BREAUX, Mrs. LINCOLN, Mr. LIEBERMAN, Ms. STABENOW, Mr. BIDEN, Mr. CLELAND, Mr. JOHNSON, Mr. MILLER, Mr. NELSON of Nebraska, Mr. EDWARDS, Mr. BAUCUS, Mr. REED, Mrs. MURRAY, Mr. BAYH, Mr. BOND, Mr. HAGEL, Mr. THURMOND, Mr. HELMS, Mr. BROWNBACK, Mr. ALLEN, Ms. COLLINS, Mr. STEVENS, Mr. ALLARD, Mr. THOMAS, Mr. CRAIG, Mr. MURKOWSKI, Mr. LUGAR, Mr. FRIST, Mr. NICKLES, Mr. BUNNING, Mrs. HUTCHISON, Mr. FITZGERALD, Mr. WARNER, Mr. ROBERTS, Mr. SHELBY, Mr. LOTT, Mr. CRAPO, Mr. GRASSLEY, Mr. SESSIONS, Mr. DEWINE, and Mr. COCHRAN):

S. Con. Res. 143. A concurrent resolution designating October 6, 2002, through October 12, 2002, as ''National 4-H Youth Development Program Week''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 155

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

S. 627

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 677

At the request of Mr. HATCH, the names of the Senator from Delaware

(Mr. BIDEN) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds , to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 917

At the request of Ms. COLLINS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 917, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 969

At the request of Mr. DODD, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 969, a bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

S. 1201

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1201, a bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes.

S. 1377

At the request of Mr. SMITH of Oregon, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1377, a bill to require the Attorney General to establish an office in the Department of Justice to monitor acts of inter-national terrorism alleged to have been committed by Palestinian individuals or individuals acting on behalf of Palestinian organizations and to carry out certain other related activities.

S. 1914

At the request of Mr. KERRY, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1914, a bill to amend title 49, United States Code, to provide a mandatory fuel surcharge for transportation provided by certain motor carriers, and for other purposes.

S. 2039

At the request of Mr. DURBIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2188

At the request of Mr. BURNS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2188, a bill to require the Consumer Product Safety Commission to amend its flammability standards for children's sleepwear under the Flammable Fabrics Act.

S. 2215

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2215, supra.

S. 2245

At the request of Mr. BURNS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2245, a bill to amend title 49, United States Code, to enhance competition between and among rail carriers, to provide for expedited alternative dispute resolution of disputes involving rail rates, rail service, or other matters of rail operations through arbitration, and for other purposes.

S. 2462

At the request of Mr. JOHNSON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2462, a bill to amend section 16131 of title 10, United States Code, to increase rates of educational assistance under the program of educational assistance for members of the Selected Reserve to make such rates commensurate with scheduled increases in rates for basic educational assistance under section 3015 of title 38, United States Code, the Montgomery GI Bill.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2480, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

S. 2490

At the request of Mr. TORRICELLI, the name of the Senator from Vermont (Mr. JEFFORDS) 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. 2562

At the request of Mr. REID, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2562, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 2583

At the request of Mr. CORZINE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2583, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs in the management of health care services for veterans to place certain low-income veterans in a higher health-care priority category.

S. 2692

At the request of Mr. CORZINE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2692, a bill to provide additional funding for the second round of empowerment zones and enterprise communities.

S. 2734

At the request of Mr. KERRY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2734, a bill to provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

S. 2820

At the request of Mrs. CARNAHAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2820, a bill to increase the priority dollar amount for unsecured claims, and for other purposes.

S. 2860

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2860, a bill to amend title XXI of the Social Security Act to modify the rules for redistribution and extended availability of fiscal year 2000 and subsequent fiscal year allotments under the State children's health insurance program, and for other purposes.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from New Jersey (Mr. TORRICELLI) 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. 2892

At the request of Mr. KENNEDY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2892, a bill to provide economic security for America's workers.

S. 2903

At the request of Mr. JOHNSON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 2906

At the request of Mr. BINGAMAN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 2906, a bill to amend title 23, United States Code, to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways.

S. 2936

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr.

WARNER) was added as a cosponsor of S. 2936, a bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes.

S. CON. RES. 94

At the request of Mr. WYDEN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 94, A concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

S. CON. RES. 138

At the request of Mr. REID, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Washington (Mrs. MURRAY), the Senator from Minnesota (Mr. DAYTON) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Con. Res. 138, A concurrent resolution expressing the sense of Congress that the Secretary of Health And Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

AMENDMENT NO. 4662

At the request of Mr. SPECTER, his name was added as a cosponsor of amendment No. 4662 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4662

At the request of Mr. CRAPO, his name was added as a cosponsor of amendment No. 4662 intended to be proposed to H.R. 5005, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself and Mr. ALLEN):

S. 2966. A bill to enable the United States to maintain its leadership in aeronautics and aviation by instituting an initiative to develop technologies that will significantly lower noise, emissions, and fuel consumption, to reinvigorate basic and applied research in aeronautics and aviation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DODD. Madam President, I am pleased to rise today with Senator ALLEN to introduce the Aeronautics Research & Development Revitalization Act of 2002. This legislation is aimed at protecting the economic stability and national security of the United States by establishing a broad-based agenda to reinvigorate America's aeronautics and aviation R&D enterprise and maintain America's competitive leadership in aviation. Congressman LARSON and other members of Congress introduced companion legislation in the House several months ago.

The United States has dominated the aircraft industry for years. In 1985, we dominated the aerospace market controlling more than 73 percent of the commercial aircraft industry. Unfortunately, since 1985, the U.S. has fallen behind considerably. Today, we control less than 50 percent of the global market. Over the last decade, funding for the National Aeronautics and Space Administration's aeronautics research and development program has fallen by approximately 50 percent.

Last year, the European Commission and aerospace industry executives unveiled a report entitled ''European Aeronautics: A Vision for 2020'' which outlines ambitious goals of attaining global leadership in aeronautics and creating a world class air transport system for Europe. The U.S. aeronautics industry is being left behind at the gates, and is now in a position where it must catch up in an effort not to lose its economic and technological dominance over the international aeronautics market. Europe has committed to spending more than $93 billion within the next 20 years in order to implement ''A Vision for 2020''.

The Aeronautics Research and Development Revitalization Act of 2002 will provide a funding basis for NASA to plan and implement their ''Aeronautics Blueprint-Toward a Bold New Era of Aviation''. The ''Aeronautics Blueprint'' confronts the challenges that are faced by the aviation industry and puts forth a vision of what can be achieved by investments in aeronautics research and technology, and stresses the importance of combining the efforts of NASA, DOD, DoT, the FAA, academia, and industry. It does not, however, provide a program plan to actually achieve the vision, nor does it address the huge disparity between current NASA aeronautics funding and what is required to achieve the vision. The bill that Senator ALLEN and I are introducing today provides the necessary program plan needed to achieve the nation's aeronautics vision as found in the ''Aeronautics Blueprint,'' and stresses the importance of having agencies like NASA and FAA work closely together in achieving these goals.

The Aeronautics Research and Development Revitalization Act of 2002 would reverse the trend of declining Federal investments in aeronautics and aviation R&D by doubling the authorization of funding over five years. Funding for NASA would increase to $900 million in 2005, which is approximately the level it was in 1998, and would increase to $1.15 billion in 2007. The legislation would also double funding for the FAA to more than $550 million in 2007.

This bill will have a direct impact on technologies that can be easily incorporated into the commercial airline industry. The bill focuses on improving fuel-efficiency for commercial standard airliners, as well as noise reduction, improved emissions, wake turbulence, more stringent safety and security standards, a more efficient air-traffic control system, and supersonic transport. Universities will also be given resources to develop training methods for people who will make use of these technologies. Individual engineering graduate students studying aeronautics will be eligible for scholarships and summer employment opportunities which will be made possible through specific funding in this legislation.

These new technologies will help our Nation militarily, as well. Planes will be able to fly farther than before, communications networks will be improved, making it easier to coordinate military operations, and quieter engines will make planes less detectable to ground forces that do not have the benefit of radar. Even transport missions will be much more efficient.

The events of September 11 not only highlighted the importance of aviation to our entire economy, but they also demonstrated the need to enhance our aviation security system. This bill should, we believe, be part of our government's commitment to investment in the economic growth, security and safety of America's aviation and aeronautics sector.

By Mr. BOND (for himself and Ms. COLLINS):

S. 2967. A bill to promote the production of affordable low-income housing; to the Committee on Banking, Housing, and Urban Affairs.

Mr. BOND. Madam President, I rise today to introduce the Affordable Housing Expansion Act of 2002. I include a summary of the provisions of the legislation with my statement, and I urge all members to review the bill and the summary. Obviously this is a major piece of legislation that will undoubtedly be considered in the next session of Congress as well, but I want to be out in public for discussion this year so we can work on it early next year. This is an important bill that is designed to start to meet the long-term housing needs of very low- and extremely low-income families. This bill is targeted especially to provide affordable housing for extremely low-income families, those at or below 30 percent of medium income.

In particular, the Affordable Housing Expansion Act would establish a new block grant program to be administered by the Department of Housing and Urban Development—HUD. HUD would allocate funds to state housing finance agencies for the development of mixed income housing with the Federal funding targeted to the development of the very low-income and extremely low-income housing component of the mixed income housing. Each state housing finance agency would have to submit an affordable housing expansion

plan to HUD that ensures the funds are allocated to meet the low-income housing needs in both the rural and urban areas of each state. States also would have to contribute a 25 percent match. Moreover, each state housing finance agency could use up to 20 percent of these block grant funds to preserve existing low-income multifamily housing and for the rehabilitation needs of low-income multifamily housing.

The Affordable Housing Expansion Act also provides new authority for low-income housing production under the Section 8 program and the Public Housing program. Under the Section 8 program, the bill provides new authority for a ''Thrifty Voucher'' program that would allow the use of section 8 project-based assistance for new construction, substantial rehabilitation and preservation of affordable housing for extremely low-income families. Because the cost of these vouchers is capped at 75 percent of the payment standard, these vouchers will need to be used in conjunction with other housing assistance programs, such as the HOME program, the Community Development Block Grant program or Low Income Housing Tax Credit program, to be successful.

The bill also would authorize a new loan guarantee program that will allow public housing agencies to rehabilitate existing public housing or develop offsite public housing in mixed income developments. The long-term debt of these loans would be tied to the prorata share of funds under the Public Housing Capital and Operating Funds that would be allocated to the units that are rehabilitated or constructed over a maximum of 30 years. This tool will allow Public Housing Agencies to address more aggressively the over $20 billion backlog of public housing capital needs.

The Affordable Housing Expansion Act of 2002 is an important first step towards addressing a growing shortage of affordable housing for very low-income and extremely low-income families. While homeownership rates have grown and the cost of housing has skyrocketed, many very low-income and extremely low-income families are being left behind without the availability of affordable rental housing. This is unfortunate. It is a tragedy. The social and economic costs to the Nation are dramatic. And while we have several Federal housing production programs, such as the HOME program and the Low Income Housing Tax Credit, not enough is being done.

In particular, HUD's most recent report on worst case housing needs, A Report on Worst Case Needs in 1999: New Opportunity Amid Continuing challenges, concluded that the shortage of affordable housing has worsened. In particular, the number of units affordable to extremely low-income renters dropped between 1997 and 1999 at an accelerated rate, and shortages of affordable housing available to those renters worsened. As we have seen in this economy, as rents continue to rise faster than inflation, the pressure for above-average rent increases at the bottom end of the rental stock is eroding further the supply of rental units that are affordable without Government subsidies.

In addition, this report found a record high of 5.4 million families—some 600,000 more families with worst case housing needs than in 1991—that have incomes below 50 percent of median income and pay at least 50 percent of their income in rent. In addition, worst case housing needs have become increasingly concentrated among those families with extremely low-incomes. In particular, over three-quarters of the families with worst case housing needs in 1997 had incomes below 30 percent of median income. I have seen no evidence that these families have fared better since 1997, and as rents have increased, I think it obvious that the problem has worsened. Further, since that time, we have lost some 200,000 units of section 8 project-based units to rent increases as well as to decisions by owners of the housing not to renew their section 8 contracts. Also, as families age and people live longer lives, we are beginning to face a new crisis of a lack of affordable housing for our seniors.

The Affordable Housing Expansion Act is designed to provide additional, needed tools that will allow States and communities to develop new affordable low-income and mixed-income housing, including units targeted to extremely low-income families. This would help fill a gap in the housing needs of the Nation that would allow these lowest income families to begin to climb the housing ladder to homeownership. Decisions would be driven by local choice and need and start to meet the burgeoning need for new low-income housing in tight markets where there is little or no housing for families and seniors at the low end of the economic scale. These families need to be served and the cost is small compared to potential cascading social and economic costs to both communities and families—it is a simple equation—homes equal stable environments in which children are educated and people can obtain jobs. Jobs and homes represent the tax base of any community and educated children are the future of our Nation.

This is important legislation. The private sector is not making the needed investment to meet the low-income housing needs of the present and future. The Federal government must show the leadership and make the needed investment to partner with state and localities as well as public and private entities in the low-income housing infrastructure of the Nation. This bill is designed to start to meet this need and focus the debate on the importance of low-income housing production to the current and future housing needs of this Nation.

Too often in this body we say we are going to help low-income people get more housing because we are going to expand the number of section 8 certificates. The sad fact is that in many communities, particularly in the St. Louis area, no matter how many more vouchers you put out, no more housing is available. Too many of the vouchers, the certificates, are not used because there simply is not the affordable housing. This deals with the problem that we see, not just in St. Louis but across the Nation.

I believe my colleagues should take a hard look at this. We invite their comments and consideration. We must do something, and it will probably be next year, but we must get to work right now thinking about how we are going to meet the need for affordable housing for the very low and extremely low income people who live in our country.

I ask unanimous consent that a summary of the legislation be printed with my statement.

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

Mr. BOND. Madam President, I send the bill to the desk and ask for its appropriate referral.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

AFFORDABLE HOUSING EXPANSION ACT OF 2002 (INTRODUCED BY SENATORS BOND AND COLLINS)

TITLE I—PRODUCTION OF NEW HOUSING FOR EXTREMELY LOW-INCOME AND VERY LOW-INCOME FAMILIES

Establishes a $1 billion block grant program beginning in 2003 that would allocate funds to state housing finance agencies on a per capita basis according to the population of the state. No state would receive less than $6 million.

Allows funds to be used for acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing; permits funds to be used for rehabilitation needs and preservation of existing assisted low-income housing (although no more than 20 percent of the funds can be used for rehabilitation and preservation); allows conversion of existing housing to housing for the elderly or for persons with disabilities.

Requires states to meet a 25 percent matching requirement to ensure accountability and to leverage additional funds.

Requires housing developed to be low- and mixed-income housing with at least 30 percent of the assisted unites targeted to extremely low-income families (families at or below 30 percent of medium income); remaining assisted units would be targeted to very low-income families.

Rents for assisted units are modeled after the low-income tax credit program only with deeper targeting—extremely low-income families would pay no more than 25 percent of 30 percent of medium income and very low-income families would pay no more than 25 percent of 50 percent of medium income.

Authorizes a new multifamily risk-sharing mortgage insurance program to help underwrite housing assisted under this title.

TITLE II—SECTION 8 HOUSING PRODUCTION

Thrifty vouchers

Establishes a ''Thrify'' Voucher Housing Production program that targets section 8

project-based assistance for new construction, substantial rehabilitation and preservation with eligible families defined as ''extremely low-income families'' (those at or below 30 percent of adjusted income).

Limits assistance to 25 percent of units in a building while limiting the cost for a unit at 75 percent of the payment standard or fair market rent (really is operating costs, utility costs and reasonable return on operating costs.). Initial rent term would be 15 years with renewals through at least year 40. The premise is to use anticipated section 8 project-based funds to capitalize the cost of new construction, substantial rehabilitation and preservation while subsidizing these costs over some 40 years plus. Thrifty vouchers could be used in conjunction with low-income housing tax credits, HOME, CDBG or the (Title I) ''Bond'' Housing Production Block Grant program.

New Thrifty Vouchers would be distributed under the formula used for the HOME program.

Reallocation of vouchers

New section 8 provision would provide for the reallocation of section 8 funds where a PHA fails to utilize at least 90 percent of allocated section 8 tenant-based assistance, and then 95 percent after 16 months from notice on failure to meet the 90 percent utilization requirements. Allows PHAs to challenge for a new survey of market rents in an area for an increased rent payment standard or fair market rent. Provides for a reallocation to another PHA, State or local agency, or nonprofit/for-profit capable of administering section 8 assistance upon a finding that a PHA has failed to meet these performance requirements. Upon a finding that there is a lack of eligible families for section 8 assistance in an are, HUD may reallocate section 8 assistance to other needy areas.

Preservation of sections 8 assistance on hud—held and owned properties

New provision that requires HUD to maintain existing section 8 project-based assistance for any HUD-owned or HUD-held multifamily projects upon disposition, except where HUD determines the project is not viable. (Mirrors Bond provision carried in annual VA/HUD Appropriations Acts for the disposition of HUD-owned or HUD-held multifamily projects that serve elderly or disabled families.)

TITLE III—PUBLIC HOUSING LOAN GUARANTEE PROGRAM

Establishes a new HUD loan guarantee program for public housing agencies for the rehabilitation of a portion of public housing or the development of off-site public housing in mixed income developments. Long term debt is tied to the pro-rata share of funds under the Captial and Operating Funds that would be allocated to the units rehabilitated or constructed over a maximum of 30 years.

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

S. 2967

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 ''Affordable Housing Expansion Act of 2002''.

SEC. 2. PURPOSE.

The purposes of this Act are to expand the production of affordable low-income housing for extremely low-, very low- and low-income families:

(1) through the creation of a housing production block grant program that will be administered through state housing finance agencies;

(2) through new section 8 ''thrifty'' voucher authority; and

(3) through new loan guarantee authority for public housing agencies.

SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) The term ''extremely low-income families'' shall mean persons and families (as that term is defined in section 3(b)(3) of the United States Housing Act of 1937) whose incomes do not exceed—

(A) 30 percent of the area medium as determined by the Secretary with adjustments for smaller and larger families and for unusually high or low family incomes; or

(B) 30 percent of the national nonmetropolitan medium income, if it is higher than the area medium income.

(2) The term ''insular areas'' shall mean the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, America Samoa, and any other territory of possession of the United States

(3) The term ''low-income families'' shall have the same meaning as provided under section 3(b)(2) of the United States Housing Act of 1937.

(4) The term ''project-based assistance'' shall have the meaning given such term in section 16(c)(6) of the United States Housing Act of 1937, except that such term includes assistance under any successor programs to the programs referred to in such section.

(5) The term ''public housing agency'' shall have the meaning given such term in section 3(b) of the United States Housing Act of 1937.

(6) The term ''Secretary'' shall mean the Secretary of Housing and Urban Development.

(7) The term ''section 8 assistance'' or ''voucher'' shall have the meaning given such term in section 8(f) of the United States Housing Act of 1937.

(8) The term ''State'' shall mean any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(9) The term ''State housing finance agency'' shall mean any State or local housing finance agency that has been designated by a State or insular area to administer this program.

(10) The term ''very low-income families'' shall have the same meaning as provided under section 3(b) of the United States Housing Act of 1937.

TITLE I—PRODUCTION OF AFFORDABLE HOUSING FOR EXTREMELY LOW-INCOME AND VERY LOW-INCOME FAMILIES

SEC. 101. AUTHORITY.

The Secretary of Housing and Urban Development shall make funds available to State housing finance agencies as provided under section 102 for the rehabilitation of existing low-income housing, for the development of new affordable low-income housing units, and for the preservation of existing low-income housing units that are at risk of becoming unavailable for low-income families.

SEC. 102. ALLOCATION OF RESOURCES.

(a) IN GENERAL.—The Secretary shall allocate funds approved in appropriations Acts to State housing finance agencies to carry out this Title. Subject to the requirements of subsection (b) and as otherwise provided in this subsection, each State housing finance agency shall be eligible to receive an amount of funds equal to the proportion of the per capita population of the State in relation to the population of the United States which shall be determined on the basis of the most recent decennial census for which data are available. For each fiscal year, the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under the applicable appropriations Act. The Secretary shall provide for distribution of amounts under this subsection to Indian tribes on the basis of a competition conducted pursuant to specific criteria developed after notice and public comment.

(b) MINIMUM STATE ALLOCATION.—If the allocation under subsection (a), when applied to the funds approved under this section in appropriations Acts for a fiscal year, would result in funding of less than $6,000,000 for any State, the allocation for such State shall be $6,000,000 and the increase shall be deducted pro rata from the allocation of all the other States.

(c) CRITERIA FOR REALLOCATION.—The Secretary shall reallocate any funds previously allocated to a State housing finance agency for any fiscal year in which the State housing finance agency fails to provide its match requirements or fails to submit an affordable housing expansion plan that is approved by the Secretary. All such funds shall be reallocated pursuant to the formula provided under subsection (a).

SEC. 103. AFFORDABLE HOUSING EXPANSION PLAN.

(a) SUBMISSION OF AFFORDABLE HOUSING EXPANSION PLAN.—The Secretary shall allocate funds under section 102 to a State housing finance agency only if the State housing finance agency has submitted an affordable housing expansion plan, with annual updates, approved by the Secretary and designed to meet the overall very low- and low-income housing needs of both the rural and urban areas of the State in which the State housing finance agency is located. This plan shall be developed in conjunction with the housing strategies developed for the applicable States and localities under section 105 of Cranston-Gonzalez National Affordable Housing Act.

(b) CITIZEN PARTICIPATION.—Before submitting an affordable housing expansion plan to the Secretary, a State housing finance agency shall—

(1) make available to citizens of the State, public agencies and other interested parties information regarding the amount of assistance expected to be made available under this Title and the range of investment or other uses of such assistance that the State housing finance agency may undertake;

(2) publish the proposed plan in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to review its contents and to submit comments on the proposed plan;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the State; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding the uses of any assistance that the State housing finance agency may have received under this Title during the preceding 5 years.

SEC. 104. ELIGIBLE USE OF FUNDS.

Funds made available under this title shall be used for—

(1) the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing for mixed income rental housing where the assistance provided under section 102 shall be used to assist units targeted to very low-income and extremely low-income families, including large families, the elderly, and persons with disabilities.

(2) the moderate and substantial rehabilitation of rental housing units that are currently assisted under State or Federal low-income housing programs;

(3) the preservation of Federal and State low-income housing units that are at risk of

being no longer affordable to low-income families;

(4) the purchase and creation of land trusts to allow low-income families an opportunity to rent homes in areas of low-vacancy;

(5) conversion of public housing to assisted living facilities for the very low- and extremely-low income elderly;

(6) conversion of section 202 elderly housing to assisted living facilities for the very low- and extremely-low income elderly;

(7) conversion of HUD-owned or HUD-held multifamily properties upon disposition to housing for the very low- and extremely low-income elderly, housing for very low-income and extremely low-income persons with disabilities and to assisted living facilities for the very low- and extremely low-income elderly; and

(8) creation of sinking funds to maintain reserves held by State housing finance agencies to preserve the low-income character of the housing.

SEC. 105. MATCHING REQUIREMENTS.

(a) IN GENERAL.—Each State housing finance agency shall make contributions for activities under this title that total, throughout a fiscal year, not less than 25 percent of the funds made available under this title.

(b) ALLOWABLE AMOUNTS.—

(1) APPLICATION TO HOUSING.—A contribution shall be recognized for purposes of a match under subsection (a) only if—

(A) made with respect to housing that qualifies as affordable housing under section 107; or

(B) made with respect to any portion of a project for which not less than 50 percent of the units qualify as affordable housing under section 107.

(2) FORM.—A contribution may be in the form of—

(A) cash contributions from non-Federal sources, which may not include funds from a grant under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974 or from the value of low income tax credits allocated pursuant to the Internal Revenue Code;

(B) the value of taxes, fees or other charges that are normally and customarily imposed but are waived, forgone, or deferred in a manner that achieves affordability of housing assisted under this title;

(C) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(D) the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this title;

(E) the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, construction or rehabilitation of affordable housing; and

(F) such other contributions to affordable housing as the Secretary considers appropriate.

(3) ADMINISTRATIVE EXPENSES.—Contributions for administrative expenses may not be recognized for purposes of this section.

SEC. 106. DISTRIBUTION OF ASSISTANCE.

Each State housing finance agency shall ensure that the development of new housing under this section is designed to meet both urban and rural needs, and prioritize funding, to the extent practicable, in conjunction with the economic redevelopment of an area.

SEC. 107. ELIGIBLE AFFORDABLE HOUSING.

(a) PRODUCTION OF AFFORDABLE HOUSING.—In the case of new construction, housing shall qualify for assistance under this title only if the housing—

(1) is required to have not less than 30 percent of the assisted units occupied by extremely low-income families who pay as a contribution towards rent (not including any Federal or State rental subsidy provided on behalf of the family) not more than 25 percent of the adjusted income of a family whose income equals 30 percent of the median income for the area, as determined by the Secretary, with adjustments for the number of bedrooms in the unit, except that the Secretary may establish income ceilings higher or lower than 30 percent of the median income for the area on the basis of the Secretary's findings that variations are necessary because of the prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(2) except as provided under paragraph (1), is required to have all assisted units be occupied by very low-income families who pay as a contribution towards rent (not including any Federal or State rental subsidy provided on behalf of the family) not more than 25 percent of 50 percent of the median income for an area; and

(3) will remain affordable under the requirements provided in paragraphs (1) and (2), according to legally binding commitments satisfactory to the Secretary, for not less than 40 years, without regard to the term of the mortgage or to the transfer of ownership, or for such period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, including foreclosure where the responsibility for maintaining the low-income character of the property will be the responsibility of the State housing finance agency.

(b) PRIORITY FOR EXTREMELY LOW-INCOME FAMILIES.—State housing finance agencies shall give priority for funding to those projects that maximize the availability and affordability of housing for extremely low-income families.

SEC. 108. TENANT SELECTION.

An owner of any housing assisted under this Title shall establish tenant selection procedures consistent with the affordable housing expansion plan of the State housing finance agency.

SEC. 109. PROHIBITION ON USE OF FUNDS FOR SERVICE COORDINATORS OR SUPPORTIVE SERVICES.

No funds under this Act may be used for service coordinators or supportive services.

SEC. 110. PENALTIES FOR MISUSE OF FUNDS.

The Secretary shall recapture any assistance awarded under this Title to the extent the assistance has been used for impermissible purposes. To the extent the Secretary identifies a pattern and practice regarding the misuse of funds awarded under this Title, the Secretary shall deny assistance to that State for up to 5 years, subject to notice and an opportunity for judicial review.

SEC. 111. SUBSIDY LAYERING REQUIREMENTS.

The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with assistance, including a commitment to insure a mortgage, provided under this Title by a certification of a State housing finance agency to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property assisted under this Title shall not be any greater than is necessary to provide affordable housing.

SEC. 112. MULTIFAMILY RISK-SHARING MORTGAGE INSURANCE PROGRAM.

The Secretary shall carry out a mortgage insurance program through the Federal Housing Administration in conjunction with State housing finance agencies to insure multifamily mortgages for housing that qualifies under this Title. This program shall be consistent with the requirements established under section 542 of the Housing and Community Development Act of 1992, except that housing that meet the requirements of this Title shall be eligible for mortgage insurance.

SEC. 113. EFFECTIVE DATE AND REGULATIONS.

(a) EFFECTIVE DATE.—This Title shall take effect upon the date of enactment of this Act.

(b) RULES.—The Secretary shall issue notice and comment rulemaking with final regulations issued no later than 6 months after the date of enactment of this Act.

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,000,000,000 for fiscal year 2003, of which no more than 20 percent of such funds may be used for rehabilitation needs and to preserve existing housing for low- income families.

TITLE II—SECTION 8 HOUSING PRODUCTION

SEC. 201. PROJECT-BASED VOUCHERS AND THRIFTY VOUCHERS.

(a) IN GENERAL.—Section 8(o)(13) of the United States Housing Act of 1937 is amended—

(1) in subparagraph (C)(ii), by inserting before the period at the end the following: '', revitalizing a low-income community, or preventing the displacement of extremely low- income families'';

(2) in subparagraph (D)(ii), by striking ''apply in the case of'' and all that follows through the period and inserting the following: ''apply—

(I) in the case of assistance under a contract for housing consisting of single family properties (buildings with 1 to 4 units);

(II) for dwelling units that are specifically made available for households comprised of elderly families or disabled families; or

(III) outside of a qualified census tract, for buildings with 5 to 25 units or with dwelling units that are specifically made available for families receiving supportive services.

For purposes of this clause, the term 'qualified census tract' has the same meaning given that term in section 42(d) of the Internal Revenue Code of 1986. The Secretary may waive the limitations of this clause, consistent with the obligation to affirmatively further fair housing practices.'';

(3) in subparagraph (F), by striking ''10 years'' and inserting ''15 years'';

(4) by adding the following to the end:

''(L) USE OF ASSISTANCE IN CONJUNCTION WITH PUBLIC HOUSING CAPITAL FUNDS.—

''(i) CAPITAL FUND.—Notwithstanding any provision to the contrary in this Act, a public housing agency may attach assistance under this paragraph to a structure or unit that receives assistance allocated to the public housing agency under the Capital Fund, established by section 9(d).

''(ii) OPERATING FUND.—A unit that receives assistance under this paragraph shall not be eligible for assistance under the Operating Fund established by section 9(e).

''(M) THRIFTY VOUCHERS.—

''(i) IN GENERAL.—For the purpose of encouraging the production or preservation of housing affordable to extremely low-income families, a public housing agency may use amounts provided under an annual contributions contract under this subsection to enter into a housing assistance payment contract for Thrifty Voucher assistance that is attached to the structure. Except as otherwise specified in this paragraph, such housing assistance contract shall be subject to the limitations and requirements of subparagraphs (A), (B), (C), (D), (E), (F), (G), (J), (K) and (L).

''(ii) USE FOR NEW PRODUCTION, SUBSTANTIAL REHABILITATION, AND PRESERVATION.—Assistance under this paragraph may only be attached to a structure that is newly constructed, acquired for preservation as affordable housing, or substantially rehabilitated.

''(iii) ELIGIBLE FAMILIES.—A prospective tenant of a unit that is assisted under this subparagraph must qualify as an extremely low-income family at the commencement of the proposed occupancy by the tenant.

''(iv) LIMITATION.—Assistance under this subparagraph may not be attached to more than 25 percent of the units in a building. For purposes of this clause, a project consisting of single family structures shall be treated as 1 building if the single family structures are owned, and constructed, substantially rehabilitated, or acquired for preservation under a common plan.

''(v) RENT CALCULATION.—

''(I) IN GENERAL.—A housing assistance payment contract entered into under this subparagraph shall establish the gross rent for each unit assisted in an amount equal to the per unit operating cost of the property plus the applicable utility allowance of the public housing agency for tenant-paid utilities. An owner may accept a gross rent that is less than the per unit operating cost of the property plus the applicable utility allowance, if the gross rent exceeds the limitation under subclause (IV).

''(II) UNIT OPERATING COST.—As used in this subparagraph, the unit operating cost is the allocable share of the ordinary and customary expenses of the unit incurred to operate the property, including applicable owner- paid utilities, contribution to the replacement reserve, asset management fees, and a cash flow allowance equal to 15 percent of all other allocable operating costs. A public housing agency shall require an owner to demonstrate that the unit operating cost for units assisted under this subparagraph does not exceed the operating cost of other units in the property that are not assisted under this subparagraph, with appropriate adjustments for unit size, and shall establish policies to ensure that expenses included in the unit operating cost that are paid to the owner or a related entity are reasonable and consistent with prevailing costs in the community in which the property is located. Required verification shall be determined by the public housing agency.

''(III) ADJUSTMENT.—A public housing agency shall, upon request, make an appropriate annual adjustment in the rent established under this clause based on documented changes in unit operating costs and any increase in the applicable fair market rent or payment standard.

''(IV) LIMITATION.—Gross rent established under this paragraph shall not exceed the greater of—

''(aa) 75 percent of the payment standard used by the public housing agency for a dwelling unit of the same size; or

''(bb) 75 percent of the applicable fair market rental.

''(V) EXCEPTION.—The Secretary is authorized to approve an exception to the 75 percent limitation in subclause (IV) for not more than 2 percent of the total number of vouchers funded under this subsection, not to exceed 90 percent of the payment standard or applicable fair market rental, if the permitted maximum rent could not otherwise support the reasonable operating cost of rental housing, and the public housing agency can demonstrate a need for production or preservation of affordable housing.

''(vi) RENEWAL OF ASSISTANCE.—

''(I) IN GENERAL.—The Secretary shall increase the adjusted allocation baseline for renewal of funding under subsection (dd) for public housing agencies that attach assistance under this paragraph to a structure.

''(II) INCREASE EQUIVALENT.—An increase under subclause (I) shall equal the number of additional families that a public housing agency can assist as a result of the reduced payments permitted under this paragraph.

''(III) EXCEPTION TO LIMITATION ON PROJECT-BASED ASSISTANCE.—The additional units assisted as a result of the reduced payments permitted under this paragraph shall not be considered in determining the compliance of a public housing agency with the percentage limitation in subparagraph (B).

''(IV) APPLICABILITY.—This subparagraph shall not apply to incremental assistance initially issued under this paragraph.

''(vii) ALLOCATION OF INCREMENTAL ASSISTANCE FOR USE UNDER THIS PARAGRAPH.—

''(I) IN GENERAL.—Incremental assistance appropriated for use under this paragraph—

''(aa) shall be allocated for public housing agencies within each State, after reserving appropriate amounts for insular areas, in accordance with the formula established by the Secretary under section 217(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)); and

''(bb) the Secretary shall obligate amounts that are available for public housing agencies within each State, as determined under item (aa), to qualified public housing agencies within the State pursuant to specific criteria for the selection of recipients for assistance in a notice published in the Federal Register.

''(II) RECIPIENTS.—Subject to the allocation referred to in subclause (I) and any additional criteria that the Secretary may establish, the Secretary shall award such incremental assistance for use under this paragraph to a public housing agency that administers a program of tenant-based assistance under this subsection and—

''(aa) administers funds for the construction, preservation, or substantial rehabilitation of rental housing other than public housing; or

''(bb) has an agreement with an agency or entity that administers funds for the construction, preservation, or substantial rehabilitation of rental housing that will enable a prospective developer of such housing to submit a single application for both types of funds.

''(III) LIMITATION.—Incremental assistance for use under this paragraph shall not be considered in determining compliance by a public housing agency with the limitation in subparagraph (B).

''(IV) NATIONAL COMPETITION.—If the Secretary determines that sufficient funds for incremental assistance for use under this paragraph have not been appropriated for public housing agencies within each State in accordance with the formula established under section 217(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)), the Secretary may award such funds to qualified public housing agencies through a national competition.

''(viii) DEFINITIONS.—In this subparagraph—

''(I) the term 'substantial rehabilitation' means rehabilitation expenditures paid or incurred with respect to a unit, including its prorated share of work on common areas or systems, of at least $25,000, which amount shall be increased annually by the Secretary to reflect inflation, and such increased amount shall be published in the Federal Register; and

''(II) the term 'extremely low-income families' means persons and families (as that term is defined in section 3(b)(3)) whose incomes do not exceed—

''(aa) 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families and for unusually high or low family incomes; or

''(bb) 30 percent of the national nonmetropolitan median income, if it is higher than the area median income.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect upon the date of enactment of this Act.

(2) RULES.—The Secretary shall promulgate rules, as may be necessary, to carry out section 8(o)(13) of the United States Housing Act of 1937, as amended by this Act, and shall publish—

(A) either proposed rules or interim rules not later than 6 months after the date of enactment of this Act; and

(B) final rules not later than 1 year after the date of enactment of this Act.

SEC. 202. REALLOCATION OF VOUCHERS.

(a) IN GENERAL.—Section 8(dd) of the United States Housing Act of 1937 (42 U.S.C. 1437f(dd)) is amended—

(1) by striking ''Subject to'' and inserting the following: ''(1) IN GENERAL.—Subject to''; and

(2) by adding at the end the following: ''(2) REALLOCATION OF CHRONICALLY UNUTILIZED VOUCHERS.—

''(A) IN GENERAL.—The Secretary may reduce the allocation baseline, only to the extent that the reduction reflects the lesser of the unutilized portion of tenant-based subsidies or of budget authority provided under this section, of a public housing agency that—

''(i) fails, in a fiscal year, beginning in the fiscal year in which this Act is enacted, to utilize at least 90 percent of its allocated number of tenant-based subsidies or at least 90 percent of the budget authority provided under this section that has been under annual contributions contract for 12 months on the first day of the fiscal year, not taking into account, in the numerator, funds used for services and other activities under section 4; and

''(ii) fails, within 16 months after written notice by the Secretary of a failure described in clause (i), to utilize at least 95 percent of allocated vouchers for rental assistance provided under this section or contracted budget authority provided under this section with respect to vouchers that have been under annual contributions contract for 12 months on the first day of the fiscal year, not taking into account, in the numerator, funds used for services and other activities under section 4.

''(B) NOTICE TO TENANTS AND COMMUNITY.—When the Secretary provides written warning to a public housing agency of a failure described in subparagraph (A)(i), the Secretary shall also publish notice of such failure in the Federal Register and shall provide written notice of such failure to the chairman of the subject public housing agency's resident advisory board established pursuant to section 5A(e). Not later than 14 days after the date of receipt by the public housing agency of notice of a failure described in subparagraph (A)(i), that public housing agency shall provide a copy of such notice to all members of its resident advisory board or boards.

''(C) UTILIZATION RATE DETERMINATION.—

''(i) IN GENERAL.—At the request of a public housing agency, the Secretary shall determine the voucher utilization rate of the public housing agency for use under subparagraph (A), based on data regarding the utilization of vouchers from the period beginning 6 months prior to the request of the public housing agency.

''(ii) ELIGIBILITY OF A PHA TO REQUEST A NEW SURVEY OF FAIR MARKET RENTS.—If a public housing agency requests, within 60 days of receipt of the written notice by the Secretary of a failure described in subparagraph (A)(i), that the Secretary conduct a further survey of market rents in the area to determine the accuracy of the applicable fair market rent or the need for an exception payment standard, and the Secretary determines as a result of such survey to increase the fair market rent or payment standard,

the written notice shall be considered null and void. Whether a public housing agency complies with the standard under subparagraph (A)(i) shall be determined based on the first complete fiscal year in which the agency has the opportunity to use the increased fair market rent or approved exception payment standard. To be eligible to request a rent survey under this clause, a public housing agency must use the maximum allowable payment standard for that area for a period of not less than 6 months prior to such request.

''(D) DETERMINATION OF INEFFECTIVE PERFORMANCE.—A reallocation of chronically unutilized vouchers under this subsection shall be deemed to be a determination that the agency is not performing effectively under section 3(b)(6)(B)(iii).

''(3) REALLOCATION.—

''(A) IN GENERAL.—The Secretary shall allocate the contracts for the vouchers made available by the reduction in baseline authority authorized under paragraph (2) in a manner that ensures that applicants on the waiting list of the public housing agency from which vouchers are reallocated may continue to be served, consistent with this paragraph.

''(B) METROPOLITAN AREA.—

''(i) DESIGNATION OF METROPOLITAN ADMINISTRATOR.—If vouchers are reallocated from a public housing agency located in a metropolitan area, the Secretary shall, based on a public competitive process, designate a metropolitan administrator for all or a portion of the metropolitan statistical area in which that public housing agency is located, in a manner consistent with clause (iv).

''(ii) DISTRIBUTION OF VOUCHERS.—A metropolitan administrator designated under clause (i) shall receive all vouchers in that administrator's region made available pursuant to paragraph (2).

''(iii) ELIGIBLE ADMINISTRATORS.—The Secretary may select as a metropolitan administrator an agency—

''(I) that—

''(aa) currently administers a voucher program serving residents of the geographic area served by the agency whose voucher allocation has been reduced;

''(bb) has the legal ability to serve such area; or

''(cc) has an agreement with the Secretary to serve such area pursuant to section 3(b)(6)(B)(iii); and

''(II) that is—

''(aa) a public housing agency that administers a voucher program;

''(bb) a State or local agency that has experience in administering tenant-based assistance programs; or

''(cc) a nonprofit or for-profit agency that has experience in administering tenant-based assistance programs.

''(iv) SELECTION PROCESS.—

''(I) PREFERENCE FOR CERTAIN PUBLIC HOUSING AGENCIES.—The Secretary may give preference in a competitive selection to a public housing agency described in clause (iii)(II)(aa) over other eligible administrators described in items (bb) and (cc) of that clause (iii)(II), if the public housing agency—

''(aa) is a well-managed agency, based on objective indicators, including a high rate of utilization of allocated vouchers or contracted budget authority provided under this section, and a high rate of compliance with eligibility and rent determination requirements; and

''(bb) has demonstrated an ability to increase the number of voucher holders residing in low poverty areas.

''(II) SELECTION CRITERIA.—In selecting a metropolitan administrator, the Secretary shall take into account—

''(aa) whether the entity has operated tenant-based assistance programs in a manner that has not led to an overconcentration of tenant-based subsidy holders in certain areas;

''(bb) whether the entity has the administrative capacity to administer the number of additional vouchers it is likely to receive if it is selected as a metropolitan administrator and to serve the geographic area served by agencies from which vouchers are reallocated;

''(cc) the relative need for assistance under subsection (o) of the eligible population not receiving housing assistance in the area currently served by the entity; and

''(dd) any other criteria for choosing a metropolitan administrator that the Secretary determines to be appropriate.

''(C) NONMETROPOLITAN AREA.—

''(i) IN GENERAL.—If vouchers are reallocated pursuant to this subsection from a public housing agency that is located in a nonmetropolitan area, the Secretary shall reallocate such authority to a public housing agency or other eligible administrator as specified in subparagraph (B)(iii). The Secretary may designate an entity to receive vouchers reallocated from all or a portion of the nonmetropolitan area in a State.

''(ii) SELECTION.—In selecting an entity to receive vouchers reallocated from a nonmetropolitan area, the Secretary shall utilize the preferences and criteria in subparagraph (B)(iv), and shall consider the relative administrative costs likely to be incurred to serve families that reside in the geographic area of the agency from which the vouchers were reallocated.

''(D) DESIGNATION OF A NEW ADMINISTRATOR.—If, at any time, the Secretary determines that the criteria established under this paragraph for a metropolitan or nonmetropolitan administrator are not met, the Secretary shall designate another administrator.

''(E) ADDITIONAL VOUCHERS.—The Secretary shall ensure that certain criteria or benchmarks regarding voucher success rates and concentration of voucher holders are met each year before providing an administrator with additional vouchers.

''(F) LACK OF ELIGIBLE FAMILIES.—If the Secretary determines that the primary cause of voucher underutilization by a public housing agency under paragraph (2)(A) is a lack of eligible families in the area of operation of the public housing agency, the Secretary may establish criteria and procedures to reallocate vouchers from that agency to another public housing agency or another metropolitan or nonmetropolitan administrator outside of the area of operation of the public housing agency. First priority for vouchers reallocated under this subparagraph shall be given to an entity that has previously voluntarily relinquished to the Secretary a portion of its allocated voucher budget authority and has subsequently demonstrated a need for, and an ability to use, such budget authority under criteria established by the Secretary. Second priority shall be given to an entity that serves a jurisdiction in the same State as the agency from which vouchers are being reallocated.

''(4) SPECIAL POPULATIONS.—Vouchers that have been designated by the Secretary to be used by special populations shall—

''(A) retain such designation on reallocation; and

''(B) be reallocated, if there is an eligible applicant within the State or area that has experience administering a voucher program for a special population, in accordance with paragraphs (2) and (3).

''(5) PROMPT REALLOCATION.—Within 60 days of reducing a public housing agency's allocation of vouchers pursuant to paragraph (2) in an area for which the Secretary has designated an administrator to receive vouchers reallocated pursuant to this subsection, the Secretary shall enter into a contract with the designated administrator for the reallocated vouchers.''.

(b) RULES OF THE SECRETARY.—The Secretary shall promulgate rules to carry out this section not later than 6 months after the date of enactment of this Act.

SEC. 203. DISPOSITION OF HUD-HELD AND HUD-OWNED MULTIFAMILY PROJECTS.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall maintain any rental assistance payments attached to any dwelling units under section 8 of the United States Housing Act of 1937 for all multifamily properties owned by the Secretary and multifamily properties held by the Secretary for purposes of management and disposition of such properties. To the extent, the Secretary determines that a multifamily property owned by the Secretary or held by the Secretary is not feasible for continued rental assistance payments under section 8, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties.

TITLE III—PUBLIC HOUSING LOAN GUARANTEE PROGRAM

SEC. 301. PUBLIC HOUSING LOAN GUARANTEE PROGRAM.

(a) Section 9 of the United States Housing Act of 1937 is amended by inserting at the end the following new subsection:

''(o) LOAN GUARANTEE DEVELOPMENT FUNDING.—(1) In order to facilitate the financing of the rehabilitation and development needs of public housing, the Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to guarantee and make commitments to guarantee, only to the extent or in such amounts as the provided in appropriations Acts, loans or other financial obligations entered between financial institutions and public housing agencies, for the purpose of financing the rehabilitation of a portion of public housing or the development off-site of public housing in mixed income developments (including demolition costs of the public housing units to be replaced), provided that the number of public housing units developed off-site replaces no less than an equal number of on-site public housing units in a project. Loans or other obligations guaranteed pursuant to this subsection shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary.

''(2) Subject to the availability of appropriated funds, the Secretary may not object to making a loan guarantee under this subsection unless the rehabilitation or replacement housing proposed by a public housing agency is inconsistent with its Public Housing Agency Plan, as submitted under section 5A, or the proposed terms of the guaranteed loan constitutes an unacceptable financial risk to the public housing agency or for repayment of the loan under this subsection.

''(3) Notwithstanding any other provision of this title, funding allocated to a public housing agency under subsections (d)(2) and (e)(2) of this section for the capital and operating funds are authorized for use in the payment of the principal and interest due (including such servicing, underwriting or other costs as may be specified in the regulations of the secretary) on the loans or other obligations guaranteed pursuant to this subsection.

''(4) The amount of any loan or other obligation guaranteed under this subsection shall not exceed in total the pro-rata amount of funds that would be allocated over a period not to exceed 30 years under subsections

(d)(2) and (e)(2) of this section on a per unit basis as a percentage of the number of units that are designated to be rehabilitated or replaced under this subsection by a public housing agency as compared to the total number of units in the public housing development, as determined on the basis of funds made available under such subsections (d)(2) and (e)(2) in the previous year. Any reduction in the total amount of funds provided to a public housing agency under this section in subsequent years shall not reduce the amount of funds to be paid under a loan guaranteed under this subsection but instead shall reduce the capital and operating funds which are available for the other housing units in the public housing development in that fiscal year. Any additional income, including the receipt of rental income from tenants, generated by the rehabilitated or replaced units may be used to establish a loan loss reserve for the public housing agency to assist in the repayment of the guaranteed loans or other obligations under this subsection or to address any shortfall in the operating or capital needs of the public housing agency in any fiscal year. The Secretary may require the payment of guaranteed loan premiums by a public housing agency to support the creation of a loan loss reserve account within the Department of Housing and Urban Development to minimize the risk of loss associated with the repayment of these guaranteed loans.

''(5) Subject to appropriations, the Secretary may use funds from the Public Housing Capital Fund to (A) establish a loan loss reserve account within the Department of Housing and Urban Development to minimize the risk of loss associated with the repayment of guaranteed loans made under this subsection, or (B) make grants to a public housing agency for capital investment needs or for the creation of a loan loss reserve account to be used in conjunction with a loan guarantee made under this subsection for the rehabilitation of a portion of public housing or the development off-site of public housing in mixed income developments (including demolition costs of the public housing units to be replaced).

''(6) To assure the repayment of loans or other obligations and charges incurred under this subsection and as a condition for receiving such guarantees, the Secretary shall require the public housing agency to enter into a contract, in a form acceptable to the Secretary, for the repayment of notes or other obligations guaranteed under this subsection and furnish, at the discretion of the Secretary, such security as may be deemed appropriate by the Secretary in making such guarantees.

''(7) The full faith and credit of the United States is pledged to the payment of all guarantees under this subsection. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of such guarantee so made shall be incontestable in the hand of the holder of the guaranteed obligations.

''(8) The Secretary may, to the extent approved in appropriations Acts, assist in the payment of all or a portion of the principal and interest amount due under the note or other obligation guaranteed under this subsection, if the Secretary determines that the public housing agency is unable to pay the amount it owes because of circumstances of extreme hardship beyond the control of the public housing agency.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect upon the date of enactment of this Act.

(2) RULES.—The Secretary shall promulgate rules, as may be necessary, to carry out section 8(o)(13) of the United States Housing Act of 1937, as amended by this Act, and shall publish—

(A) either proposed rules or interim rules not later than 6 months after the date of enactment of this Act; and

(B) final rules not later than 1 year after the date of enactment of this Act.

By Mr. SARBANES (for himself, Mr. JEFFORDS, and Mr. SESSIONS):

S. 2968. A bill to amend the American Battlefield Protection act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Madam President, today I am introducing legislation, together with my colleagues Senator JEFFORDS and Senator SESSIONS, which will help preserve significant sites associated with the Civil War. A similar companion bill has been introduced and has bipartisan support in the House of Representatives.

According to the Report on the Nation's Civil War Battlefields, prepared by the Civil War Sites Advisory Commission, CWSAC, in July, 1993, of the 384 principal Civil War battlefields, less than 20 percent have been protected for posterity and 60 percent have been lost or are in imminent danger of being fragmented by development and lost as coherent historic sites. To adequately address this problem, CWSAC recommended a federal investment of $10 million a year for seven years with a one-to-one Federal/non-Federal match.

While Congress has yet to fund Civil War battlefield preservation at the levels recommended in the 1993 report, in recent years it has taken important steps to preserve our Civil War heritage. In Fiscal Years 1999 and 2002, the Congress appropriated a total of $19 million in matching grants for battlefield protection. Thus far, these grants have preserved over 7,000 acres of key Civil War battlefields in 11 States.

The legislation I am introducing today seeks to build upon these successes by directing the Secretary of the Interior to establish the Civil War Battlefield Acquisition Grant Program. The bill authorizes Civil War battlefield acquisition matching grants of $10 million per year for Fiscal Years 2004 through 2008. The legislation requires a non-Federal share of at least 50 percent, thus leveraging $20 million annually. State and local governments and non-profit organizations will be eligible to receive grants under the program. All lands acquired by these grants must be identified in the 1993 report and may only be purchased from landowners who voluntarily sell their interests.

The legislation also directs the Secretary to update the Report on the Nation's Civil War Battlefields to reflect the activities carried out on the battlefields during the period between original publication of the report and the time of the update, including any changes or relevant developments relating to the battlefields during that period.

In my view, this legislation represents an important opportunity to maintain and preserve tangible links to our past so that future generations may experience firsthand this most critical period in our nation's history.

I ask unanimous consent that the text of the bill be printed in the RECORD. I urge my colleagues to join with me in supporting this important legislation.

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

S. 2968

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 ''Civil War Battlefield Preservation Act of 2002''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Civil War battlefields provide a means for the people of the United States to understand a tragic period in the history of the United States; and

(2) according to the Report on the Nation's Civil War Battlefields, prepared by the Civil War Sites Advisory Commission, and dated July 1993, of the 384 principal Civil War battlefields—

(A) almost 20 percent are lost or fragmented;

(B) 17 percent are in poor condition; and

(C) 60 percent—

(i) have been lost; or

(ii) are in imminent danger of being—

(I) fragmented by development; and

(II) lost as coherent historic sites.

(b) PURPOSES.—The purposes of this Act are—

(1) to act quickly and proactively to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchases of those battlefields from willing sellers; and

(2) to create partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields.

SEC. 3. BATTLEFIELD ACQUISITION GRANT PROGRAM.

The American Battlefield Protection Act of 1996 (16 U.S.C. 469k) is amended—

(1) by redesignating subsection (d) as paragraph (3) of subsection (c), and indenting appropriately;

(2) in paragraph (3) of subsection (c) (as redesignated by paragraph (1))—

(A) by striking ''APPROPRIATIONS'' and inserting ''appropriations''; and

(B) by striking ''section'' and inserting ''subsection'';

(3) by inserting after subsection (c) the following:

''(d) BATTLEFIELD ACQUISITION GRANT PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) BATTLEFIELD REPORT.—The term 'Battlefield Report' means the document entitled 'Report on the Nation's Civil War Battlefields', prepared by the Civil War Sites Advisory Commission, and dated July 1993.

''(B) ELIGIBLE ENTITY.—The term 'eligible entity' means a State or local government.

''(C) ELIGIBLE SITE.—The term 'eligible site' means a site—

''(i) that is not within the exterior boundaries of a unit of the National Park System; and

''(ii) that is identified in the Battlefield Report.

''(D) SECRETARY.—The term 'Secretary' means the Secretary of the Interior, acting through the American Battlefield Protection Program.

''(2) ESTABLISHMENT.—The Secretary shall establish a battlefield acquisition grant program under which the Secretary may provide grants to eligible entities to pay the Federal share of the cost of acquiring interests in eligible sites for the preservation and protection of those eligible sites.

''(3) NONPROFIT PARTNERS.—An eligible entity may acquire an interest in an eligible site using a grant under this subsection in partnership with a nonprofit organization.

''(4) NON-FEDERAL SHARE.—The non-Federal share of the total cost of acquiring an interest in an eligible site under this subsection shall be not less than 50 percent.

''(5) LIMITATION ON LAND USE.—An interest in an eligible site acquired under this subsection shall be subject to section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(f)(3)).

''(6) REPORTS.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of this subparagraph, the Secretary shall submit to Congress a report on the activities carried out under this subsection.

''(B) UPDATE OF BATTLEFIELD REPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall submit to Congress a report that updates the Battlefield Report to reflect—

''(i) preservation activities carried out at the 384 battlefields during the period between publication of the Battlefield Report and the update;

''(ii) changes in the condition of the battlefields during that period; and

''(iii) any other relevant developments relating to the battlefields during that period.

''(7) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There is authorized to be appropriated to the Secretary from the Land and Water Conservation Fund to provide grants under this subsection $10,000,000 for each of fiscal years 2004 through 2008.

''(B) UPDATE OF BATTLEFIELD REPORT.—There is authorized to be appropriated to the Secretary to carry out paragraph (6)(B) $500,000.''; and

(4) in subsection (e)—

(A) in paragraph (1), by striking ''as of'' and all that follows through the period and inserting ''on September 30, 2008.''; and

(B) in paragraph (2), by inserting ''and provide battlefields acquisition grants'' after ''studies''.

By Mr. FEINGOLD:

S. 2970. A bill to amend the XVIII of the Social Security act to assure fair and adequate payment for high-risk medicare beneficiaries and to establish payment incentives and to evaluate clinical methods for assuring quality services to people with serious and disabling chronic conditions; to the Committee on Finance.

Mr. FEINGOLD. Madam President, I rise today to introduce the Promoting Care for the Frail Elderly Act of 2002, which is of critical importance to the most vulnerable Medicare beneficiaries, disabled seniors and those with complex medical conditions.

A number of States have successfully chosen to serve seniors and the disabled by combining Medicare and Medicaid services through a waiver approved by the Department of Health and Human Services that integrates services under Medicare and Medicaid capitated financing arrangements. These programs provide beneficiaries with a comprehensive benefit package that combines the services traditionally provided by Medicare, Medicaid, and home and community based wavier programs.

In my home State of Wisconsin, the Wisconsin Partnership Program, WPP, is one such success, a community-based program that has improved the quality, access, and cost-effectiveness of the care delivered to its beneficiaries. Perhaps most important to the beneficiaries, these programs help the disabled and the frail elderly remain in their own community, and avoid institutionalized care. Wisconsin is lucky to have four such programs across our State: Elder Care and Community Living Alliance of Dane County, Community Care for the Elderly of Milwaukee County, and Community Health Partnership of Eau Claire, Dunn, and Chippewa Counties.

In order to qualify for these programs, a person must be Medicaid-eligible, have physical disabilities or frailties of aging, and require a level of care provided by nursing homes. Through programs such as the Wisconsin Partnership Program, these frail elderly and disabled beneficiaries are able to receive quality preventive care up front, which allows more beneficiaries to stay in their communities and reduces the rate of hospitalization.

In Wisconsin, about 26 percent of all Medicaid recipients age 65 or older are in nursing homes. This rate drops dramatically for those enrolled in the Wisconsin Partnership Program, where only 5.9 percent of recipients age 65 or older are in nursing homes.

While the Wisconsin Partnership Program is a success, we must ensure that the Federal Government continues to support these State-based solutions to our long-term care needs and other specialty managed care programs that focus on frail, chronically-ill seniors. The current formula used to cover those enrolled in Medicare managed care programs overpays for healthy beneficiaries and underpays for the frail elderly and disabled. This payment method creates a backwards incentive for plans to avoid serving the most vulnerable segment of the Medicare population, the very seniors who could benefit most from program such as the Wisconsin Partnership Program.

While a number of steps have been taken to improve these payment methods over the past four years, we must ensure that they meet the needs of Medicare beneficiaries with complex care needs.

This legislation will help develop an appropriate incentive for specialty managed care programs serving a disproportionate number of frail, medically complex beneficiaries. My legislation will take several steps toward meeting this goal. First it will require the Center for Medicare and Medicaid Services to evaluate alternative risk adjustment methods that account for the higher costs borne by plans with a disproportionate number of high cost beneficiaries.

During this study, it will also implement the recommendations of the Medicare Payment Advisory Commission by permitting these plans that currently operate under demonstration authority to maintain existing payment formulas until the Secretary devises a risk adjustment method that pays adequately for high risk enrollees. At the same time, it would also direct MedPAC to evaluate appropriate methods to adjust payment rates based on the makeup of the beneficiaries.

Finally, my legislation would also authorize the Secretary to conduct a demonstration to enhance care and improve outcomes for frail, vulnerable Medicare beneficiaries.

I would also like to make clear that this legislation uses existing funds to pay for these initiatives, and is thus budget neutral. It authorizes the demonstration program within existing dollars and would also provide additional funding for the frailty adjustment with existing Medicare+Choice dollars.

Fundamental long-term care reform is vital to any health care reform that Congress may consider. As part of these reforms, we must support state and local efforts to encourage care for the most vulnerable populations. We must provide our seniors and disabled with real choices. They are entitled to the opportunity to continue to live in the homes and communities that they helped build and sustain. I urge my colleagues to support this measure that will help provide a measure of support for the most frail elderly and disabled to allow them to stay in their own homes.

By Mr. BINGAMAN:

S. 2971. A bill to amend the Transportation Equity Act for the 21st Century to provide the Highway Trust Fund additional funding for Indian reservation roads, and for other purposes; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, I am very pleased today to introduce the Tribal Transportation Program Improvement Act of 2002. The goal of this legislation is to help provide safe and efficient transportation throughout Indian country. At the same time, this bill will help promote economic development, self-determination, and employment of Indians and Alaska Natives. I believe the Federal Government has an obligation to provide safe and efficient transportation for all tribes. Indians pay the same Federal gasoline, tire, and other taxes, as all other Americans and are entitled to the same quality of transportation.

This bill is a 6-year reauthorization and improvement of the Indian Reservation Roads program, which funds transportation programs for all tribes. Next year, Congress must reauthorize

the IRR program, along with all other transportation programs in TEA–21. I am introducing the bill today as a first step in that process.

Congress has long recognized the importance of improving transportation and access to tribal lands. The Indian Reservation Roads Program was established in 1928, and in 1946 the BIA and the FHWA executed the first memorandum of agreement for joint administration of the program. Since 1982, funding for tribal transportation programs as been provided from the Federal Highway Trust Fund. Major changes to the program were again made in 1998 as part of TEA–21.

Today, the Indian Reservation Roads program serves more than 560 federally recognized Indian tribes and Alaskan native villages in 33 States. The IRR system comprises 25,700 miles of BIA and tribally owned roads and another 25,600 miles of State, county, and local government public roads. There are also 4,115 bridges on the IRR system, and one ferryboat operation, the Inchelium-Gifford Ferry in Washington State.

Of the 25,700 miles of BIA and tribal roads on the IRR system, only about one quarter are paved. Only about 40 percent of the 25,600 miles of state, county, or local government IRR roads are paved. Together, over two-thirds of all IRR roads are unpaved. Many of these unpaved roads are not passable in bad weather. In addition, about 140 of the 753 bridges owned by the BIA are currently rated as deficient.

Some of the roads on tribal lands resemble roads in third-world countries. In some cases, the roads are little more than wheel tracks. Even though the IRR system perhaps the most rudimentary of any transportation network in the country, over 2 billion vehicle miles are annually traveled on the system.

According to the Federal Highway Administration's most recent assessment of the Nation's highways, bridges, and transit, only 34 percent of paved IRR roads are rated in good condition, 37 percent are rated only fair, and 29 percent are rated poor. Of course, these ratings apply only to the paved roads on the IRR system, not the 33,000 miles of dirt and gravel roads.

The poor road quality also has a serious impact on highway safety. According to FHWA, the highway fatality rate on Indian Reservation Roads is four times above the national average. Automobile accidents are the number one cause of death among young American Indians.

Reflecting the current poor state of roads throughout the Indian country, FHWA now estimates the backlog of improvement needs for IRR roads at a whopping $6.8 billion dollars.

This year, the authorized funding level for IRR is $275 million from the highway trust fund. As required in TEA–21, the BIA distributes highway funding to federally recognized tribes each year using a relative need formula. This formula reflects the cost to improve eligible roads, road usage, and population of each tribe. Some modifications to the formula are currently being made as part of a negotiated rule making.

I hope all Senators recognize the broad scope of the IRR program and its impact on 33 of the 50 States. I'd like to read a list of the fiscal year 2002 distribution of IRR funding in the States that have tribal roads and ask unanimous consent that the table be printed in the RECORD.

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

EXHIBIT 1.—APPROXIMATE DISTRIBUTION OF FISCAL YEAR 2002 INDIAN RESERVATION ROAD FUNDING

State	Funding to tribes
Arizona	$56,100,000
Oklahoma	34,000,000
New Mexico	31,900,000
Alaska	18,500,000
Montana	13,600,000
South Dakota	11,700,000
Washington	10,100,000
Wisconsin	6,600,000
North Dakota	6,500,000
Minnesota	5,780,000
California	5,100,000
Oregon	3,900,000
Utah	2,970,000
Idaho	2,850,000
Wyoming	2,070,000
Michigan	1,560,000
Nevada	1,290,000
North Carolina	1,190,000
Colorado	1,100,000
New York	949,000
Maine	890,000
Kansas	851,000
Mississippi	706,000
Nebraska	626,000
Florida	550,000
Texas	220,000
Louisiana	197,000
Rhode Island	162,000
Iowa	126,000
Alabama	100,000
South Carolina	89,000
Connecticut	83,000
Massachusetts	47,000

Source: BIA. Data are approximate because some reservations and roads extend into more than one state.

I know every senator is keenly aware of the importance of transportation to the basic quality of life and economic development of a region. Safe roads are essential for children to get to school, for sick and elderly to receive basic health and medical treatment, and for food and other necessities to move to shops and to consumers. Moreover, transportation is critical to any community's efforts to sustain robust economies and to attract new jobs and businesses.

Unfortunately, most tribes today lack the basic road systems that most of us take for granted. Indian communities continue to lag behind the rest of the Nation in quality of life and economic vitality. Unemployment rates in Indian country frequently top 50 percent and poverty rates often exceed 40 percent.

The limited availability of housing and jobs on the reservation forces people to commute long distances everyday for work, school, health care, basic government services, shopping, or even to obtain drinking water.

I'd now like to take a moment to discuss the impact of the Indian Reservation Roads Program on just one tribe, the Navajo Nation. I think most senators know that Navajo is the largest federally recognized Indian tribe. The current membership is about 280,000. By itself, Navajo represents about one quarter of the entire Indian Reservation Roads program.

The Navajo Reservation covers 17.1 million acres in the States of Arizona, New Mexico, and Utah. It is roughly the size of the State of West Virginia. The reservation includes the three satellite communities of Alamo, Ramah, and To'hajiilee in New Mexico.

According to BIA, the Navajo IRR system includes 9,800 miles of public roads, or about 20 percent of all IRR roads. However, 78 percent of the roads within Navajo are unpaved. Because of the nature of the soil and terrain, many of the unpaved roads are impassable after snow or rain. Navajo estimates a current backlog of road construction projects totaling $2 billion.

The safety of bridges is also a continuing concern on the Navajo reservation. Of the 173 bridges on Navajo, 51 are rated deficient. Of the deficient bridges, 27 must be completely replaced and the rest need major rehabilitation.

The Navajo Nation also operates a transit system with 14 buses and three vans. The system carries 75,000 passengers each year. The system serves both Navajo people as well as the nearby communities of Gallup, Farmington, Flagstaff, and Winslow.

Finally, the few roads that are being built on the Navajo Reservation are not being properly maintained. Funding for road maintenance is not part of the IRR program. Instead road maintenance is funded each year as part of the BIA's annual appropriation bill. Unfortunately, BIA's budget lags woefully behind the need for road maintenance. Each year the Navajo Region of BIA requests about $32 million to maintain about 6000 miles of roads, but receives only about $6 million, or about 20 percent of the funds needed just to maintain the existing roads.

The bill I am introducing today will begin to address this crushing need for road construction and transit programs throughout Indian Country. The bill will benefit all tribes, both large and small. I'd like to briefly summarize the major provisions of the bill.

First, the bill increases funding for the Indian Reservation Roads program to $2.775 billion for the six years from 2004 to 2009. Under TEA–21, the IRR program is currently authorized for $275 million per year. This level represents less than 1 percent of annual Federal funding for road construction and rehabilitation. However, the 50,000 miles of the IRR system represent about 5 percent of the nation's 957,000 miles of Federal-aid-highways. I do believe the substantial increase in IRR funding in my bill is fully justified based on the very poor condition of so many IRR roads as well as the importance of transportation to economic development in Indian country.

Second, the bill removes the obligation limitation from the Indian Reservation Roads program. This funding limitation was first applied to the IRR program in 1998 in TEA–21, and over the six years of TEA–21 the limitation will have cut about $31 million per year in much-needed funding out of IRR. The IRR was not subject to any obligation limitation from 1983 to 1997, and my bill restores the program to the status it had before 1998.

Third, the bill restores the Indian Reservation Bridge Program with separate funding of $90 million over six years. TEA–21 had eliminated separate funding for the Indian reservation bridge program in 1998. In addition, the bill streamlines the bridge program by expanding the allowable uses of bridge funding to include planning, design, engineering, construction, and inspection of Indian reservation road bridges.

Fourth, the bill increases the current limit for tribal transportation planning from 2 percent to 4 percent. These funds will be used by tribes to compile important transportation data and to forecast their future transportation needs and long-range plans. Many of the tribes have indicated they currently don't have funding for capacity building, and the additional planning funds in my bill would address this need.

Fifth, TEA–21 established a negotiated rule making for distribution of funds based on the relative needs of each tribe for transportation. To ensure the distribution is tied to actual needs, my bill requires the Secretary of Transportation to verify the existence of all roads that are part of the Indian reservation road system.

Sixth, I propose a new tribal transit program to provide direct funding to tribes from the Federal Transit Administration. The new program would parallel the existing Indian Reservation Roads program funded through FHWA. In general, while States may allocate to tribal areas some of their transit funding under the existing formula grant programs for transit for elderly and disabled, section 5210, and for nonurbanized areas, section 5311, they rarely do so. Because the tribes are at a disadvantage in having to compete for funding within the states, I believe we need a direct funding program to allow tribes to provide better transit services to young people, elderly, and others who lack access to private vehicles. The bill sets aside a very modest level of funding of $120 million over six years for the new tribal transit program.

Seventh, the bill states the sense of Congress that the BIA should have sufficient funding to maintain all roads on the Indian Reservation Roads System. Federal funding for road maintenance is provided through the BIA's annual appropriation bill. Road maintenance has typically been funded at about $25 million per year, about one-fifth of the level needed to protect the Federal investment in IRR roads.

Finally, the bill increases funding for the successful school bus route maintenance program for counties in Arizona, New Mexico, and Utah that maintain roads used by school buses on the Navajo Reservation. The funding over six years is $24 million. Without this funding many of the children on the reservation would often not be able to get to school. I ask unanimous consent that a letter from Gallup McKinley County Public Schools describing this program be printed in the RECORD.

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

GALLUP MCKINLEY COUNTY
PUBLIC SCHOOLS,
Gallup, NM.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: The Gallup McKinley County Schools serve over 14 thousand students, of which 10,040 are bussed daily. Our District's school buses travel 9,235 miles daily. Several miles of these roads are primitive dirt roads with poor or no drainage, no guard rails, and some not maintained. The inability to safely negotiate school buses over these roads during wet, muddy and snowy conditions, greatly restricts our ability to provide adequate services for families living along these particular roadways. Continuing, and expanding, funding for school bus route maintenance is vital to providing safe and efficient transportation for thousands of students throughout our County.

The School bus route maintenance programs have helped tremendously. Our County Roads Division (McKinley County) has been tremendous in maintaining hundreds of miles of bus route roads. The bus route improvements made in the Bread Springs area have benefited families immensely. Along with graveling, they constructed a bus turnaround. Improvements have also been made and maintained in other areas in our County such as Rock Springs. This bus route was graveled along with a graveled bus turnaround. In Rock Springs, Mexican Springs, Coyote Canyon, and County Road 1 areas, similar improvements were made, allowing us to provide safe and efficient services for hundreds of families.

The School bus route program is a very important program, one that should continue and expand. The McKinley County Roads Division has worked diligently to provide safe access and passage for our School District's 160 school buses. Without the school bus route program, it will be impossible to maintain safe conditions on these roads. To insure the safety of our school children and families, the program must continue.

Your help in sponsoring bills in the past which address the unique situations with respect to school bus route roads have been greatly appreciated. Your continuing support of the school bus route program will enable our County Roads Division to improve and maintain hundreds of miles of school bus routes.

It is through these cooperative efforts that we are able to provide safe and efficient transportation for thousands of school children daily. Thank you for your continued efforts.

Sincerely,

BEN CHAVEZ,
GMCS Support Services.

Mr. BINGAMAN. The IRR system doesn't just serve Indian communities, but also visitors, including tourists, recreational, commercial and industrial users of roads and transit throughout Indian country. For the tribes, transportation is an important contributor to economic development, self-determination, and employment for all Indian communities. This bill represents a very modest, but important step toward providing basic transportation services throughout Indian country.

The proposals in my bill are similar to many of the recommendations presented by Chairwoman Robyn Burdette of the Summit Lake Paiute Tribe of Nevada at the August 8 hearing of the Subcommittee on Transportation, Infrastructure, and Nuclear Safety of the Environment and Public Works Committee. In her testimony, Chairwoman Burdette specifically cited the need to remove the obligation limitation, increase funding for the IRR program, create new programs for transit and bridges, and increase funding for road maintenance in the Interior appropriations bill. All of these items are addressed in my bill.

In addition, my bill parallels most of the recommendations in the recent White Paper prepared by the National Congress of American Indians' TEA–21 Reauthorization Task Force.

I well appreciate that tribes in different regions of the country may have different views and proposals on how best to improve Indian transportation programs. I see my bill as just the first step in a yearlong process leading up to the reauthorization of the TEA–21. I do believe it is important that we start the process as soon as possible, and that is my goal in introducing this bill today. I hope that Chairman INOUYE and Senator CAMPBELL of the Committee on Indian Affairs will soon hold hearings on the reauthorization of the Indian Reservation Roads Program. I look forward to working with them an the other members of the committee on developing a consensus proposal that is fair to all tribes.

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. 2971

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 ''Tribal Transportation Program Improvement Act of 2002''.

SEC. 2. INDIAN RESERVATION ROADS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112) is amended by striking ''of such title'' and all that follows and inserting ''of that title—

''(i) $225,000,000 for fiscal year 1998;

''(ii) $275,000,000 for each of fiscal years 1999 through 2003;

''(iii) $350,000,000 for fiscal year 2004;

''(iv) $425,000,000 for fiscal year 2005; and

''(v) $500,000,000 for each of fiscal years 2006 through 2009.''.

(b) OBLIGATION CEILING.—Section 1102(c)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 116) is amended—

(1) by striking ''distribute obligation'' and inserting the following: ''distribute—

''(A) obligation'';

(2) by inserting ''and'' after the semicolon at the end; and

(3) by adding at the end the following:

''(B) for any fiscal year after fiscal year 2003, any amount of obligation authority made available for Indian reservation road bridges under section 202(d)(4), and for Indian reservation roads under section 204, of title 23, United States Code;''.

(c) ADDITIONAL AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.—Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by inserting before the period at the end the following: '', $3,000,000 for each of fiscal years 2004 and 2005, $4,000,000 for each of fiscal years 2006 and 2007, and $5,000,000 for each of fiscal years 2008 and 2009''.

(d) INDIAN RESERVATION ROAD BRIDGES.—Section 202(d)(4) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) by striking ''(B) RESERVATION.—Of the amounts'' and all that follows through ''to replace,'' and inserting the following:

''(B) FUNDING.—

''(i) RESERVATION OF FUNDS.—Notwithstanding any other provision of law, there is authorized to be appropriated from the Highway Trust Fund $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, construction, and inspection of projects to replace,''; and

(B) by adding at the end the following:

''(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.''; and

(2) in subparagraph (D)—

(A) by striking ''(D) APPROVAL REQUIREMENT.—'' and inserting the following:

''(D) APPROVAL AND NEED REQUIREMENTS.—''; and

(B) by striking ''only on approval of the plans, specifications, and estimates by the Secretary.'' and inserting ''only—

''(i) on approval by the Secretary of plans, specifications, and estimates relating to the projects; and

''(ii) in amounts directly proportional to the actual need of each Indian reservation, as determined by the Secretary based on the number of deficient bridges on each reservation and the projected cost of rehabilitation of those bridges.''.

(e) FAIR AND EQUITABLE DISTRIBUTION.—Section 202(d) of title 23, United States Code, is amended by adding at the end the following:

''(5) FAIR AND EQUITABLE DISTRIBUTION.—To ensure that the distribution of funds to an Indian tribe under this subsection is fair, equitable, and based on valid transportation needs of the Indian tribe, the Secretary shall—

''(A) verify the existence, as of the date of the distribution, of all roads that are part of the Indian reservation road system; and

''(B) distribute funds based only on those roads.''.

(f) INDIAN RESERVATION ROADS PLANNING.—Section 204(j) of title 23, United States Code, is amended in the first sentence by striking ''2 percent'' and inserting ''4 percent''.

SEC. 3. INDIAN RESERVATION RURAL TRANSIT PROGRAM.

Section 5311 of title 49, United States Code, is amended by adding at the end the following:

''(k) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

''(1) DEFINITION OF INDIAN TRIBE.—In this subsection, the term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(2) PROGRAM.—

''(A) IN GENERAL.—The Secretary of Transportation shall establish and carry out a program to provide competitive grants to Indian tribes to establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

''(B) AMOUNT OF GRANTS.—The amount of a grant provided to an Indian tribe under subparagraph (A) shall be based on the need of the Indian tribe, as determined by the Secretary of Transportation.

''(3) FUNDING.—Notwithstanding any other provision of law, for each fiscal year, of the amount made available to carry out this section under section 5338 for the fiscal year, the Secretary of Transportation shall use $20,000,000 to carry out this subsection.''.

SEC. 4. SENSE OF CONGRESS REGARDING INDIAN RESERVATION ROADS.

(a) FINDINGS.—Congress finds that—

(1) the maintenance of roads on Indian reservations is a responsibility of the Bureau of Indian Affairs;

(2) amounts made available by the Federal Government as of the date of enactment of this Act for maintenance of roads on Indian reservations under section 204(c) of title 23, United States Code, comprise only 30 percent of the annual amount of funding needed for maintenance of roads on Indian reservations in the United States; and

(3) any amounts made available for construction of roads on Indian reservations will be wasted if those roads are not properly maintained.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should annually provide to the Bureau of Indian Affairs such funding as is necessary to carry out all maintenance of roads on Indian reservations in the United States.

By Mrs. SNOWE (for herself and Ms. COLLINS):

S. 2972. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to provide for a cooperative research and management program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Madam President, I rise today to introduce a bill which would help restore credibility in the National Oceanic and Atmospheric Administration, NOAA, and the National Marine Fisheries Service's, NMFS, data collection programs and improve their cooperative research and management programs.

I am introducing this bill today because of recent events in New England in which a commercial fisherman noticed that the trawl warps on the NOAA research vessel, Albatross IV, were improperly marked. As a result of this mis-calibration, the groundfish stock assessment data gathered since February 2000 may be inaccurate and its usability for management purposes is questionable. This fish-counting error could not have come at a worse time for NMFS, which is under a federal judge's order to impose some of New England's strictest fishing restrictions by next August.

This revelation and the possibility of other discrepancies is severely eroding the credibility of NMFS's stock assessments. These stock assessments form the foundation for all of our fisheries regulations and determine how many fish our fishermen can harvest. When these stock assessments are flawed and lack credibility, the entire process is adversely affected. We must act now to restore this credibility in the process and ensure that our stock assessments are as accurate as possible.

My bill would require the National Research Council to conduct an independent review of NMFS' data collection techniques; its protocols through which stock assessment equipment is calibrated, operated, inspected, and maintained; the frequency and financial cost of these quality control checks; how the accuracy and validity of data collected with sampling equipment is verified; and how measurement error is accounted for in stock assessment modeling and analysis based on these data. The National Research Council completed a report on the Northeast Fishery stock assessment process in 1998, so this new study would build upon the previous one. This assessment will provide us with an independent baseline to determine the extent of NMFS' data collection discrepancies.

Additionally, my bill will require NMFS to implement a national cooperative research program to facilitate industry involvement in data collection and stock assessments. I have also included a section that authorizes $3 million to enable cooperative comparative trawl research between the NMFS and fishing industry participants in the Northeast multi-species groundfish fishery. The fishing industry has been calling for a commercial vessel to trawl alongside the NOAA's vessels and this provision would require it. Nothing will help restore NMFS's credibility more than having commercial fishermen verifying its data.

The third section of this bill would address a flexibility concern for fisheries management. Earlier this year NMFS came out with new biological targets for groundfish. In other words, NMFS increased how many fish there have to be in order for the fishery to be considered recovered. The law is not clear on whether or not a change in the biological targets means the time-line for recovery changes as well. NMFS has interpreted the law to mean that despite a change in the biological targets, the fish must be recovered in the same amount of time. Accordingly, I have drafted language which allows, but does not require, the Secretary to adjust the time allowed for recovery if the biological targets have changed in the middle of the rebuilding plan. This provision would clarify existing law and make Congress' intent clearer.

As Ranking Member of the Subcommittee on Oceans, Atmosphere, and Fisheries, I am dedicated to ensuring that our stock assessments are as accurate as possible and the process we use

is transparent to all the stakeholders. This bill will allow us to take a critical step forward in ensuring that we can restore credibility and faith in this important process. I urge my colleagues to join me and support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 2972

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 ''Fisheries Research Improvement Act''.

SEC. 2. INDEPENDENT PEER REVIEW OF DATA COLLECTION PROCEDURES.

The Magnuson-Stevens Fishery Conservation and Management Act is amended by adding at the end of Title IV the following:

''SEC. 408. PEER REVIEW.

''The National Academy of Sciences shall review and recommend measures for improving National Marine Fisheries Service's procedures for ensuring data quality in the data collection phase of the stock assessment program. In this review, they shall address the quality control protocols through which stock assessment equipment is calibrated, operated, inspected, and maintained; the frequency and financial cost of these quality control checks; how the accuracy and validity of data collected with sampling equipment is verified; and how measurement error is accounted for in stock assessment modeling and analysis based on these data. This review shall apply to all activities that affect stock assessment data quality, whether conducted by the National Marine Fisheries Service or by National Marine Fisheries Service contractors.''.

SEC. 3. COOPERATIVE RESEARCH AND MANAGEMENT.

The Magnuson-Stevens Fishery Conservation and Management Act is amended by adding at the end the following:

''TITLE V—COOPERATIVE RESEARCH AND MANAGEMENT

''SEC. 501. ESTABLISHMENT OF PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a national cooperative research and management program to be administered by the National Marine Fisheries Service, based on recommendations by the Councils. The program shall consist of cooperative research and management activities between fishing industry participants, the affected States, and the Service.

''(b) RESEARCH AWARDS.—Each research project under this program shall be awarded on a standard competitive basis established by the Service, in consultation with the Councils. Each Council shall establish a research steering committee to carry out this subsection.

''(c) GUIDELINES.—The Secretary, in consultation with the appropriate Council and the fishing industry, shall create guidelines so that participants in this program are not penalized for loss of catch history or unexpended days-at-sea as part of a limited entry system.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Marine Fisheries Service, in addition to amounts otherwise authorized by this Act, the following amounts, to remain available until expended, for the conduct of this program:

''(1) $25,000,000 for fiscal year 2003.
''(2) $30,000,000 for fiscal year 2004.
''(3) $35,000,000 for fiscal year 2005.
''(4) $40,000,000 for fiscal year 2006.
''(5) $45,000,000 for fiscal year 2007.

''(e) NEW ENGLAND TRAWL SURVEY.—Of the funds authorized in subsection (d) $3,000,000 shall be authorized for the purpose of cooperative comparative trawl research between the National Marine Fisheries Service and fishing industry participants for the Northeast multispecies groundfish fishery, which the Secretary shall design and administer with input from fishing industry participants and other interested stakeholders.''.

SEC. 4. REGULATORY FLEXIBILITY.

Section 304(e)(4)(A)(ii) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1854(e)(4)(A)(ii)) is amended to read as follows:

''(ii) not exceed 10 years, except in the case where a rebuilding target is changed during the rebuilding period, the Council or the Secretary may extend the time period for the rebuilding to accommodate the new target;''.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2973. A bill to designate the Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the ''Joe Skeen Federal Building''; to the Committee on Environment and Public Works.

Mr. DOMENICI. Madam President, I rise today to introduce a bill to rename the Federal courthouse in Roswell, New Mexico for my longtime friend and ally, Representative JOE SKEEN.

I have had the highest honor of serving the State of New Mexico with this amazing man for more than 20 years. JOE was first elected to the House of Representatives in 1980 as a write-in candidate. He is only the third man in the history of this country to achieve this feat.

As great an accomplishment as this was, history will show that it was among the least of his great achievements. As I'm sure you can imagine, the litany of successes that JOE has had in his work for New Mexico is much too long to go into here today. Suffice it to say that New Mexico is infinitely better for having had JOE SKEEN representing us in Congress; this country is better for having had JOE participate in making decisions that affect the entire nation.

JOE will be the first to tell you that he has not done it on his own, however. He has had a partner in his great adventure who has walked beside him every step of the way. Mary, his wife of 57 years, has been a calming influence in the storm that is the life of a Congressman. She has made it possible for JOE to continue to be a ranching Representative, running the family ranch while JOE has served in Washington.

JOE has decided that it is time to return to that ranch to spend time with the family and the land that he loves so much. I know that Washington will go on without the Skeens but there is no way that it will be as a good a place.

It is only a small token of the appreciation New Mexico and this country have for his many years of service, but I believe that renaming the Federal Courthouse in Roswell, New Mexico is a fitting tribute to this exceptional public servant.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 2973

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

SECTION 1. DESIGNATION.

The Federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, shall be known and designated as the ''Joe Skeen Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the Joe Skeen Federal Building.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on January 1, 2003.

By Mr. BOND (for himself, Mr. DODD, Mr. FRIST, and Mr. KENNEDY):

S. 2980. A bill to revise and extend the Birth Defects Prevention Act of 1998; to the Committee on Health, Education, Labor, and Pensions.

Mr. BOND. Madam President, I rise today to introduce the Birth Defects and Developmental Disabilities Prevention Act of 2002. It is a pleasure to work, once again, on this important issue with Senators DODD, KENNEDY and FRIST.

My interest in birth defects prevention began while I was Governor. As Governor I had secured dollars to fund the neonate care units at our hospitals in Missouri. These remarkable institutions and the dedicated men and women who serve there do a tremendous job of saving low birth weight babies and babies with severe birth defects.

As I visited those hospitals and held those tiny babies, the doctors and nurses who staffed these units asked me, ''Why don't we do something to reduce the incidents of birth defects and the problems that bring the tiniest of infants to these very high-tech, specialized care units.''

Since I became a Senator I have been working with colleagues on both sides of the aisle and with the March of Dimes to deal with this serious and compelling health problem facing America. Many people are not aware that birth defects affect over 3 percent of all births in America, and they are the leading cause of infant death.

This year alone, an estimated 150,000 babies will be born with a birth defect. Among the babies who survive, birth defects often result in lifelong disability. Medical care, special education, and many other services are often required into adulthood, costing families thousands of dollars each year.

In 1992, due to a terrible tradegy in Texas when at least 30 infants were born without or with little brain tissue over a short period of time, I introduced the Birth Defects Prevention Act.

Because at the time Texas did not have a birth defects surveillance system, and because our country did not have a comprehensive birth defects prevention and surveillance strategy, the severity of the problem was not

recognized until the incidence of birth defects was so high that it was difficult to miss.

In 1998, we passed the Birth Defects Prevention Act, which created a federal birth defects prevention and surveillance strategy. That was followed by the Children's Health Act of 2000, which established the National Center on Birth Defects and Developmental Disabilities at CDC. With these two important pieces of legislation Congress for the first time recognized that birth defect and developmental disabilities are major threats to children's health.

As a result, CDC, through eight regional Centers for Birth Defects Research and Prevention are collaborating on the largest study on the causes of birth defects ever undertaken, the National Birth Defects Prevention Study. CDC is also assisting 28 States by providing 3-year grants to improve their surveillance systems. We have come a long way in the past 5 years toward preventing certain birth defects, but we face many challenges ahead.

There is still much work to be done to improve the health of all Americans by preventing birth defects and developmental disabilities in children, promoting optimal child development and ensuring health and wellness among child and adults living with disabilities.

Today, with the introduction of this bill we have the opportunity to renew our commitment to birth defects prevention and to improve the quality of life of those living with disabilities. I look forward to working with my colleagues to ensure and enhance the well-being of our Nation's children.

Mr. FRIST. Madam President, I am pleased to join Senators BOND and DODD in re-introducing the ''Birth Defects and Developmental Disabilities Prevention Act of 2002''. This bill reauthorizes the National Center on Birth Defects and Developmental Disabilities (NCBDD) at the Centers for Disease Control and Prevention to promote optimal fetal, infant, and child development and prevent birth defects and childhood developmental disabilities.

Birth defects are the leading cause of infant mortality in the United States, accounting for more than 20% of all infant deaths. Of the 150,000 babies born with a birth defect in the United States each year, 8000 will die during their first year of life. In addition, birth defects are the fifth-leading cause of years of potential life lost and contribute substantially to childhood morbidity and long-term disability.

Congress passed the ''Birth Defects Prevention Act in 1998''—a bill to assist States in developing, implementing, or expanding community-based birth defects tracking systems, programs to prevent birth defects, and activities to improve access to health services for children with birth defects. The authorization for this important legislation for this important legislation expires at the end of this year, and the legislation we are introducing today will strengthen those important programs.

In order to educate health professionals and the general public, this legislation requires NCBDD to provide information on the incidence and prevalence of individuals living with birth defects and disabilities, any health disparities, experienced by such individuals, and recommendations for improving the health and wellness and quality of life of such individuals. The Clearinghouse will also contain a summary of recommendations from all birth defects research conferences sponsored by the agency including conferences related to spina bifida.

This legislation also clarifies advisory committees, already in existence, that have expertise in birth defects, developmental disabilities, and disabilities and health will be transferred to the National Center for Birth Defects.

This piece of legislation also supports a National Spina Bifida Program to prevent and reduce suffering from the nation's most common permanently disabiling birth defect.

I ask that this piece of important legislation be reauthorized. I want to thank my colleagues, Senators BOND, DODD, and others, for the introduction of this initial piece of legislation in 1998 and for their continued initiatives on birth defects and developmental disabilities.

By Mr. VOINOVICH:

S. 2981. A bill to exclude certain wire rods from the scope of any anti-dumping or countervailing duty order issued as a result of certain investigations relating to carbon and certain alloy steel rods; to the Committee on Finance.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2981

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

SECTION 1. EXCLUSION OF CERTAIN WIRE RODS FROM ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—Notwithstanding any other provision of law, any antidumping or countervailing duty order that is issued as a result of antidumping investigations A–351–832, A–122–840, A–428–832, A–560–815, A–201–830, A–841–805, A–274–804, and A–823–812, or countervailing duty investigations C–351–833, C–122–841, C–428–833, C–274–805, and C–489–809, relating to carbon and certain alloy steel rods, shall not include wire rods that meet the American Welding Society ER70S–6 classification and are used to produce Mig Wire.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. CORZINE (for himself, Mr. FITZTGERALD, Mr. SARBANES, and Mr. AKAKA):

S. 2982. A bill to establish a grant program to enhance the financial and retirement literacy of mid-life and older Americans and to reduce financial abuse and fraud among such Americans, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORZINE. Mr. President, I rise today with my colleagues, Senators FITZGERALD, SARBANES, and AKAKA to introduce the Education for Retirement Security Act of 2002. This bill will provide access to badly needed financial and retirement education for millions of mid-life and older Americans whose retirement security is at stake.

Improving financial literacy has been a top priority for me in Congress. I believe it is a critical and complex task for Americans of all ages, but it is especially crucial for Americans as they approach retirement. In fact, low levels of savings and high levels of personal and real estate debt are serious problems for many households nearing retirement. Although today's older Americans are generally thought to be doing well, nearly one-out-of five, 18 percent, were living below 125 percent of the poverty line in 1995, which was a year of tremendous economic prosperity in our nation. And, only 53 percent of working Americans have any form of pension coverage. In addition, financial exploitation is the largest single category of abuse against older individuals, and this population comprises more than one-half of all telemarketing victims in the United States.

While education alone cannot solve our Nation's retirement woes, financial education is vital to enabling individuals to avoid scams and bad investment, mortgage, and pension decisions, and to ensuring that they have access to the tools they need to make sound financial decisions and prepare appropriately for a secure future. Indeed, the more limited time frame that mid-life and older Americans have in which to assess the realities of their individual circumstances, recover from bad economic choices, and to benefit from more informed financial practices make this education all the more critical. Financial literacy is also particularly important for older women, who are more likely to live in poverty and be dependent upon Social Security.

The Education for Retirement Security Act would create a competitive grant program that would provide resources to State and area agencies on aging and nonprofit community based organizations to provide financial education programs to mid-life and older Americans. The goal of these programs is to enhance these individuals' financial and retirement knowledge and reduce their vulnerability to financial abuse and fraud, including telemarketing, mortgage, and pension fraud.

My legislation also authorizes the creation of a national technical assistance program that would designate at least one national nonprofit organization that has substantial experience in

the field of financial education to provide training and make available instructional materials and information that promotes financial education.

Over the next thirty years, the percentage of Americans aged 65 and older is expected to double, from 35 million to nearly 75 million. Ensuring that these individuals are better prepared for retirement and are more informed about the economic decisions they face during retirement will have an important impact on the long term economic and social well-being of our nation.

I hope that as the Senate moves to address pension reform, my colleagues will work to address the issues outlined in this legislation. The recent rash of corporate and accounting scandals and the declining stock market have jeopardized the retirement savings of millions of Americans, making the need for financial literacy even more clear.

In closing, I would like to acknowledge the expertise and assistance that AARP, the Older Women's League, OWL, and the Women's Institute for a Secure Economic Retirement, WISER, offered to me in drafting this legislation.

I also ask unanimous consent that the text of my legislation be printed in the RECORD.

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

S. 2982

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 ''Education for Retirement Security Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Improving financial literacy is a critical and complex task for Americans of all ages.

(2) Low levels of savings and high levels of personal and real estate debt are serious problems for many households nearing retirement.

(3) Only 53 percent of working Americans have any form of pension coverage. Three out of four women aged 65 or over receive no income from employer-provided pensions.

(4) The more limited timeframe that mid-life and older individuals and families have to assess the realities of their individual circumstances, to recover from counter-productive choices and decisionmaking processes, and to benefit from more informed financial practices, has immediate impact and near term consequences for Americans nearing or of retirement age.

(5) Research indicates that there are now 4 basic sources of retirement income security. Those sources are social security benefits, pensions and savings, healthcare insurance coverage, and, for an increasing number of older individuals, necessary earnings from working during one's ''retirement'' years.

(6) The $5,000,000,000,000 loss in stock market equity values since 2000 has had a significantly negative effect on mid-life and older individuals and on their pension plans and retirement accounts, affecting both individuals with plans to retire and those who are already in retirement.

(7) Although today's older individuals are generally thought to be doing well, nearly ⅕ (18 percent) of such individuals were living below 125 percent of the poverty line during a year of national prosperity, 1995.

(8) Over the next 30 years, the number of older individuals in the United States is expected to double, from 35,000,000 to nearly 75,000,000, and long-term care costs are expected to skyrocket.

(9) Financial exploitation is the largest single category of abuse against older individuals and this population comprises more than ½ of all telemarketing victims in the United States.

(10) The Federal Trade Commission (FTC) Identity Theft Data Clearinghouse has reported that incidents of identity theft targeting individuals over the age of 60 increased from 1,821 victims in 2000 to 5,802 victims in 2001, a threefold increase.

SEC. 3. GRANT PROGRAM TO ENHANCE FINANCIAL AND RETIREMENT LITERACY AND REDUCE FINANCIAL ABUSE AND FRAUD AMONG MID-LIFE AND OLDER AMERICANS.

(a) AUTHORITY.—The Secretary is authorized to award grants to eligible entities to provide financial education programs to mid-life and older individuals who reside in local communities in order to—

(1) enhance financial and retirement knowledge among such individuals; and

(2) reduce financial abuse and fraud, including telemarketing, mortgage, and pension fraud, among such individuals.

(b) ELIGIBLE ENTITIES.—An entity is eligible to receive a grant under this section if such entity is—

(1) a State agency or area agency on aging; or

(2) a nonprofit organization with a proven record of providing—

(A) services to mid-life and older individuals;

(B) consumer awareness programs; or

(C) supportive services to low-income families.

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require, including a plan for continuing the programs provided with grant funds under this section after the grant expires.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A recipient of a grant under this section may not use more than 4 percent of the total amount of the grant in each fiscal year for the administrative costs of carrying out the programs provided with grant funds under this section.

(e) EVALUATION AND REPORT.—

(1) ESTABLISHMENT OF PERFORMANCE MEASURES.—The Secretary shall develop measures to evaluate the programs provided with grant funds under this section.

(2) EVALUATION ACCORDING TO PERFORMANCE MEASURES.—Applying the performance measures developed under paragraph (1), the Secretary shall evaluate the programs provided with grant funds under this section in order to—

(A) judge the performance and effectiveness of such programs;

(B) identify which programs represent the best practices of entities developing such programs for mid-life and older individuals; and

(C) identify which programs may be replicated.

(3) ANNUAL REPORTS.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the status of the grant program under this section, a description of the programs provided with grant funds under this section, and the results of the evaluation of such programs under paragraph (2).

SEC. 4. NATIONAL TRAINING AND TECHNICAL ASSISTANCE PROGRAM.

(a) AUTHORITY.—The Secretary is authorized to award a grant to 1 or more eligible entities to—

(1) create and make available instructional materials and information that promote financial education; and

(2) provide training and other related assistance regarding the establishment of financial education programs to eligible entities awarded a grant under section 3.

(b) ELIGIBLE ENTITIES.—An entity is eligible to receive a grant under this section if such entity is a national nonprofit organization with substantial experience in the field of financial education.

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(d) BASIS AND TERM.—The Secretary shall award a grant under this section on a competitive, merit basis for a term of 5 years.

SEC. 5. DEFINITIONS.

In this Act:

(1) FINANCIAL EDUCATION.—The term ''financial education'' means education that promotes an understanding of consumer, economic, and personal finance concepts, including saving for retirement, long-term care, and estate planning and education on predatory lending and financial abuse schemes.

(2) MID-LIFE INDIVIDUAL.—The term ''mid-life individual'' means an individual aged 45 to 64 years.

(3) OLDER INDIVIDUAL.—The term ''older individual'' means an individual aged 65 or older.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this Act, $100,000,000 for each of the fiscal years 2003 through 2007.

(b) LIMITATION ON FUNDS FOR EVALUATION AND REPORT.—The Secretary may not use more than $200,000 of the amounts appropriated under subsection (a) for each fiscal year to carry out section 3(e).

(c) LIMITATION ON FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE.—The Secretary may not use less than 5 percent or more than 10 percent of amounts appropriated under subsection (a) for each fiscal year to carry out section 4.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 328—DESIGNATING THE WEEK ON SEPTEMBER 22 THROUGH SEPTEMBER 28, 2002, AS ''NATIONAL PARENTS WEEK''

Mr. DEWINE (for himself and Mr. VOINOVICH) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 328

Whereas parents play an indispensable role in the rearing of their children;

Whereas good parenting is a time consuming, emotionally demanding task that is essential not only to the health of a household but to the well-being of our Nation;

Whereas without question, the future of our Nation depends largely upon the willingness of mothers and fathers, however busy or

distracted, to embrace their parental responsibilities and to vigilantly watch over and guide the lives of their children;

Whereas mothers and fathers must strive tirelessly to raise children in an atmosphere of decency, discipline, and devotion, where encouragement abounds and where kindness, affection, and cooperation are in plentiful supply;

Whereas the journey into adulthood can be perilous and lonely for a child without stability, direction, and emotional support;

Whereas children benefit enormously from parents with whom they feel safe, secure, and valued, and in an environment where parent and child alike can help one another achieve joy and fulfillment on a variety of levels; and

Whereas a safe and secure domestic climate contributes significantly to a child's development into a healthy, well-adjusted adult, and it is imperative that the general population not underestimate the favorable impact that positive parenting can have on society as a whole: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of September 22 through September 28, 2002, as ''National Parents Week''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Mr. DEWINE. Madam President, I rise today to join my friend and colleague from Ohio, Senator VOINOVICH, to submit a resolution designating September 22 through September 28, as ''National Parents Week.''

As proud parents of eight children and now seven grandchildren, my wife, Fran, and I know that our Nation's future is in the hands of all children. To safeguard this future, parents must fulfill many demanding responsibilities. They must teach their children values, participate in their education, encourage their dreams, and comfort them in times of need. As any parent knows, this is not easy. It takes dedication, constant attention, and unconditional love. This resolution serves as a ''thank you'' to all parents across the nation working hard, day after day, to provide for their children emotionally, physically, spiritually, and materially.

It is very common today for a single parent to be solely tasked with the responsibility for raising his or her children. This month we have all remembered the over 100 babies who were born to widowed mothers after the tragic events of September 11, babies who will never know their fathers. We've also remembered the countless children who have been left fatherless or motherless due these events. Indeed, these single parents have an extremely challenging job ahead.

Studies indicate that children in families maintained by one parent face more challenges and are more likely than children raised in two-parent homes to do poorly in school, have emotional and behavioral problems, become teenage parents, and have poverty-level incomes as adults. These frightening facts, once again, show us that strong parental involvement is vital to children's development and long-term success.

Knowing the many risks kids face today, parents are increasingly getting involved in their children's lives from talking with them about drugs to making sure their homework is done to getting to know their child's friends and teachers. This resolution is important to let parents know that we are grateful to them and support them in their tasks. Parenthood is, at minimum, an eighteen-year full-time job, and takes unending commitment to ensure a bright and promising future for our country's children. And so today, I thank parents on behalf of a grateful Nation.

SENATE CONCURRENT RESOLUTION 142—EXPRESSING SUPPORT FOR THE GOALS AND IDEAS OF A DAY OF TRIBUTE TO ALL FIREFIGHTERS WHO HAVE DIED IN THE LINE OF DUTY AND RECOGNIZING THE IMPORTANT MISSION OF THE FALLEN FIREFIGHTERS FOUNDATION IN ASSISTING FAMILY MEMBERS TO OVERCOME THE LOSS OF THE FALLEN HEROES

Mr. SMITH of Oregon submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 142

Whereas for over 350 years the Nation's firefighters have dedicated their lives to the safety of their fellow Americans;

Whereas throughout the Nation's history many firefighters have fallen in the line of duty, leaving behind family members and friends who have grieved their untimely losses;

Whereas these individuals served with pride and honor as volunteer and career firefighters;

Whereas until 1980 there was not a tribute to honor these heroes for their acts of valor or a support system to help the families of these heroes rebuild their lives;

Whereas in 1992 Congress created the National Fallen Firefighters Foundation to lead a nationwide effort to remember the Nation's fallen firefighters through a variety of activities;

Whereas each year the National Fallen Firefighters Foundation hosts an annual memorial service to honor the memory of all firefighters who die in the line of duty and to bring support and counseling to their families;

Whereas in 2002 the memorial service will take place on October 5 and 6;

Whereas 445 fallen firefighters, including firefighters from nearly every State, will be honored in 2002; and

Whereas many of the family members of these firefighters are expected to attend the memorial service: Now, therefore, be it.

Resolved by the Senate (the House of Representatives concurring), That Congress supports the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizes the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

SENATE CONCURRENT RESOLUTION 143—DESIGNATING OCTOBER 6, 2002, THROUGH OCTOBER 12, 2002, AS ''NATIONAL 4–H YOUTH DEVELOPMENT PROGRAM WEEK''

Mr. INHOFE (for himself, Mrs. CARNAHAN, Mrs. CLINTON, Ms. LANDRIEU, Mr. BREAUX, Mrs. LINCOLN, Mr. LIEBERMAN, Ms. STABENOW, Mr. BIDEN, Mr. CLELAND, Mr. JOHNSON, Mr. MILLER, Mr. NELSON of Nebraska, Mr. EDWARDS, Mr. BAUCUS, Mr. REED, Mrs. MURRAY, Mr. BAYH, Mr. BOND, Mr. HAGEL, Mr. THURMOND, Mr. HELMS, Mr. BROWNBACK, Mr. ALLEN, Ms. COLLINS, Mr. STEVENS, Mr. ALLARD, Mr. THOMAS, Mr. CRAIG, Mr. MURKOWSKI, Mr. LUGAR, Mr. FRIST, Mr. NICKLES, Mr. BUNNING, Mrs. HUTCHISON, Mr. FITZGERALD, Mr. WARNER, Mr. ROBERTS, Mr. SHELBY, Mr. LOTT, Mr. CRAPO, Mr. GRASSLEY, Mr. SESSIONS, Mr. DEWINE, and Mr. COCHRAN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 143

Whereas the 4–H Youth Development Program celebrates its 100th anniversary in 2002;

Whereas members of the 4–H Youth Development Program pledge their **H**eads to clearer thinking, their **H**earts to greater loyalty, their **H**ands to larger service, and their **H**ealth to better living for the club, the community, the country, and the world;

Whereas the 4–H Youth Development Program sponsors clubs in rural and urban areas throughout the world;

Whereas 4–H Clubs have grown to over 5,600,000 annual participants ranging from 5 to 19 years of age;

Whereas 4–H Clubs strengthen families and communities;

Whereas 4–H Clubs foster leadership and volunteerism for youth and adults;

Whereas 4–H Clubs build internal and external partnerships for programming and resource development;

Whereas today's 4–H Clubs are very diverse, offering projects relating to citizenship and civic education, communications and expressive arts, consumer and family sciences, environmental education and earth sciences, healthy lifestyle education, personal development and leadership, plants, animals, and science and technology; and

Whereas the 4–H Youth Development Program continues to make great contributions toward the development of well-rounded youth: Now, therefore, be it

Resolved, By the Senate (the House of Representatives concurring),

(1) recognizes the 100th anniversary of the 4–H Youth Development Program;

(2) commends such program for service to the youth of the world;

(3) designates October 6, 2002, through October 12, 2002, as ''National 4–H Youth Development Program Week''; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe ''National 4–H Youth Development Program Week'' with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4679. Mr. INOUYE (for himself, Mr. FEINGOLD, Ms. COLLINS, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 4565 submitted by Mr. FEINGOLD (for himself, Ms. COLLINS, and Mr. CARPER) and intended to be proposed to the 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 4680. Mr. LEVIN (for himself, Mr. GRASSLEY, Mr. AKAKA, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4681. Mr. LEVIN (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4682. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4683. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4684. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4685. Mr. BINGAMAN (for himself and Mr. DASCHLE) 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.

SA 4686. Mr. WELLSTONE submitted an amendment intended to be proposed by him 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 4687. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4688. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4689. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4690. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4619 submitted by Mr. JEFFORDS (for himself, Mr. SMITH of New Hampshire, and Ms. SNOWE) and intended to be proposed to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4691. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4619 submitted by Mr. JEFFORDS (for himself, Mr. SMITH of New Hampshire, and Ms. SNOWE) and intended to be proposed to the amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4692. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4693. Mr. HATCH proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

SA 4694. Mr. LIEBERMAN (for himself and Mr. MCCAIN) proposed an amendment to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra.

TEXT OF AMENDMENTS

SA 4679. Mr. INOUYE (for himself, Mr. FEINGOLD, Ms. COLLINS, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 4565 submitted by Mr. FEINGOLD (for himself, Ms. COLLINS, and Mr. CARPER) and intended to be proposed to the 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 1, line 3, insert ''**TRIBAL,**'' after ''**STATE**''.

On page 1, line 6, insert '', Tribal,'' after ''State''.

On page 1, line 9, insert '', tribal,'' after ''State''.

On page 2, line 4, strike ''State and local government'' and insert ''State, tribal, and local governments''.

On page 2, line 6, strike ''State and local government'' and insert ''State, tribal, and local governments''.

On page 2, line 8, strike ''State and local government'' and insert ''State, tribal, and local governments''.

On page 2, line 12, strike ''State and local government'' and insert ''State, tribal, and local governments''.

On page 2, line 16, insert '', tribal,'' after ''State''.

On page 2, line 17, insert ''and in each regional office of the Bureau of Indian Affairs'' after ''States''.

On page 2, line 24, insert '', tribal,'' after ''State''.

On page 3, line 2, insert '', tribal,'' after ''State''.

On page 3, line 5, insert '', tribal,'' after ''State''.

On page 3, strike lines 9 and 10 and insert the following:

of Department priorities—

(i) within each State and Indian tribe;

(ii) between States;

(iii) between Indian tribes; and

(iv) between States and Indian tribes.

On page 3, line 13, insert ''and for each regional office of the Bureau of Indian Affairs'' after ''Columbia''.

On page 3, line 16, insert '', or for Indian tribes covered by that regional office of the Bureau of Indian Affairs, as the case may be'' after ''District''.

On page 3, line 19, insert '', tribal,'' after ''State''.

On page 3, line 24, insert '', tribal,'' after ''State''.

On page 4, line 6, insert '', tribal,'' after ''State''.

On page 4, line 10, insert '', tribal,'' after ''State''.

On page 4, line 14, insert '', tribal,'' after ''State''.

On page 4, line 16, insert '', tribal,'' after ''State''.

On page 4, line 23, insert '', tribal,'' after ''State''.

On page 5, line 2, insert '', tribal,'' after ''State''.

On page 5, line 4, insert '', tribal,'' after ''State''.

On page 5, line 8, insert ''and Indian tribes'' after ''States''.

On page 5, line 13, insert '', TRIBAL,'' after ''STATE,''.

On page 5, line 17, insert '', Tribal,'' after ''State''.

On page 5, line 23, insert '', tribal,'' after ''State''.

On page 6, line 1, insert '', tribal,'' after ''State''.

On page 6, line 21, insert '', Tribal,'' after ''State''.

On page 9, line 14, insert '', tribal,'' after ''State''.

SA 4680. Mr. LEVIN (for himself, Mr. GRASSLEY, Mr. AKAKA, and Mr. LEAHY) submitted an amendment intended to be proposed by him 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:

At the end of the amendment insert the following:

TITLE VI—PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES

SEC. 601. PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES.

(a) CLARIFICATION OF DISCLOSURES COVERED.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation'';

(2) in subparagraph (B)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties, to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information that the employee or applicant reasonably believes is evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation (other than a violation of this section)''; and

(3) by adding at the end the following:

''(C) a disclosure that—

''(i) is made by an employee or applicant of information required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs that the employee or applicant reasonably believes is evidence of—

''(I) any violation of any law, rule, or regulation;

''(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(III) a false statement to Congress on an issue of material fact; and

''(ii) is made to—

''(I) a member of a committee of Congress having a primary responsibility for oversight of a department, agency, or element of the Federal Government to which the disclosed information relates and who is authorized to receive information of the type disclosed;

''(II) any other Member of Congress who is authorized to receive information of the type disclosed; or

''(III) an employee of the executive branch or Congress who has the appropriate security

clearance for access to the information disclosed.''.

(b) COVERED DISCLOSURES.—Section 2302(b) of title 5, United States Code, is amended—

(1) in the matter following paragraph (12), by striking ''This subsection'' and inserting the following:

''This subsection''; and

(2) by adding at the end the following:

''In this subsection, the term 'disclosure' means a formal or informal communication or transmission.''.

(c) REBUTTABLE PRESUMPTION.—Section 2302(b) of title 5, United States Code, is amended by adding after the matter following paragraph (12) (as amended by subsection (b) of this section) the following:

''For purposes of paragraph (8), any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence.''.

(d) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS; SECURITY CLEARANCES; AND RETALIATORY INVESTIGATIONS.—

(1) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (x), by striking ''and'' after the semicolon; and

(B) by redesignating clause (xi) as clause (xiv) and inserting after clause (x) the following:

''(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement;

''(xii) a suspension, revocation, or determination relating to a security clearance;

''(xiii) an investigation of an employee or applicant for employment because of any activity protected under this section; and''.

(2) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking ''or'' at the end;

(B) in paragraph (12), by striking the period and inserting a semicolon; and

(C) by inserting after paragraph (12) the following:

''(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement:

'' 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.'; or

''(14) conduct, or cause to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section.''.

(3) BOARD AND COURT REVIEW OF ACTIONS RELATING TO SECURITY CLEARANCES.—

(A) IN GENERAL.—Chapter 77 of title 5, United States Code, is amended by inserting after section 7702 the following:

''§ 7702a. Actions relating to security clearances

''(a) In any appeal relating to the suspension, revocation, or other determination relating to a security clearance, the Merit Systems Protection Board or a court—

''(1) shall determine whether section 2302 was violated;

''(2) may not order the President to restore a security clearance; and

''(3) subject to paragraph (2), may issue declaratory relief and any other appropriate relief.

''(b)(1) If, in any final judgment, the Board or court declares that any suspension, revocation, or other determination with regards to a security clearance was made in violation of section 2302, the affected agency shall conduct a review of that suspension, revocation, or other determination, giving great weight to the Board or court judgment.

''(2) Not later than 30 days after any Board or court judgment declaring that a security clearance suspension, revocation, or other determination was made in violation of section 2302, the affected agency shall issue an unclassified report to the congressional committees of jurisdiction (with a classified annex if necessary), detailing the circumstances of the agency's security clearance suspension, revocation, or other determination. A report under this paragraph shall include any proposed agency action with regards to the security clearance.

''(c) An allegation that a security clearance was revoked or suspended in retaliation for a protected disclosure shall receive expedited review by the Office of Special Counsel, the Merit Systems Protection Board, and any reviewing court.''.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 77 of title 5, United States Code, is amended by inserting after the item relating to section 7702 the following:

''7702a. Actions relating to security clearances.''.

(e) EXCLUSION OF AGENCIES BY THE PRESIDENT.—Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

''(ii)(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency; and

''(II) as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, if the determination (as that determination relates to a personnel action) is made before that personnel action; or''.

(f) ATTORNEY FEES.—Section 1204(m)(1) of title 5, United States Code, is amended by striking ''agency involved'' and inserting ''agency where the prevailing party is employed or has applied for employment''.

(g) COMPENSATORY DAMAGES.—Section 1214(g)(2) of title 5, United States Code, is amended by inserting ''compensatory or'' after ''forseeable''.

(h) DISCIPLINARY ACTION.—Section 1215 of title 5, United States Code, is amended in subsection (a), by striking paragraph (3) and inserting the following:

''(3)(A) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1000.

''(B) In any case in which the Board finds that an employee has committed a prohibited personnel practice under section 2303(b)(8) or (9), the Board shall impose disciplinary action if the Board finds that protected activity was a significant motivating factor in the decision to take, fail to take, or threaten to take or fail to take a personnel action, unless that employee demonstrates, by preponderance of evidence, that the employee would have taken, failed to take, or threatened to take or fail to take the same personnel action, in the absence of such protected activity.''.

(i) DISCLOSURES TO CONGRESS.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

''(f) Each agency shall establish a process that provides confidential advice to employees on making a lawful disclosure to Congress of information that is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.''.

(j) AUTHORITY OF SPECIAL COUNSEL RELATING TO CIVIL ACTIONS.—

(1) REPRESENTATION OF SPECIAL COUNSEL.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

''(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Special Counsel and represent the Special Counsel in any civil action brought in connection with section 2302(b)(8) or subchapter III of chapter 73, or as otherwise authorized by law.''.

(2) JUDICIAL REVIEW OF MERIT SYSTEMS PROTECTION BOARD DECISIONS.—Section 7703 of title 5, United States Code, is amended by adding at the end the following:

''(e)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Special Counsel. The Special Counsel may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Special Counsel determines, in the discretion of the Special Counsel, that the Board erred in deciding a case arising under section 2302(b)(8) or subchapter III of chapter 73 and that the Board's decision will have a substantial impact on the enforcement of section 2302(b)(8) or subchapter III of chapter 73. If the Special Counsel was not a party or did not intervene in a matter before the Board, the Special Counsel may not petition for review of a Board decision under this section unless the Special Counsel first petitions the Board for reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceedings before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

''(2) During the 5-year period beginning on February 1, 2003, this paragraph shall apply to any review obtained by the Special Counsel. The Special Counsel may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit or any court of appeals of competent jurisdiction if the Special Counsel determines, in the discretion of the Special Counsel, that the Board erred in deciding a case arising under section 2302(b)(8) or subchapter III of chapter 73 and that the Board's decision will have a substantial impact on the enforcement of section 2302(b)(8) or subchapter III of chapter 73. If the Special Counsel was not a party or did not intervene in a matter before the Board, the Special Counsel may not petition for review of a Board decision under this section unless the Special Counsel first petitions the Board for reconsideration of its decision, and such petition

is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceedings before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the court of appeals.''.

(k) JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 7703(b) of title 5, United States Code, is amended by striking paragraph (1) and inserting the following:

''(b)(1)(A) Except as provided in subparagraph (B) and paragraph (2) of this subsection, a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit. Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.

''(B) During the 5-year period beginning on February 1, 2003, a petition to review a final order or final decision of the Board shall be filed in the United States Court of Appeals for the Federal Circuit or the United States Court of Appeals for the circuit in which the petitioner resides. Notwithstanding any other provision of law, any petition for review must be filed within 60 days after the date the petitioner received notice of the final order or decision of the Board.''.

(2) REVIEW OBTAINED BY OFFICE OF PERSONNEL MANAGEMENT.—Section 7703 of title 5, United States Code, is amended by striking subsection (d) and inserting the following:

''(d)(1) Except as provided under paragraph (2), this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.

''(2) During the 5-year period beginning on February 1, 2003, this paragraph shall apply to any review obtained by the Director of the Office of Personnel Management. The Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing, within 60 days after the date the Director received notice of the final order or decision of the Board, a petition for judicial review in any appellate court of competent jurisdiction as provided under subsection (b)(2) if the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive. If the Director did not intervene in a matter before the Board, the Director may not petition for review of a Board decision under this section unless the Director first petitions the Board for a reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the court of appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.''.

(l) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Each agreement in Standard Forms 312 and 4414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain the following statement: ''These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.''

(B) ENFORCEABILITY.—Any nondisclosure policy, form, or agreement described under subparagraph (A) that does not contain the statement required under subparagraph (A) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

(2) PERSONS OTHER THAN FEDERAL EMPLOYEES.—Notwithstanding paragraph (1), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SA 4681. Mr. LEVIN (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed by him 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:

At the appropriate place, insert the following:

SEC. ___. PRIVATE SECURITY OFFICERS RECORD REVIEWS.

(a) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;

(3) such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;

(4) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;

(5) the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional, reliable, and responsible security officers for the protection of people, facilities, and institutions;

(6) the trend in the Nation toward growth in such security services has accelerated rapidly;

(7) such growth makes available more public sector law enforcement officers to combat serious and violent crimes, including terrorism;

(8) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(9) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(b) DEFINITIONS.—In this section:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.— The term ''private security officer''—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes; but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term ''security services'' means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) STATE IDENTIFICATION BUREAU.—The term ''State identification bureau'' means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(c) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

(1) IN GENERAL.—

(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this section.

(B) EMPLOYEE RIGHTS.—

(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this section.

(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this section.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this section, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this section in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, and destruction of information and audits, and recordkeeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTY.—Whoever falsely certifies that he meets the applicable standards for an authorized employer or who knowingly and intentionally uses any information obtained pursuant to this section other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees pursuant to regulations promulgated under paragraph (2) to process background checks provided for by this section;

(ii) notwithstanding the provisions of section 3302 of title 31, United States Code, retain and use such fees for salaries and other expenses incurred in providing such processing; and

(iii) establish such fees at a level to include an additional amount to remain available until expended to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) STATE COSTS.—Nothing in this section shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this section.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this section by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this paragraph.

SA 4682. Mr. GREGG (for himself and Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him 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:

Strike all after the first word and insert the following:

SEC. ___. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all nonterrorism emergency preparedness activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Carrying out all terrorism and other hazard response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(3) Creating a National Crisis Action Center to act as the focal point for—

(A) monitoring emergencies;

(B) notifying affected agencies and State and local governments; and

(C) coordinating Federal support for State and local governments and the private sector in crises.

(4) Managing and updating the Federal response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(5) Coordinating activities among private sector entities, including entities within the medical community, and animal health and plant disease communities, with respect to recovery, consequence management, and planning for continuity of services.

(6) Developing and managing a single response system for national incidents in coordination with all appropriate agencies.

(7) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(8) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(6).

(9) Consulting with the Under Secretary for Science and Technology, Secretary of Agriculture, and the Director of the Centers for Disease Control and Prevention in establishing and updating the list of potential threat agents or toxins relating to the functions of the Select Agent Registration Program transferred under subsection (c)(7).

(10) Developing a plan to address the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(11) Activate and coordinate the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(12) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department, except that those elements of the Office of National Preparedness of the Federal Emergency Management Agency that relate to terrorism shall be transferred to the Office of Domestic Preparedness established under this section.

(2) The National Office of Domestic Preparedness of the Federal Bureau of Investigation of the Department of Justice.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) Those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(5) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(6) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(7) The functions of the Select Agent Registration Program of the Department of Health and Human Services and the United States Department of Agriculture, including all functions of the Secretary of Health and Human Services and the Secretary of Agriculture under sections 201 through 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(d) OFFICE FOR DOMESTIC PREPAREDNESS.—

(1) ESTABLISHMENT.—There is established within the Directorate of Emergency Preparedness and Response the Office for Domestic Preparedness.

(2) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Emergency Preparedness and Response.

(3) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(A) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(B) in keeping with intelligence estimates, working to ensure adequate strategic and operational planning, equipment, training, and exercise activities at all levels of government;

(C) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(D) directing and supervising terrorism preparedness grant programs of the Federal Government for all emergency response providers;

(E) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(F) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(G) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States; and

(H) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(4) FISCAL YEARS 2003 AND 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

(5) REPORT.—Not later than the submission of the fiscal year 2005 budget request, the Secretary shall submit to Congress a detailed report containing a comprehensive, independent analysis, and recommendations addressing whether there should be a single office within the Department responsible for the domestic preparedness of the United States for all hazards, including terrorism and natural disasters. The analysis shall include an examination of the advantages, disadvantages, costs, and benefits of creating a single office for all hazards preparedness within the Department.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of a national medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

(f) PREEMPTED PROVISIONS.—Notwithstanding any other provision of this Act, including any effective date provision, section 134 shall not take effect.

SA 4683. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him 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:

In lieu of the matter proposed to be inserted insert the following:

SEC. ___. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all nonterrorism emergency preparedness activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Carrying out all terrorism and other hazard response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(3) Creating a National Crisis Action Center to act as the focal point for—

(A) monitoring emergencies;

(B) notifying affected agencies and State and local governments; and

(C) coordinating Federal support for State and local governments and the private sector in crises.

(4) Managing and updating the Federal response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(5) Coordinating activities among private sector entities, including entities within the medical community, and animal health and plant disease communities, with respect to recovery, consequence management, and planning for continuity of services.

(6) Developing and managing a single response system for national incidents in coordination with all appropriate agencies.

(7) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(8) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(6).

(9) Consulting with the Under Secretary for Science and Technology, Secretary of Agriculture, and the Director of the Centers for Disease Control and Prevention in establishing and updating the list of potential threat agents or toxins relating to the functions of the Select Agent Registration Program transferred under subsection (c)(7).

(10) Developing a plan to address the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(11) Activate and coordinate the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(12) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department, except that those elements of the Office of National Preparedness of the Federal Emergency Management Agency that relate to terrorism shall be transferred to the Office of Domestic Preparedness established under this section.

(2) The National Office of Domestic Preparedness of the Federal Bureau of Investigation of the Department of Justice.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) Those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(5) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(6) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(7) The functions of the Select Agent Registration Program of the Department of Health and Human Services and the United States Department of Agriculture, including

all functions of the Secretary of Health and Human Services and the Secretary of Agriculture under sections 201 through 221 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(d) OFFICE FOR DOMESTIC PREPAREDNESS.—

(1) ESTABLISHMENT.—There is established within the Directorate of Emergency Preparedness and Response the Office for Domestic Preparedness.

(2) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Emergency Preparedness and Response.

(3) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(A) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(B) in keeping with intelligence estimates, working to ensure adequate strategic and operational planning, equipment, training, and exercise activities at all levels of government;

(C) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(D) directing and supervising terrorism preparedness grant programs of the Federal Government for all emergency response providers;

(E) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(F) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(G) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States; and

(H) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(4) FISCAL YEARS 2003 AND 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

(5) REPORT.—Not later than the submission of the fiscal year 2005 budget request, the Secretary shall submit to Congress a detailed report containing a comprehensive, independent analysis, and recommendations addressing whether there should be a single office within the Department responsible for the domestic preparedness of the United States for all hazards, including terrorism and natural disasters. The analysis shall include an examination of the advantages, disadvantages, costs, and benefits of creating a single office for all hazards preparedness within the Department.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of a national medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

(f) PREEMPTED PROVISIONS.—Notwithstanding any other provision of this Act, including any effective date provision, section 134 shall not take effect.

SA 4684. Mr. GREGG (for himself, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. STEVENS, Mr. INOUYE, Mr. COCHRAN, Mr. HELMS, Mr. JOHNSON, Mr. SESSIONS, Mr. BINGAMAN, Mr. GRASSLEY, Ms. LANDRIEU, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him 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:

At the appropriate place, insert the following:

SEC. ___. DIRECTORATE OF EMERGENCY PREPAREDNESS AND RESPONSE.

(a) ESTABLISHMENT.—

(1) DIRECTORATE.—There is established within the Department the Directorate of Emergency Preparedness and Response.

(2) UNDER SECRETARY.—There shall be an Under Secretary for Emergency Preparedness and Response, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Directorate of Emergency Preparedness and Response shall be responsible for the following:

(1) Carrying out all nonterrorism emergency preparedness activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(2) Carrying out all terrorism and other hazard response activities carried out by the Federal Emergency Management Agency before the effective date of this division.

(3) Creating a National Crisis Action Center to act as the focal point for—

(A) monitoring emergencies;

(B) notifying affected agencies and State and local governments; and

(C) coordinating Federal support for State and local governments and the private sector in crises.

(4) Managing and updating the Federal response plan to ensure the appropriate integration of operational activities of the Department of Defense, the National Guard, and other agencies, to respond to acts of terrorism and other disasters.

(5) Coordinating activities among private sector entities, including entities within the medical community, and animal health and plant disease communities, with respect to recovery, consequence management, and planning for continuity of services.

(6) Developing and managing a single response system for national incidents in coordination with all appropriate agencies.

(7) Coordinating with other agencies necessary to carry out the functions of the Office of Emergency Preparedness.

(8) Collaborating with, and transferring funds to, the Centers for Disease Control and Prevention or other agencies for administration of the Strategic National Stockpile transferred under subsection (c)(6).

(9) Consulting with the Under Secretary for Science and Technology, Secretary of Agriculture, and the Director of the Centers for Disease Control and Prevention in establishing and updating the list of potential threat agents or toxins relating to the functions of the Select Agent Registration Program transferred under subsection (c)(7).

(10) Developing a plan to address the interface of medical informatics and the medical response to terrorism that address—

(A) standards for interoperability;

(B) real-time data collection;

(C) ease of use for health care providers;

(D) epidemiological surveillance of disease outbreaks in human health and agriculture;

(E) integration of telemedicine networks and standards;

(F) patient confidentiality; and

(G) other topics pertinent to the mission of the Department.

(11) Activate and coordinate the operations of the National Disaster Medical System as defined under section 102 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(12) Performing such other duties as assigned by the Secretary.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT.—The authorities, functions, personnel, and assets of the following entities are transferred to the Department:

(1) The Federal Emergency Management Agency, the 10 regional offices of which shall be maintained and strengthened by the Department, which shall be maintained as a distinct entity within the Department, except that those elements of the Office of National Preparedness of the Federal Emergency Management Agency that relate to terrorism shall be transferred to the Office of Domestic Preparedness established under this section.

(2) The National Office of Domestic Preparedness of the Federal Bureau of Investigation of the Department of Justice.

(3) The Office of Domestic Preparedness of the Department of Justice.

(4) Those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(5) The Office of Emergency Preparedness within the Office of the Assistant Secretary for Public Health Emergency Preparedness of the Department of Health and Human Services, including—

(A) the Noble Training Center;

(B) the Metropolitan Medical Response System;

(C) the Department of Health and Human Services component of the National Disaster Medical System;

(D) the Disaster Medical Assistance Teams, the Veterinary Medical Assistance Teams, and the Disaster Mortuary Operational Response Teams;

(E) the special events response; and

(F) the citizen preparedness programs.

(6) The Strategic National Stockpile of the Department of Health and Human Services including all functions and assets under sections 121 and 127 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188).

(7) The functions of the Select Agent Registration Program of the Department of Health and Human Services and the United States Department of Agriculture, including all functions of the Secretary of Health and Human Services and the Secretary of Agriculture under sections 201 through 221 of the Public Health Security and Bioterrorism

Preparedness and Response Act of 2002 (Public Law 107–188).

(d) OFFICE FOR DOMESTIC PREPAREDNESS.—

(1) ESTABLISHMENT.—There is established within the Directorate of Emergency Preparedness and Response the Office for Domestic Preparedness.

(2) DIRECTOR.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Emergency Preparedness and Response.

(3) RESPONSIBILITIES.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(A) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(B) in keeping with intelligence estimates, working to ensure adequate strategic and operational planning, equipment, training, and exercise activities at all levels of government;

(C) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(D) directing and supervising terrorism preparedness grant programs of the Federal Government for all emergency response providers;

(E) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(F) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(G) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States; and

(H) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

(4) FISCAL YEARS 2003 AND 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

(5) REPORT.—Not later than the submission of the fiscal year 2005 budget request, the Secretary shall submit to Congress a detailed report containing a comprehensive, independent analysis, and recommendations addressing whether there should be a single office within the Department responsible for the domestic preparedness of the United States for all hazards, including terrorism and natural disasters. The analysis shall include an examination of the advantages, disadvantages, costs, and benefits of creating a single office for all hazards preparedness within the Department.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary for Emergency Preparedness and Response shall submit a report to Congress on the status of a national medical informatics system and an agricultural disease surveillance system, and the capacity of such systems to meet the goals under subsection (b)(12) in responding to a terrorist attack.

(f) PREEMPTED PROVISIONS.—Notwithstanding any other provision of this Act, including any effective date provision, section 134 shall not take effect.

SA 4685. Mr. BINGAMAN (for himself and Mr. DASCHLE) 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:

At the appropriate place, insert the following:

"SEC. ___

(a) FINDINGS.—Congress finds that:

(1) In 2002 approximately six and one half million acres of forest lands in the United States have burned, 21 people have lost their lives, and 3,079 structures have been destroyed. The Forest Service and the Bureau of Land Management have spent more than $1 billion fighting these fires.

(2) 73 million acres of public lands are classified as class 3 fire risks. This includes 23 million acres that are in strategic areas designated by the Forest Service and the Department of the Interior for emergency treatment to withstand catastrophic fire.

(3) The forest management policy of fire suppression has resulted in an accumulation of fuel loads, dead and dying trees, and nonnative species that creates fuel ladders which allow fires to reach the crowns of large old trees and cause catastrophic fire.

(4) The Forest Service and the Department of Interior should immediately undertake an emergency forest grooming program to reduce the risk of catastrophic fire.

(b) IN GENERAL.—The Secretary of Agriculture and the Secretary of 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, dated May 2002, developed pursuant to the Conference Report to the Department of the Interior and Related Agencies Appropriations Act, FY 2001 (H. Rept. 106–646) to reduce hazardous fuels. Any project carried out pursuant to this section shall be consistent with the applicable forest plan, resource management plan, or other applicable agency plans.

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

(1) wildland urban interface areas;

(2) municipal watersheds; or

(3) forested or rangeland areas affected by disease, insect activity, wind throw, or areas subject to catastrophic reburn

(d) ACREAGE LIMITATION.—In implementing this section, the Secretary of Agriculture and the Secretary of the Interior shall treat an aggregate area of not more than 2.5 million acres of federal land. This amount is in addition to the existing hazardous fueled reduction program that treats approximately 2.5 million acres each year.

(e) PROCESS.—The Secretary of Agriculture and the Secretary of the Interior shall jointly develop a collaborative process with interested parties consistent with the Implementation Plan described in subsection (b) for the selection of projects carried out under this section consistent with subsection (c). Such collaborative process may be the process set forth in title II of the Secure Rural Schools and Community Self-Determination Act, Public Law 106–393.

(f) ADMINISTRATIVE PROCESS.—

(1) REVIEW.—Projects implemented pursuant to subsection (h) shall not be subject to the appeal requirements of the Appeals Reform Act (section 322 of Public Law 102–381) or review by the Department of the Interior Board of Lands Appeals. Nothing in this section affects projects for which scoping has begun prior to enactment of this Act.

(2) REGULATIONS.—The Secretary of Agriculture and the Secretary of the Interior, as appropriate, may promulgate such regulations as are necessary to implement this section.

(g) CONCLUSIVE PRESUMPTION.—Within—

(1) one-half mile of any community; or

(2) key municipal watersheds identified in forest plans in which National Environmental Policy Act documentation and analysis has been completed and no new road construction is allowed, no timber sales are allowed, and no log skidding machines are allowed, unless there are extraordinary circumstances, hazardous fuels reduction actions authorized by subsection (h) are conclusively determined to be categorically excluded from further analysis under the National Environmental Policy Act, and the Secretary of Agriculture or the Secretary of the Interior, as appropriate, need not make any findings as to whether the projects individually or cumulatively have a significant effect on the human environment. This conclusive determination shall apply in any judicial proceeding brought to enforce the National Environmental Policy Act pursuant to this section.

(h) CATEGORICAL EXCLUSIONS.—(1) Subject to paragraph (2), until September 30, 2003, the Secretary of Agriculture and the Secretary of the Interior may categorically exclude a proposed hazardous fuels reduction action, including prescribed fire, from documentation in an environmental impact statement or environmental assessment if the proposed hazardous fuels reduction action is located on lands identified as condition class 3 as determined by the Secretary of Agriculture and the Secretary of the Interior and pursuant to scientific mapping surveys and removes no more than 250,000 board feet of merchantable wood products or removes as salvage 1,000,000 board feet or less of merchantable wood products and assures regeneration of harvested or salvaged areas.

(2) Scoping is required on all actions proposed pursuant to this subsection.

(i) EXTRAORDINARY CIRCUMSTANCES.—For all projects implemented pursuant to this section, if there are extraordinary circumstances, the Secretary of Agriculture and the Secretary of the Interior shall follow agency procedures related to categorical exclusions and extraordinary circumstances.

(j) REDUCE FIRE RISK.—In order to ensure that the agencies are implementing projects that reduce the risk of unnaturally intense wildfires, the Secretary of Agriculture and the Secretary of the Interior—

(1) shall not construct new roads in any inventoried roadless areas part of any project implemented pursuant to this section;

(2) shall, at their discretion, maintain an ecologically sufficient number of old and large trees appropriate for each ecosystem type and shall focus on thinning from below

for all projects implemented pursuant to this section;

(3) for projects involving key municipal watersheds, must protect or enhance water quality or water quantity available in the area; and

(4) must deposit in the Treasury of the United States all revenues and receipts generated from projects implemented pursuant to this section.

(k) HAZARDOUS FUELS REDUCTION FUNDING FOCUS.—In order to focus hazardous fuels reduction activities on the highest priority areas where critical issues of human safety and property loss are the most serious and within key municipal watersheds identified in forest plans, the Secretary of Agriculture and the Secretary of the Interior shall expend all of the hazardous fuels operations funds provided in this Act only on projects in areas identified as condition class 3 as defined in subsection (h) and at least seventy percent of the hazardous fuels operations funds provided in this Act only on projects within one-half mile of any community or within key municipal watersheds identified in forest plans. Nothing in this subsection will affect projects for which scoping has begun prior to enactment of this Act.

(l) COMMUNITIES.—At least ten percent of the hazardous fuels operations funds provided in this Act shall be spent on projects that benefit small businesses that uses hazardous fuels and are located in small, economically disadvantaged communities.

(m) MONITORING.—(1) The Secretary of Agriculture and the Secretary of the Interior shall establish a multiparty monitoring process in order to assess a representative sampling of the projects implemented pursuant to this section.

(2) Funds to implement this subsection shall be derived from hazardous fuels reduction funds.

SA 4686. Mr. WELLSTONE submitted an amendment intended to be proposed by him 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:

At the appropriate place insert the following:

SEC. ___. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b), or any subsidiary of such entity.

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity has completed the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

(2) after the acquisition at least 50 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

(ii) to treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term ''expanded affiliated group'' means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504(a) of such Code shall be applied by substituting ''more than 50 percent'' for ''at least 80 percent'' each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term ''foreign incorporated entity'' means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms ''person'', ''domestic'', and ''foreign'' have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVER.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is required in the interest of national security.

SA 4687. Mr. KENNEDY submitted an amendment intended to be proposed by him 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:

At the appropriate place, add the following:

(c) INSPECTIONS.—The Under Secretary for Immigration Affairs shall assign officers with expertise and training in immigration and nationality law to all high volume ports of entry in the United States to assist in the inspection of applicants for entry to the United States. For other ports of entry, the Under Secretary shall take steps to ensure that such officers participate in the inspections process. Such officers shall ensure that the inspections policies and procedures regarding applicants for entry to the United States are consistent with the immigration and nationality laws of the United States.

(d) TRAINING FOR BORDER PATROL AND INSPECTORS.—The Under Secretary for Immigration Affairs, in consultation with the Under Secretary for Border and Transportation Protection, will provide timely and ongoing training in immigration and nationality law to personnel performing the border patrol and inspections functions in the Border and Transportation Protection Directorate.

SA 4688. Mr. KENNEDY submitted an amendment intended to be proposed by him 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:

Strike title XIII and insert the following:

TITLE XIII—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

SEC. 1301. ESTABLISHMENT.

(a) IN GENERAL.—There is within the Department of Justice the Executive Office for Immigration Review.

(b) STATUTORY CONSTRUCTION.—Nothing in title XI, or any amendment made by that title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by, the Executive Office for Immigration Review of the Department of Justice, or any officer, employee, or component thereof, immediately prior to the effective date of title XI.

SEC. 1302. DIRECTOR OF THE AGENCY.

(a) APPOINTMENT.—There shall be at the head of the Executive Office for Immigration Review a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) OFFICES.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

(c) RESPONSIBILITIES.—The Director shall—

(1) administer the Executive Office for Immigration Review and be responsible for the promulgation of rules and regulations affecting the agency; and

(2) appoint and fix the compensation of attorneys, clerks, administrative assistants, and other personnel as may be necessary.

SEC. 1303. BOARD OF IMMIGRATION APPEALS.

(a) IN GENERAL.—The Board of Immigration Appeals (in this title referred to as the ''Board'') shall perform the appellate functions of the Executive Office for Immigration Review. The Board shall consist of a Chair and not less than 14 other immigration appeals judges.

(b) APPOINTMENT.—Members of the Board shall be appointed by the Attorney General, in consultation with the Director and the Chair of the Board of Immigration Appeals.

(c) QUALIFICATIONS.—The Chair and each other Member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of pertinent legal expertise.

(d) JURISDICTION.—

(1) IN GENERAL.—The Board shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals (as in effect under the Executive Office of Immigration Review).

(2) DE NOVO REVIEW.—The Board shall have de novo review of any decision by an immigration judge, including any final order of removal.

(e) INDEPENDENCE OF BOARD MEMBERS.—The Members of the Board shall exercise their independent judgment and discretion in the cases coming before the Board.

(f) REFERRAL OF CASES TO THE ATTORNEY GENERAL.—

(1) IN GENERAL.—The Board shall refer to the Attorney General for review of any case that—

(A) the Attorney General directs the Board to refer to the Attorney General;

(B) the Chairman or a majority of the Board believes should be referred to the Attorney General for review; or

(C) the Under Secretary of Homeland Security for Immigration Affairs requests be referred to the Attorney General for review.

(2) DECISION OF THE ATTORNEY GENERAL.—In any case in which the Attorney General reviews the decision of the Board, the decision of the Attorney General shall be stated in writing and shall be transmitted to the Board for transmittal and service as provided by regulations.

SEC. 1304. CHIEF IMMIGRATION JUDGE.

(a) ESTABLISHMENT OF OFFICE.—There shall be within the Executive Office for Immigration Review the position of Chief Immigration Judge, who shall administer the immigration courts.

(b) DUTIES OF THE CHIEF IMMIGRATION JUDGE.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resource and facilities and for the general management of immigration court dockets.

(c) APPOINTMENT OF IMMIGRATION JUDGES.—Immigration judges shall be appointed by the Attorney General, in consultation with the Director and the Chief Immigration Judge.

(d) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of pertinent legal expertise.

(e) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the immigration courts within the Executive Office for Immigration Review of the Department of Justice.

(f) INDEPENDENCE OF IMMIGRATION JUDGES.—The immigration judges shall exercise their independent judgment and discretion in the cases coming before the Immigration Court.

SEC. 1305. CHIEF ADMINISTRATIVE HEARING OFFICER.

(a) ESTABLISHMENT OF POSITION.—There shall be within the Executive Office for Immigration Review the position of Chief Administrative Hearing Officer.

(b) DUTIES OF THE CHIEF ADMINISTRATIVE HEARING OFFICER.—The Chief Administrative Hearing Officer shall hear cases brought under sections 274A, 274B, and 274C of the Immigration and Nationality Act.

SEC. 1306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Executive Office for Immigration Review such sums as may be necessary to carry out this title.

SA 4689. Mr. GRASSLEY submitted an amendment intended to be proposed by him 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:

In section 301, subsection h, by striking ''(2) The'' and replacing it with ''(2) Except as provided in paragraph (3), the'' and by adding a new paragraph, following the paragraph numbered (2), to read as follows: ''(3) Notwithstanding any other provision of law, the Secretary of the Department of Treasury shall be responsible for all of the activities related to the collection of tax and revenue, promulgation of regulations, and assessment of penalties related to alcohol and tobacco. The authorities, functions, personnel and assets of Department of Treasury employees engaged in the collection of tax and revenue, promulgation of regulations, and assessment of penalties related to alcohol and tobacco at the time of enactment of this legislation shall be retained within the Department of Treasury, but employees engaged in the criminal investigation of violations of laws related to alcohol and tobacco shall be transferred to the Department of Justice in accordance with sections 201 and 301 of this act.''

SA 4690. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4619 submitted by Mr. JEFFORDS (for himself, Mr. SMITH of New Hampshire, and Ms. SNOWE) and intended to be proposed to the 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:

In lieu of the matter proposed to be inserted, insert the following:

TITLE ____—DISASTER RELIEF AND EMERGENCY ASSISTANCE

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Homeland Security Block Grant Act of 2002''.

SEC. ____02. FINDINGS.

Congress makes the following findings:

(1) In the wake of the September 11, 2001, terrorist attacks on our country, communities all across American now find themselves on the front lines in the war against terrorism on United States soil.

(2) We recognize that these communities will be forced to shoulder a significant portion of the burden that goes along with that responsibility. We believe that local governments should not have to bear that responsibility alone.

(3) Our homeland defense will only be as strong as the weakest link at the State and local level. By providing our communities with the resources and tools they need to bolster emergency response efforts and provide for other emergency response initiatives, we will have a better-prepared home front and a stronger America.

SEC. ____03. DEFINITIONS.

(a) DEFINITIONS.—In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Emergency Management Agency (FEMA).

(2) CITY.—The term ''city'' means—

(A) any unit of general local government that is classified as a municipality by the United States Bureau of the Census; or

(B) any other unit of general local government that is a town or township and which, in the determination of the Director—

(i) possesses powers and performs functions comparable to those associated with municipalities;

(ii) is closely settled; and

(iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census that have not entered into cooperation agreements with such town or township to undertake or to assist in the performance of homeland security objectives.

(3) FEDERAL GRANT-IN-AID PROGRAM.—The term ''Federal grant-in-aid program'' means a program of Federal financial assistance other than loans and other than the assistance provided by this title.

(4) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(5) METROPOLITAN AREA.—The term ''metropolitan area'' means a standard metropolitan statistical area as established by the Office of Management and Budget.

(6) METROPOLITAN CITY.—

(A) IN GENERAL.—The term ''metropolitan city'' means—

(i) a city within a metropolitan area that is the central city of such area, as defined and used by the Office of Management and Budget; or

(ii) any other city, within a metropolitan area, which has a population of fifty thousand or more.

(B) PERIOD OF CLASSIFICATION.—Any city that was classified as a metropolitan city for at least 2 years pursuant to subparagraph (A) shall remain classified as a metropolitan city. Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Director, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d).

(C) ELECTION BY A CITY.—Notwithstanding subparagraph (B), a city may elect not to retain its classification as a metropolitan city. Any unit of general local government that was classified as a metropolitan city in any year, may, upon submission of written notification to the Director, relinquish such classification for all purposes under this title if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section ____05(e) as an urban county.

(7) NONQUALIFYING COMMUNITY.—The term ''nonqualifying community'' means an area that is not a metropolitan city or part of an urban county and does not include Indian tribes.

(8) POPULATION.—The term ''population'' means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period of time.

(9) STATE.—The term ''State'' means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(10) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; a combination of such political subdivisions is recognized by the Director; and the District of Columbia.

(11) URBAN COUNTY.—The term ''urban county'' means any county within a metropolitan area.

(b) BASIS AND MODIFICATION OF DEFINITIONS.—Where appropriate, the definitions in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Director may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

(c) DESIGNATION OF PUBLIC AGENCIES.—One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake activities assisted under this title.

(d) LOCAL GOVERNMENTS, INCLUSION IN URBAN COUNTY POPULATION.—With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 2002 under section ____04, the population of any unit of general local government which is included in that of an urban county as provided in subsection (a)(11) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant as a separate entity, unless the urban county does not receive a grant for any year during such three-year period.

(e) URBAN COUNTY.—Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county, of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Director, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Director, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).

SEC. ____04. GRANTS TO STATES, UNITS OF GENERAL LOCAL GOVERNMENT AND INDIAN TRIBES; AUTHORIZATIONS.

The Director, working in consultation with the Attorney General is authorized to make grants to States, units of general local government, and Indian tribes to carry out activities in accordance with the provisions of this title. For purposes of assistance under section ____07, there is authorized to be appropriated $3,000,000,000 for each of fiscal years 2003 through 2006, and such additional sums as are authorized thereafter. For purposes of assistance under section ____08, there is authorized to be appropriated $500,000,000 in fiscal year 2003, and such sums as are authorized thereafter.

SEC. ____05. STATEMENT OF ACTIVITIES AND REVIEW.

(a) APPLICATION.—Prior to the receipt in any fiscal year of a grant under section ____07(b) by any metropolitan city or urban county, under section ____07(d) by any State, or under section ____07(d)(2) by any unit of general local government, the grantee shall have indicated its interest in receiving funds by preparing a statement of homeland security objectives and projected use of funds and shall have provided the Director with the certifications required in subsection (b) and, where appropriate, subsection (c). In the case of metropolitan cities and urban counties receiving grants pursuant to section ____07(b) and in the case of units of general local government receiving grants pursuant to section ____07(d)(2), the statement of projected use of funds shall consist of proposed homeland security activities. In the case of States receiving grants pursuant to section ____07(d), the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government. In preparing the statement, the grantee shall consider any view of appropriate law enforcement, and emergency response authorities and may, if deemed appropriate by the grantee, modify the proposed statement. A copy of the final statement shall be furnished to the Director, the Attorney General, and the Office of Homeland Security together with the certifications required under subsection (b) and, where appropriate, subsection (c). Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same procedures required in this paragraph for the preparation and submission of such statement.

(b) CERTIFICATION OF ENUMERATED CRITERIA BY GRANTEE TO SECRETARY.—Any grant under section ____07 shall be made only if the grantee certifies to the satisfaction of the Director that—

(1) it has developed a homeland security plan pursuant to section ____05 that identifies both short- and long-term homeland security needs that have been developed in accordance with the primary objective and requirements of this title; and

(2) the grantee will comply with the other provisions of this title and with other applicable laws.

(c) SUBMISSION OF ANNUAL PERFORMANCE REPORTS, AUDITS AND ADJUSTMENTS.—

(1) IN GENERAL.—Each grantee shall submit to the Director, at a time determined by the Director, a performance and evaluation report concerning the use of funds made available under section ____07, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a). The Director shall encourage and assist national associations of grantees eligible under section ____07, national associations of States, and national associations of units of general local government in nonqualifying areas to develop and recommend to the Director, within 1 year after the effective date of this sentence, uniform recordkeeping, performance reporting, evaluation reporting, and auditing requirements for such grantees, States, and units of general local government, respectively. Based on the Director's approval of these recommendations, the Director shall establish such requirements for use by such grantees, States, and units of general local government.

(2) REVIEWS AND AUDITS.—The Director shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

(A) in the case of grants made under section ____07(b), whether the grantee has carried out its activities and, where applicable, whether the grantee has carried out those activities and its certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

(B) in the case of grants to States made under section ____07(d), whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this title and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in subparagraph (A).

(3) ADJUSTMENTS.—The Director may make appropriate adjustments in the amount of the annual grants in accordance with the Director's findings under this subsection. With respect to assistance made available to units of general local government under section ____07(d), the Director may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Director's reviews and audits under this subsection, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future assistance to such units of general local government.

(d) AUDITS.—Insofar as they relate to funds provided under this title, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(e) METROPOLITAN CITY AS PART OF URBAN COUNTY.—In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Director may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of submitting a statement under section ____05 and carrying out activities under this title.

SEC. ____06. ACTIVITIES ELIGIBLE FOR ASSISTANCE.

(a) IN GENERAL.—Activities assisted under this title may include only—

(1) funding additional law enforcement, fire, and emergency resources, including covering overtime expenses;

(2) purchasing and refurbishing personal protective equipment for fire, police, and emergency personnel and acquire state-of-the-art technology to improve communication and streamline efforts;

(3) improving cyber and infrastructure security by improving—

(A) security for water treatment plants, distribution systems, and other water infrastructure; nuclear power plants and other power infrastructure;

(B) security for tunnels and bridges;

(C) security for oil and gas pipelines and storage facilities; and

(D) security for chemical plants and transportation of hazardous substances;

(4) assisting Local Emergency Planning Committees so that local public agencies can design, review, and improve disaster response systems;

(5) assisting communities in coordinating their efforts and sharing information with all relevant agencies involved in responding to terrorist attacks;

(6) establishing timely notification systems that enable communities to communicate with each other when a threat emerges;

(7) improving communication systems to provide information to the public in a timely manner about the facts of any threat and the precautions the public should take; and

(8) devising a homeland security plan, including determining long-term goals and short-term objectives, evaluating the progress of the plan, and carrying out the management, coordination, and monitoring of activities necessary for effective planning implementation.

SEC. ___07. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) ALLOCATION AND DISTRIBUTION OF FUNDS; SET-ASIDE FOR INDIAN TRIBES.—

(1) ALLOCATION.—For each fiscal year, of the amount approved in an appropriation Act under section ___04 for grants in a year (excluding the amounts provided for use in accordance with section ___06), the Director shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Director shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Director after notice and public comment.

(2) REMAINING ALLOCATION.—Of the amount remaining after allocations pursuant to paragraph (1), 70 percent shall be allocated by the Director to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant, to the extent authorized beyond fiscal year 2002, from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).

(b) COMPUTATION OF AMOUNT ALLOCATED TO METROPOLITAN CITIES AND URBAN COUNTIES.—

(1) IN GENERAL.—The Director shall determine the amount to be allocated to each metropolitan city based on the population of that metropolitan city.

(2) URBAN COUNTIES.—The Director shall determine the amount to be allocated to each urban county based on the population of that urban county.

(3) EXCLUSIONS.—In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations that are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

(A) is not part of any county;

(B) is not eligible for a grant pursuant to subsection (b)(1);

(C) is contiguous to the urban county;

(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

(E) is not included as a part of any other unit of general local government for purposes of this section.

Any independent city that is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible to receive assistance under subsection (d) with respect to such fiscal year.

(4) INCLUSIONS.—In computing amounts under this section with respect to any urban county, there shall be included all of the area of any unit of local government which is part of, but is not located entirely within the boundaries of, such urban county if the part of such unit of local government which is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section, and if the part of such unit of local government that is not within the boundaries of such urban county is not included as a part of any other unit of local government for the purpose of this section. Any amount received by such urban county under this section may be used with respect to the part of such unit of local government that is outside the boundaries of such urban county.

(5) POPULATION.—(A) Where data are available, the amount determined under paragraph (1) for a metropolitan city that has been formed by the consolidation of one or more metropolitan cities with an urban county shall be equal to the sum of the amounts that would have been determined under paragraph (1) for the metropolitan city or cities and the balance of the consolidated government, if such consolidation had not occurred. This paragraph shall apply only to any consolidation that—

(i) included all metropolitan cities that received grants under this section for the fiscal year preceding such consolidation and that were located within the urban county;

(ii) included the entire urban county that received a grant under this section for the fiscal year preceding such consolidation; and

(iii) took place on or after January 1, 2002.

(B) The population growth rate of all metropolitan cities referred to in section ___03 shall be based on the population of—

(i) metropolitan cities other than consolidated governments the grant for which is determined under this paragraph; and

(ii) cities that were metropolitan cities before their incorporation into consolidated governments. For purposes of calculating the entitlement share for the balance of the consolidated government under this paragraph, the entire balance shall be considered to have been an urban county.

(c) REALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), any amounts allocated to a metropolitan city or an urban county pursuant to the preceding provisions of this section that are not received by the city or county for a fiscal year because of failure to meet the requirements of subsections (a) and (b) of section ___05, or that otherwise became available, shall be reallocated in the succeeding fiscal year to the other metropolitan cities and urban counties in the same metropolitan area that certify to the satisfaction of the Director that they would be adversely affected by the loss of such amounts from the metropolitan area. The amount of the share of funds reallocated under this paragraph for any metropolitan city or urban county shall bear the same ratio to the total of such reallocated funds in the metropolitan area as the amount of funds awarded to the city or county for the fiscal year in which the reallocated funds become available bears to the total amount of funds awarded to all metropolitan cities and urban counties in the same metropolitan area for that fiscal year.

(2) TRANSFER.—Notwithstanding the provisions of paragraph (1), the Director may upon request transfer responsibility to any metropolitan city for the administration of any amounts received, but not obligated, by the urban county in which such city is located if—

(A) such city was an included unit of general local government in such county prior to the qualification of such city as a metropolitan city;

(B) such amounts were designated and received by such county for use in such city prior to the qualification of such city as a metropolitan city; and

(C) such city and county agree to such transfer of responsibility for the administration of such amounts.

(d) ALLOCATION TO STATES ON BEHALF OF NON-QUALIFYING COMMUNITIES.—

(1) IN GENERAL.—Of the amount approved in an appropriation Act under section ___04 that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a), 30 percent shall be allocated among the States for use in nonqualifying areas. The allocation for each State shall be based on the population of that State, relative to the populations of all States, excluding the population of qualifying communities. The Director shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under this paragraph and the total of the amounts available under such paragraph, make a pro rata reduction of each amount allocated to the nonqualifying communities in each State under such paragraph so that the nonqualifying communities in each State will receive an amount that represents the same percentage of the total amount available under such paragraph as the percentage which the nonqualifying areas of the same State would have received under such paragraph if the total amount available under such paragraph had equaled the total amount which was allocated under such paragraph.

(2) DISTRIBUTION.—(A) Amounts allocated under paragraph (1) shall be distributed to units of general local government located in nonqualifying areas of the State to carry out activities in accordance with the provisions of this title—

(i) by a State that has elected, in such manner and at such time as the Director shall prescribe, to distribute such amounts consistent with the statement submitted under section ___05(a); or

(ii) by the Director, in any case described in subparagraph (B), for use by units of general local government in accordance with paragraph (3)(B).

(B) The Director shall distribute amounts allocated under paragraph (1) if the State has not elected to distribute such amounts.

(C) To receive and distribute amounts allocated under paragraph (1), the State must certify that it, with respect to units of general local government in nonqualifying areas—

(i) provides or will provide technical assistance to units of general local government in connection with homeland security initiatives;

(ii) will not refuse to distribute such amounts to any unit of general local government on the basis of the particular eligible activity selected by such unit of general local government to meet its homeland security objectives, except that this clause may not be considered to prevent a State from establishing priorities in distributing such amounts on the basis of the activities selected; and

(iii) has consulted with local elected officials from among units of general local government located in nonqualifying areas of that State in determining the method of distribution of funds required by subparagraph (A).

(D) To receive and distribute amounts allocated under paragraph (1), the State shall certify that each unit of general local government to be distributed funds will be required to identify its homeland security objectives, and the activities to be undertaken to meet such objectives.

(3) MINIMUM AMOUNT.—

(A) IN GENERAL.—Each State (other than the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands) shall receive for each fiscal year a

base amount of $18,000,000 of the total amount appropriated for each fiscal year for grants made available to States under this section.

(B) DISTRICT OF COLUMBIA AND TERRITORIES.—The District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall each receive for each fiscal year $3,000,000 of the total amount appropriated for each fiscal year for grants made available to States under this section.

(4) ADMINISTRATION.—(A) If the State receives and distributes such amounts, it shall be responsible for the administration of funds so distributed. The State shall pay from its own resources all administrative expenses incurred by the State in carrying out its responsibilities under this title, except that from the amounts received for distribution in nonqualifying areas, the State may deduct an amount to cover such expenses and its administrative expenses not to exceed the sum of $150,000 plus 50 percent of any such expenses under this title in excess of $150,000. Amounts deducted in excess of $150,000 shall not exceed 2 percent of the amount so received.

(B) If the Director distributes such amounts, the distribution shall be made in accordance with determinations of the Director pursuant to statements submitted and the other requirements of section ___05 (other than subsection (c)) and in accordance with regulations and procedures prescribed by the Director.

(C) Any amounts allocated for use in a State under paragraph (1) that are not received by the State for any fiscal year because of failure to meet the requirements of subsection (a) or (b) of section ___05 shall be added to amounts allocated to all States under paragraph (1) for the succeeding fiscal year.

(D) Any amounts allocated for use in a State under paragraph (1) that become available as a result of the closeout of a grant made by the Director under this section in nonqualifying areas of the State shall be added to amounts allocated to the State under paragraph (1) for the fiscal year in which the amounts become so available.

(5) SINGLE UNIT.—Any combination of units of general local governments may not be required to obtain recognition by the Director pursuant to section ___03(2) to be treated as a single unit of general local government for purposes of this subsection.

(6) DEDUCTION.—From the amounts received under paragraph (1) for distribution in nonqualifying areas, the State may deduct an amount, not to exceed 1 percent of the amount so received, to provide technical assistance to local governments.

(7) APPLICABILITY.—Any activities conducted with amounts received by a unit of general local government under this subsection shall be subject to the applicable provisions of this title and other Federal law in the same manner and to the same extent as activities conducted with amounts received by a unit of general local government under subsection (a).

(e) QUALIFICATIONS AND DETERMINATIONS.—The Director may fix such qualification or submission dates as he determines are necessary to permit the computations and determinations required by this section to be made in a timely manner, and all such computations and determinations shall be final and conclusive.

(f) PRO RATA REDUCTION AND INCREASE.—If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section is insufficient to provide the amounts to which metropolitan cities and urban counties would be entitled under subsection (b), and funds are not otherwise appropriated to meet the deficiency, the Director shall meet the deficiency through a pro rata reduction of all amounts determined under subsection (b). If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section exceeds the amounts to which metropolitan cities and urban counties would be entitled under subsection (b), the Director shall distribute the excess through a pro rata increase of all amounts determined under subsection (b).

SEC. ___08. STATE AND REGIONAL PLANNING; COMMUNICATIONS SYSTEMS.

(a) IN GENERAL.—Pursuant to section ___04, $500,000,000 shall be used for homeland defense planning within the States by the States, for interstate, multistate or regional authorities, and within regions through regional cooperations; the development and maintenance of Statewide training facilities and homeland best-practices clearinghouses; and the development and maintenance of communications systems that can be used between and among first responders, including law enforcement, fire, and emergency medical personnel as follows:

(1) $325,000,000 to the States, and interstate, multistate or regional authorities: for homeland defense planning, coordination and implementation;

(2) $50,000,000 to regional cooperations for homeland defense planning and coordination;

(3) $50,000,000 to the States for the development and maintenance of Statewide training facilities and best-practices clearinghouses; and

(4) $75,000,000 to the States for the States and for local communities for the development and maintenance of communications systems that can be used between and among first responders at the State and local level, including law enforcement, fire, and emergency personnel.

(b) ALLOCATIONS.—Funds under this section to be awarded to States shall be allocated among the States based upon the population for each State relative to the populations of all States. The ''minimum amount'' provision set forth in section ___07(d)(3) shall apply to funds awarded under this section to States. With respect to subsection (a)(4), at least 30 percent of the funds awarded must be used for the development and maintenance of local communications systems.

(c) REGIONAL COOPERATIONS.—Funds under this section to be awarded to regional cooperations shall be allocated among the regional cooperations based upon the population of the areas covered by the cooperations.

SEC. ___09. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES.

No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any such program or activity.

SEC. ___10. REMEDIES FOR NONCOMPLIANCE WITH REQUIREMENTS.

If the Director finds after reasonable notice and opportunity for hearing that a recipient of assistance under this title has failed to comply substantially with any provision of this title, the Director, until he is satisfied that there is no longer any such failure to comply, shall—

(1) terminate payments to the recipient under this title;

(2) reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title; or

(3) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

SEC. ___11. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Not later than 180 days after the close of each fiscal year in which assistance under this title is furnished, the Director shall submit to Congress a report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this title;

(2) a summary of the use of such funds during the preceding fiscal year; and

(3) a description of the activities carried out under section ___07.

(b) REPORTS TO THE DIRECTOR.—The Director is authorized to require recipients of assistance under this title to submit to him such reports and other information as may be necessary in order for the Director to make the report required by subsection (a).

SEC. ___12. CONSULTATION BY ATTORNEY GENERAL.

In carrying out the provisions of this title including the issuance of regulations, the Director shall consult with the Attorney General especially as to any issues of concern to the law enforcement community, the Office of Homeland Security, and other Federal departments and agencies administering Federal grant-in-aid programs.

SEC. ___13. INTERSTATE AGREEMENTS OR COMPACTS; PURPOSES.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in support of homeland security planning and programs carried out under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

SEC. ___14. MATCHING REQUIREMENTS; SUSPENSION OF REQUIREMENTS FOR ECONOMICALLY DISTRESSED AREAS.

(a) REQUIREMENT.—Grant recipients shall contribute from funds, other than those received under this title, 10 percent of the total funds received under this title. Such funds shall be used in accordance with the grantee's statement of homeland security objectives.

(b) ECONOMIC DISTRESS.—Grant recipients that are deemed economically distressed shall be waived from the matching requirement set forth in this section.

SA 4691. Mrs. CLINTON submitted an amendment intended to be proposed to amendment SA 4619 submitted by Mr. JEFFORDS (for himself, Mr. SMITH of New Hampshire, and Ms. SNOWE) and intended to be proposed to the 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:

Amendment intended to be proposed by Mrs. CLINTON to the amendment (No. 4619) proposed by Mr. JEFFORDS strike section 630(c)(2) and insert the following:

SEC. 173. FIRST RESPONDER PERSONNEL COSTS.

Local governments receiving Federal homeland security funding under this Act,

whether directly or as a pass-through from the States, may use up to 20 percent of Federal funds received for first time responder personnel costs, including overtime costs.

SA 4692. Mr. GRASSLEY submitted an amendment intended to be proposed by him 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:

At the end, add the following:

DIVISION D—FBI REFORMS

SEC. 3001. SHORT TITLE.

This division may be cited as the ''Federal Bureau of Investigation Reform Act of 2002''.

TITLE XXXI—IMPROVING FBI OVERSIGHT

SEC. 3101. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

''(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice;

''(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility;

''(4) may investigate allegations of criminal wrongdoing or administrative misconduct, including a failure to properly discipline employees, by a person who is the head of any agency or component of the Department of Justice; and

''(5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General, who is authorized to take appropriate disciplinary action.''; and

(2) by adding at the end the following:

''(d) If the Attorney General does not follow any recommendation of the Inspector General made under subsection (b)(5), the Attorney General shall submit a report to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives that sets forth the recommendation of the Inspector General and the reasons of the Attorney General for not following that recommendation.

''(e) The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice shall report that information to the Inspector General.''.

SEC. 3102. REVIEW OF THE DEPARTMENT OF JUSTICE.

(a) APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN THE OFFICE OF INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Justice shall direct that 1 official from the office of the Inspector General be responsible for supervising and coordinating independent oversight of programs and operations of the Federal Bureau of Investigation until September 30, 2003.

(2) CONTINUATION OF OVERSIGHT.—The Inspector General may continue individual oversight in accordance with paragraph (1) after September 30, 2003, at the discretion of the Inspector General.

(b) INSPECTOR GENERAL OVERSIGHT PLAN FOR THE FEDERAL BUREAU OF INVESTIGATION.—Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall submit to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives, a plan for oversight of the Federal Bureau of Investigation, which plan may include—

(1) an audit of the financial systems, information technology systems, and computer security systems of the Federal Bureau of Investigation;

(2) an audit and evaluation of programs and processes of the Federal Bureau of Investigation to identify systemic weaknesses or implementation failures and to recommend corrective action;

(3) a review of the activities of internal affairs offices of the Federal Bureau of Investigation, including the Inspections Division and the Office of Professional Responsibility;

(4) an investigation of allegations of serious misconduct by personnel of the Federal Bureau of Investigation;

(5) a review of matters relating to any other program or operation of the Federal Bureau of Investigation that the Inspector General determines requires review; and

(6) an identification of resources needed by the Inspector General to implement a plan for oversight of the Federal Bureau of Investigation.

(c) REPORT ON INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives concerning—

(1) whether there should be established, within the Department of Justice, a separate office of theInspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation;

(2) what changes have been or should be made to the rules, regulations, policies, or practices governing the Federal Bureau of Investigation in order to assist the Office of the Inspector General in effectively exercising its authority to investigate the conduct of employees of the Federal Bureau of Investigation;

(3) what differences exist between the methods and practices used by different Department of Justice components in the investigation and adjudication of alleged misconduct by Department of Justice personnel;

(4) what steps should be or are being taken to make the methods and practices described in paragraph (3) uniform throughout the Department of Justice; and

(5) whether a set of recommended guidelines relating to the discipline of Department of Justice personnel for misconduct should be developed, and what factors, such as the nature and seriousness of the misconduct, the prior history of the employee, and the rank and seniority of the employee at the time of the misconduct, should be taken into account in establishing such recommended disciplinary guidelines.

SEC. 3103. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF JUSTICE.—There is authorized to be appropriated $2,000,000 to the Department of Justice for fiscal year 2003—

(1) for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Inspector General by 25 full-time special agents who shall conduct an increased number of audits, inspections, and investigations of alleged misconduct by employees of the Federal Bureau of Investigation;

(2) to fund expanded audit coverage of the grant programs administered by the Office of Justice Programs of the Department of Justice; and

(3) to conduct special reviews of efforts by the Federal Bureau of Investigation to implement recommendations made by the Office of Inspector General in reports on alleged misconduct by the Bureau.

(b) FEDERAL BUREAU OF INVESTIGATION.—There is authorized to be appropriated $1,700,000 to the Federal Bureau of Investigation for fiscal year 2003 for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Professional Responsibility by 10 full-time special agents and 4 full-time support employees.

TITLE XXXII—WHISTLEBLOWER PROTECTION

SEC. 3201. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

''§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

''(a) DEFINITION.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

''(b) PROHIBITED PRACTICES.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

''(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

''(A) a violation of any law, rule, or regulation; or

''(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

''(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

''(d) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner

consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.''.

TITLE XXXIII—FBI SECURITY CAREER PROGRAM

SEC. 3301. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 3302. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this title as the ''Director'') shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) POLICY IMPLEMENTATION.—The Director shall ensure that the policies of the Attorney General established in accordance with this Act are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 3303. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this Act.

SEC. 3304. SECURITY CAREER PROGRAM BOARDS.

(a) ESTABLISHMENT.—The Director acting through the Director of Security shall establish a security career program board to advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) COMPOSITION OF BOARD.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) CHAIRPERSON.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) SUBORDINATE BOARDS.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 3305. DESIGNATION OF SECURITY POSITIONS.

(a) DESIGNATION.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this Act.

(b) REQUIRED POSITIONS.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 3306. CAREER DEVELOPMENT.

(a) CAREER PATHS.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(1) IN GENERAL.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this title as a ''Special Agent'') is used in the consideration of persons for security positions.

(2) POLICY.—The Attorney General shall establish a policy that permits a particular security position to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) REPORT.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this Act are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(e) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) LENGTH OF ASSIGNMENT.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this Act with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 3307. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) QUALIFICATION REQUIREMENTS.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 3308. EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) OTHER PROGRAMS.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 3309. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) IN GENERAL.—The Attorney General shall submit any requirement that is established under section 3307 to the Director of the Office of Personnel Management for approval.

(b) FINAL APPROVAL.—If the Director does not disapprove the requirements established under section 3307 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director of the Office of Personnel Management.

TITLE XXXIV—FBI COUNTERINTELLIGENCE POLYGRAPH PROGRAM

SEC. 3401. DEFINITIONS.

In this title:

(1) POLYGRAPH PROGRAM.—The term ''polygraph program'' means the counterintelligence screening polygraph program established under section 3402.

(2) POLYGRAPH REVIEW.—The term ''Polygraph Review'' means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 3402. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after publication of the results of the Polygraph Review, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 3403. REGULATIONS.

(a) IN GENERAL.—The Attorney General shall prescribe regulations for the polygraph

program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) CONSIDERATIONS.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alternative means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 3404. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to enhance the personnel security program of the Federal Bureau of Investigation.

(b) POLYGRAPH REVIEW RESULTS.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

SEC. 3405. WEBSTER COMMISSION IMPLEMENTATION REPORT.

(a) IMPLEMENTATION PLAN.—Not later than 6 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a plan for implementation of the recommendations of the Commission for Review of FBI Security Programs, dated March 31, 2002, including the costs of such implementation.

(b) ANNUAL REPORTS.—On the date that is 1 year after the submission of the plan described in subsection (a), and for 2 years thereafter, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a report on the implementation of such plan.

(c) APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of this section, the term ''appropriate Committees of Congress'' means—

(1) the Committees on the Judiciary of the Senate and the House of Representatives;

(2) the Committees on Appropriations of the Senate and the House of Representatives;

(3) the Select Committee on Intelligence of the Senate; and

(4) the Permanent Select Committee on Intelligence of the House of Representatives.s

TITLE XXXV—FBI POLICE

SEC. 3501. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Bureau of Investigation.

(2) FBI BUILDINGS AND GROUNDS.—

(A) IN GENERAL.—The term ''FBI buildings and grounds'' means—

(i) the whole or any part of any building or structure which is occupied under a lease or otherwise by the Federal Bureau of Investigation and is subject to supervision and control by the Federal Bureau of Investigation;

(ii) the land upon which there is situated any building or structure which is occupied wholly by the Federal Bureau of Investigation; and

(iii) any enclosed passageway connecting 2 or more buildings or structures occupied in whole or in part by the Federal Bureau of Investigation.

(B) INCLUSION.—The term ''FBI buildings and grounds'' includes adjacent streets and sidewalks not to exceed 500 feet from such property.

(3) FBI POLICE.—The term ''FBI police'' means the permanent police force established under section 3502.

SEC. 3502. ESTABLISHMENT OF FBI POLICE; DUTIES.

(a) IN GENERAL.—Subject to the supervision of the Attorney General, the Director may establish a permanent police force, to be known as the FBI police.

(b) DUTIES.—The FBI police shall perform such duties as the Director may prescribe in connection with the protection of persons and property within FBI buildings and grounds.

(c) UNIFORMED REPRESENTATIVE.—The Director, or designated representative duly authorized by the Attorney General, may appoint uniformed representatives of the Federal Bureau of Investigation as FBI police for duty in connection with the policing of all FBI buildings and grounds.

(d) AUTHORITY.—

(1) IN GENERAL.—In accordance with regulations prescribed by the Director and approved by the Attorney General, the FBI police may—

(A) police the FBI buildings and grounds for the purpose of protecting persons and property;

(B) in the performance of duties necessary for carrying out subparagraph (A), make arrests and otherwise enforce the laws of the United States, including the laws of the District of Columbia;

(C) carry firearms as may be required for the performance of duties;

(D) prevent breaches of the peace and suppress affrays and unlawful assemblies; and

(E) hold the same powers as sheriffs and constables when policing FBI buildings and grounds.

(2) EXCEPTION.—The authority and policing powers of FBI police under this subsection shall not include the service of civil process.

(e) PAY AND BENEFITS.—

(1) IN GENERAL.—The rates of basic pay, salary schedule, pay provisions, and benefits for members of the FBI police shall be equivalent to the rates of basic pay, salary schedule, pay provisions, and benefits applicable to members of the United States Secret Service Uniformed Division.

(2) APPLICATION.—Pay and benefits for the FBI police under paragraph (1)—

(A) shall be established by regulation;

(B) shall apply with respect to pay periods beginning after January 1, 2003; and

(C) shall not result in any decrease in the rates of pay or benefits of any individual.

SEC. 3503. AUTHORITY OF METROPOLITAN POLICE FORCE.

This title does not affect the authority of the Metropolitan Police Force of the District of Columbia with respect to FBI buildings and grounds.

TITLE XXXVI—REPORTS

SEC. 3601. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) CONTENTS.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express statutory authority, and the source of the legal authority for that program or activity.

(c) RECOMMENDATIONS.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

SEC. 3602. REPORT ON FBI INFORMATION MANAGEMENT AND TECHNOLOGY.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation, with appropriate comments from other components of the Department of Justice, shall submit to Congress a report on the information management and technology programs of the Federal Bureau of Investigation including recommendations for any legislation that may be necessary to enhance the effectiveness of those programs.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall provide—

(1) an analysis and evaluation of whether authority for waiver of any provision of procurement law (including any regulation implementing such a law) is necessary to expeditiously and cost-effectively acquire information technology to meet the unique need of the Federal Bureau of Investigation to improve its investigative operations in order to respond better to national law enforcement, intelligence, and counterintelligence requirements;

(2) the results of the studies and audits conducted by the Strategic Management Council and the Inspector General of the Department of Justice to evaluate the information management and technology programs of the Federal Bureau of Investigation, including systems, policies, procedures, practices, and operations; and

(3) a plan for improving the information management and technology programs of the Federal Bureau of Investigation.

(c) RESULTS.—The results provided under subsection (b)(2) shall include an evaluation of—

(1) information technology procedures and practices regarding procurement, training, and systems maintenance;

(2) record keeping policies, procedures, and practices of the Federal Bureau of Investigation, focusing particularly on how information is inputted, stored, managed, utilized, and shared within the Federal Bureau of Investigation;

(3) how information in a given database is related or compared to, or integrated with, information in other technology databases within the Federal Bureau of Investigation;

(4) the effectiveness of the existing information technology infrastructure of the Federal Bureau of Investigation in supporting and accomplishing the overall mission of the Federal Bureau of Investigation;

(5) the management of information technology projects of the Federal Bureau of Investigation, focusing on how the Federal Bureau of Investigation—

(A) selects its information technology projects;

(B) ensures that projects under development deliver benefits; and

(C) ensures that completed projects deliver the expected results; and

(6) the security and access control techniques for classified and sensitive but unclassified information systems in the Federal Bureau of Investigation.

(d) CONTENTS OF PLAN.—The plan provided under subsection (b)(3) shall ensure that—

(1) appropriate key technology management positions in the Federal Bureau of Investigation are filled by personnel with experience in the commercial sector;

(2) access to the most sensitive information is audited in such a manner that suspicious activity is subject to near contemporaneous security review;

(3) critical information systems employ a public key infrastructure to validate both users and recipients of messages or records;

(4) security features are tested by the National Security Agency to meet national information systems security standards;

(5) all employees in the Federal Bureau of Investigation receive annual instruction in records and information management policies and procedures relevant to their positions;

(6) a reserve is established for research and development to guide strategic information management and technology investment decisions;

(7) unnecessary administrative requirements for software purchases under $2,000,000 are eliminated;

(8) full consideration is given to contacting with an expert technology partner to provide technical support for the information technology procurement for the Federal Bureau of Investigation;

(9) procedures are instituted to procure products and services through contracts of other agencies, as necessary; and

(10) a systems integration and test center, with the participation of field personnel, tests each series of information systems upgrades or application changes before their operational deployment to confirm that they meet proper requirements.

SEC. 3603. GAO REPORT ON CRIME STATISTICS REPORTING.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the issue of how statistics are reported and used by Federal law enforcement agencies.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) identify the current regulations, procedures, internal policies, or other conditions that allow the investigation or arrest of an individual to be claimed or reported by more than 1 Federal or State agency charged with law enforcement responsibility;

(2) identify and examine the conditions that allow the investigation or arrest of an individual to be claimed or reported by the Offices of Inspectors General and any other Federal agency charged with law enforcement responsibility;

(3) examine the statistics reported by Federal law enforcement agencies, and document those instances in which more than 1 agency, bureau, or office claimed or reported the same investigation or arrest during the years 1998 through 2001;

(4) examine the issue of Federal agencies simultaneously claiming arrest credit for incustody situations that have already occurred pursuant to a State or local agency arrest situation during the years 1998 through 2001;

(5) examine the issue of how such statistics are used for administrative and management purposes;

(6) set forth a comprehensive definition of the terms ''investigation'' and ''arrest'' as those terms apply to Federal agencies charged with law enforcement responsibilities; and

(7) include recommendations, that when implemented, would eliminate unwarranted and duplicative reporting of investigation and arrest statistics by all Federal agencies charged with law enforcement responsibilities.

(c) FEDERAL AGENCY COMPLIANCE.—Federal law enforcement agencies shall comply with requests made by the General Accounting Office for information that is necessary to assist in preparing the report required by this section.

TITLE XXXVII—ENDING THE DOUBLE STANDARD

SEC. 3701. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking ''for more than 14 days''.

SEC. 3702. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) IN GENERAL.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) CONTENTS.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

TITLE XXXVIII—ENHANCING SECURITY AT THE DEPARTMENT OF JUSTICE

SEC. 3801. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing information related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 3802. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal year 2003;

(2) $17,000,000 for fiscal year 2004; and

(3) $22,000,000 for fiscal year 2005.

SEC. 3803. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide policy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal year 2003;

(2) $7,500,000 for fiscal year 2004; and

(3) $8,000,000 for fiscal year 2005.

SA 4693. Mr. HATCH proposed an amendment 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; as follows:

At the appropriate place, insert the following new title:

TITLE ____—CYBER SECURITY ENHANCEMENT ACT OF 2002

SEC. ____01. SHORT TITLE.

This title may be cited as the ''Cyber Security Enhancement Act of 2002''.

Subtitle A—Computer Crime

SEC. ____11. AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER CRIMES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in subsection (a), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the following factors and the extent to which the guidelines may or may not account for them—

(A) the potential and actual loss resulting from the offense;

(B) the level of sophistication and planning involved in the offense;

(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(D) whether the defendant acted with malicious intent to cause harm in committing the offense;

(E) the extent to which the offense violated the privacy rights of individuals harmed;

(F) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(G) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(H) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. ___12. STUDY AND REPORT ON COMPUTER CRIMES.

Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this title and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18, United States Code.

SEC. ___13. EMERGENCY DISCLOSURE EXCEPTION.

(a) IN GENERAL.—Section 2702(b) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by striking subparagraph (C) of paragraph (6);

(3) in paragraph (6), by inserting ''or'' at the end of subparagraph (A); and

(4) by inserting after paragraph (6) the following:

''(7) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.''.

(b) REPORTING OF DISCLOSURES.—A government entity that receives a disclosure under this section shall file, no later than 90 days after such disclosure, a report to the Attorney General stating the subparagraph under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress one year after enactment of the bill.

SEC. ___14. GOOD FAITH EXCEPTION.

Section 2520(d)(3) of title 18, United States Code, is amended by inserting ''or 2511(2)(i)'' after ''2511(3)''.

SEC. ___15. INTERNET ADVERTISING OF ILLEGAL DEVICES.

Section 2512(1)(c) of title 18, United States Code, is amended—

(1) by inserting ''or disseminates by electronic means'' after ''or other publication''; and

(2) by inserting ''knowing the content of the advertisement and'' before ''knowing or having reason to know''.

SEC. ___16. STRENGTHENING PENALTIES.

Section 1030(c) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) in each of subparagraphs (A) and (C) of paragraph (4), by inserting ''except as provided in paragraph (5),'' before ''a fine under this title'';

(3) by striking the period at the end of paragraph (4)(C) and inserting ''; and''; and

(4) by adding at the end the following:

''(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

''(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.''.

SEC. ___17. PROVIDER ASSISTANCE.

(a) SECTION 2703.—Section 2703(e) of title 18, United States Code, is amended by inserting '', statutory authorization'' after ''subpoena''.

(b) SECTION 2511.—Section 2511(2)(a)(ii) of title 18, United States Code, is amended by inserting '', statutory authorization,'' after ''court order'' the last place it appears.

SEC. ___18. EMERGENCIES.

Section 3125(a)(1) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by striking the comma at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding at the end the following:

''(C) an immediate threat to a national security interest; or

''(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;''.

SEC. ___19. PROTECTING PRIVACY.

(a) SECTION 2511.—Section 2511(4) of title 18, United States Code, is amended—

(1) by striking paragraph (b); and

(2) by redesignating paragraph (c) as paragraph (b).

(b) SECTION 2701.—Section 2701(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting '', or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State'' after ''commercial gain'';

(2) in paragraph (1)(A), by striking ''one year'' and inserting ''5 years'';

(3) in paragraph (1)(B), by striking ''two years'' and inserting ''10 years''; and

(4) so that paragraph (2) reads as follows:

''(2) in any other case—

''(A) a fine under this title or imprisonment for not more than one year or both, in the case of a first offense under this paragraph; and

''(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.''.

(c) PRESENCE OF OFFICER AT SERVICE AND EXECUTION OF WARRANTS FOR COMMUNICATIONS AND CUSTOMER RECORDS.—Section 3105 of title 18, United States Code, is amended by adding at the end the following: ''The presence of an officer is not required for service or execution of a search warrant directed to a provider of electronic communication service or remote computing service for records or other information pertaining to a subscriber to or customer of such service.''.

Subtitle B—Office of Science and Technology

SEC. ___21. ESTABLISHMENT OF OFFICE; DIRECTOR.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this subtitle referred to as the ''Office'').

(2) AUTHORITY.—The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be independent of the National Institute of Justice.

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

SEC. ___22. MISSION OF OFFICE; DUTIES.

(a) MISSION.—The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access to such technology by Federal, State, and local law enforcement agencies.

(b) DUTIES.—In carrying out its mission, the Office shall have the following duties:

(1) To provide recommendations and advice to the Attorney General.

(2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

(3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.

(4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

(5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

(6) To carry out research, development, testing, and evaluation in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

(A) weapons capable of preventing use by unauthorized persons, including personalized guns;

(B) protective apparel;

(C) bullet-resistant and explosion-resistant glass;

(D) monitoring systems and alarm systems capable of providing precise location information;

(E) wire and wireless interoperable communication technologies;

(F) tools and techniques that facilitate investigative and forensic work, including computer forensics;

(G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

(H) guides to assist State and local law enforcement agencies;

(I) DNA identification technologies; and

(J) tools and techniques that facilitate investigations of computer crime.

(7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

(8) To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

(c) COMPETITION REQUIRED.—Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

(d) INFORMATION FROM FEDERAL AGENCIES.—Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

(e) PUBLICATIONS.—Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

(f) TRANSFER OF FUNDS.—The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section.

(g) ANNUAL REPORT.—The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

SEC. ___23. DEFINITION OF LAW ENFORCEMENT TECHNOLOGY.

For the purposes of this subtitle, the term ''law enforcement technology'' includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

SEC. ___24. ABOLISHMENT OF OFFICE OF SCIENCE AND TECHNOLOGY OF NATIONAL INSTITUTE OF JUSTICE; TRANSFER OF FUNCTIONS.

(a) TRANSFERS FROM OFFICE WITHIN NIJ.—The Office of Science and Technology of the National Institute of Justice is hereby abolished, and all functions and activities performed immediately before the date of the enactment of this Act by the Office of Science and Technology of the National Institute of Justice are hereby transferred to the Office.

(b) AUTHORITY TO TRANSFER ADDITIONAL FUNCTIONS.—The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

(c) TRANSFER OF FUNDS.—

(1) IN GENERAL.—Any balance of appropriations that the Attorney General determines is available and needed to finance or discharge a function, power, or duty of the Office or a program or activity that is transferred to the Office shall be transferred to the Office and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

(A) be credited to any applicable appropriation account of the Office; or

(B) be credited to a new account that may be established on the books of the Department of the Treasury;

and shall be merged with the funds already credited to that account and accounted for as one fund.

(2) LIMITATIONS.—Balances of appropriations credited to an account under paragraph (1)(A) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under paragraph (1)(B) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

(d) TRANSFER OF PERSONNEL AND ASSETS.—With respect to any function, power, or duty, or any program or activity, that is transferred to the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office.

(e) REPORT ON IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this subtitle. The report shall—

(1) identify each transfer carried out pursuant to subsection (b);

(2) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office;

(3) include such other information and recommendations as the Attorney General considers appropriate.

SEC. ___25. NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.

(a) IN GENERAL.—The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as ''Centers'') and, to the extent necessary, establish new centers through a merit-based, competitive process.

(b) PURPOSE OF CENTERS.—The purpose of the Centers shall be to—

(1) support research and development of law enforcement technology;

(2) support the transfer and implementation of technology;

(3) assist in the development and dissemination of guidelines and technological standards; and

(4) provide technology assistance, information, and support for law enforcement, corrections, and criminal justice purposes.

(c) ANNUAL MEETING.—Each year, the Director shall convene a meeting of the Centers in order to foster collaboration and communication between Center participants.

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report assessing the effectiveness of the existing system of Centers and identify the number of Centers necessary to meet the technology needs of Federal, State, and local law enforcement in the United States.

SEC. ___26. COORDINATION WITH OTHER ENTITIES WITHIN DEPARTMENT OF JUSTICE.

Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting ''coordinate and'' before ''provide''.

SA 4694. Mr. LIEBERMAN (for himself and Mr. MCCAIN) proposed an amendment 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; as follows:

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

TITLE VI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 601. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the ''Commission'').

SEC. 602. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001;

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 603. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 3 members shall be appointed by the majority leader of the Senate;

(2) 3 members shall be appointed by the Speaker of the House of Representatives;

(3) 2 members shall be appointed by the minority leader of the Senate; and

(4) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) CHAIRPERSON; VICE CHAIRPERSON.—

(1) IN GENERAL.—Subject to paragraph (2), the Chairperson and Vice Chairperson of the Commission shall be elected by the members.

(2) POLITICAL PARTY AFFILIATION.—The Chairperson and Vice Chairperson shall not be from the same political party.

(c) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 60 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, select a temporary chairperson, who may begin the operations of the Commission, including the hiring of staff.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 604. FUNCTIONS OF THE COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation; and

(vii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 605. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—Subpoenas issued under paragraph (1)(B) may be issued under the signature of the chairperson of the Commission, the Vice Chairperson of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CLOSED MEETINGS.—

(1) IN GENERAL.—Meetings of the Commission may be closed to the public under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App.) or other applicable law.

(2) ADDITIONAL AUTHORITY.—In addition to the authority under paragraph (1), section 10(a)(1) and (3) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any portion of a Commission meeting if the President determines that such portion or portions of that meeting is likely to disclose matters that could endanger national security. If the President makes such determination, the requirements relating to a determination under section 10(d) of that Act shall apply.

(c) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 606. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 607. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 608. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 609. REPORTS OF THE COMMISSION; TERMINATION.

(a) INITIAL REPORT.—Not later than 6 months after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress an initial report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) ADDITIONAL REPORTS.—Not later than 1 year after the submission of the initial report of the Commission, the Commission shall submit to the President and Congress a second report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the Session of the Senate on Thursday, September 19, 2002, at 2:30 p.m., in both open and closed session to receive testimony on U.S. policy on Iraq.

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, September 19, 2002, at 10 a.m., to conduct an oversight hearing on ''Financial Privacy and Consumer Protection.''

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, September 19, 2002, at 10 a.m. on pending committee business.

Agenda

1. S. 2949, Aviation Security Improvement Act (Sam Whitehorn/Gael Sullivan, Rob Chamberlin/Michael Reynolds).

2. S. 2946, Federal Trade Commission Reauthorization Act of 2002 (David Strickland/Kim Vandecar, Carlos Fierro/Ken Nahigian).

3. S. 2817, National Science Foundation Doubling Act (Jean Toal Eisen/Chan Lieu, Floyd DesChamps/Ken LaSala).

4. S. 2950, National Transportation Safety Board Reauthorization Act of 2002 (Sam Whitehorn/Gael Sullivan/Carl Bentzel, Rob Chamberlin/Michael Reynolds/Rob Freeman/Mary Phillips).

5. S. 2951, Federal Aviation Administration Research, Engineering, and Development Act of 2002 (Gael Sullivan/Sam Whitehorn, Rob Chamberlin/Michael Reynolds).

6. S. 2550, Professional Boxing Amendments Act of 2002 (David Strickland/Matthew Morrissey, Carlos Fierro/Ken Nahigian).

7. S. 2608, Coastal and Estuarine Land Protection Act (Margaret Spring/Peter Fippinger, Drew Minkiewicz).

8. H.R. 1989, Fisheries Conservation Act of 2002 (Margaret Spring/Cindy Smith, Drew Minkiewicz).

9. H.R. 2486, Inland Flood Forecasting and Warning System Act of 2002 (Margaret Spring/Cindy Smith, Floyd DesChamps/Ken LaSala).

10. S. 2862, Firefighting Research and Coordination Act (Jean Toal Eisen/Chan Lieu, Floyd DesChamps/Ken LaSala).

11. S. 2945, the 21st Century Nanotechnology Research and Development Act (Jean Toal Eisen/Chan Lieu, Floyd DesChamps/Ken LaSala).

12. H.R. 2733, Enterprise Integration Act of 2002 (Jean Toal Eisen/Chan Lieu, Floyd DesChamps/Ken LaSala).

13. S.J. Res. 42, a joint resolution commending Sail Boston for the continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training (Carl Bentzel/Marvin Nixon, Rob Freeman).

14. Nomination of David McQueen Laney (PN 1731), of Texas, to be a Member of the Reform Board (Amtrak) (Carl Bentzel/David Matsuda/Vanessa Jones, Rob Freeman/Mary Phillips/Virginia Pounds).

15. Nomination of Rebecca Dye (PN 1870), of North Carolina, to be a Federal Maritime Commissioner (Carl Bentzel/Marvin Nixon/Vanessa Jones, Rob Freeman/Virginia Pounds).

16. Nomination of Roger Nober (PN 1979), of Maryland, to be a Member of the Surface Transportation Board (Carl Bentzel/David Matsuda/Vanessa Jones, Rob Freeman/Mary Philips/Virginia Pounds).

17. Nominations for Promotion in the United States Coast Guard (PNs 2146, 2160, 2161, 2162) (Vanessa Jones, Virginia Pounds).

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, September 19, 2002, at 9:30 a.m., to conduct a hearing entitled, ''Project Delivery and Environmental Stewardship'' to examine progress on environmental streamlining under the Transportation Equity Act for the 21st century, TEA–21. The hearing will be held in SD–406.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 19, 2002, at 11 a.m., to hold a hearing on law enforcement treaties.

Agenda

Treaties

1. Treaty Doc. 107–13; Treaty Between the Government of the United States of America and the Government of Belize on Mutual Legal Assistance in Criminal Matters.

2. Treaty Doc. 107–12; Treaty Between the Government of the United States of America and the Government of the Kingdom of Sweden on Mutual Legal Assistance in Criminal Matters.

3. Treaty Doc. 107–9; Treaty Between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters.

4. Treaty Doc. 107–3; Treaty Between the Government of the Republic of India on Mutual Legal Assistance in Criminal Matters.

5. Treaty Doc. 107–16; Treaty Between the Government of the United States of America and the Principality of Liechtenstein on Mutual Legal Assistance in Criminal Matters.

6. Treaty Doc. 107–6; Extradition Treaty Between the United States of America and the Republic of Peru.

7. Treaty Doc. 107–4; Extradition Treaty Between the United States of America and the Government of the Republic of Lithuania.

8. Treaty Doc. 107–11: Second Protocol Amending Treaty on Extradition Between the Government of the United States of America and the Government of Canada, as amended.

9. Treaty Doc. 107–15: Treaty Between the Government of the United States of America and the Government of the Republic of Honduras for the Return of Stolen, Robbed, or Embezzled Vehicles and Aircraft, with Annexes and a related exchange of notes.

Witnesses: Mr. Sam Witten, Deputy Legal Adviser, Department of State, Washington, DC and Mr. Bruce Swartz, Deputy Assistant Attorney General, Criminal Division, Department of Justice, Washington, DC.

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

COMMITTEE ON THE JUDICIARY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, September 19, 2002, at 10 a.m., in Dirksen Room 226.

Tentative Agenda

I. Nominations

Dennis Shedd to be a U.S. Circuit Court Judge for the Fourth Circuit; Ronald H. Clark to be a U.S. District Court Judge for the Eastern District of Texas; Lawrence J. Block to be a Judge for U.S. Court of Federal Claims; and to be a U.S. Marshal: Antonio Candia Amador for the Eastern District of California.

II. Bills

S. 2480, Law Enforcement Officers Safety Act of 2002 [Leahy/Hatch/Feinstein/Thurmond/Cantwell/Grassley/Edwards/Kyl/DeWine/Sessions/McConnell/Brownback].

S. 2798, Employee Abuse Prevention Act of 2002 [Durbin/Leahy/Kennedy].

S. 2820, To increase the priority for employee wages and benefits in bankruptcy [Carnahan/Leahy/Kennedy].

S. 2901, Corporate Accountability in Bankruptcy Act [Grassley/Leahy].

S. 1655, Captive Exotic Animal Protection Act of 2001 [Biden/Feinstein/Durbin/Kohl/Cantwell].

S. 2742, Border Commuter Student Act of 2002 [Hutchison/Schumer/Cantwell].

S. 2934, To Amend the charter of the American Legion [Johnson].

H.R. 3988, To Amend the charter of the American Legion [Gekas].

S. Con. Res. 139, ''National Minority Health and Health Disparities Month'' [Torricelli].

H. Con. Res. 388, ''National Minority Health and Health Disparities Month'' [Christensen].

S. Res. 326, ''National Mammography Day'' October 18, 2002 [Biden/Leahy/Hatch/Kennedy/Thurmond/Grassley/Specter/Durbin/DeWine/Cantwell/Brownback].

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 19, 2002, at 2 p.m., to hold a nomination hearing.

Agenda

Nominees

Panel 1: Mr. C. William Swank, of Ohio, to be a Member of the Board of Directors of the Overseas Private Investment Corporation; Mr. Ned Siegel, of Florida, to be a Member of the Board of Directors of the Overseas Private Investment Corporation; Mrs. Diane Ruebling, of California, to be a Member of the Board of Directors of the Overseas Private Investment Corporation; and Mr. Samuel Ebbesen, of the Virgin Islands, to be a Member of the Board of Directors of the Overseas Private Investment Corporation.

Panel 2: The Honorable Wendy Chamberlin, of Virginia, to be Assistant Administrator of the Agency for International Development for Asia and the Near East and Ms. Nancy Jacklin, of New York, to be United States Executive Director of the International Monetary Fund.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 19, 2002, at 10 a.m. and 2:30 p.m., to hold a joint open hearing with the House Permanent Select Committee on Intelligence regarding the joint inquiry into the events of September 11, 2001.

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

COMMITTEE ON AGING

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, September 19, 2002, from 9:30 a.m.–12 p.m., in Dirksen 628 for the purpose of conducting a hearing regarding Disease Management.

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

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS AND COMPETITION

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Antitrust, Business Rights and Competition be authorized to meet to conduct a hearing on ''Oversight of Enforcement of the Antitrust Laws'' on Thursday, September 19, 2002, at 1:30 p.m., in room 226 of the Dirksen Senate Office Building.

Tentative Witness List: The Honorable Charles James, Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, DC and the Honorable Timothy J. Muris, Chairman, Federal Trade Commission, Washington, DC.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, September 19, 2002, at 2:15 p.m., in SD–366. The purpose of this hearing is to receive testimony on the following bills:

S. 2623, to designate the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park as a unit of the National Park System, and for other purposes;

S. 2640 and H.R. 3421, to provide for adequate school facilities in Yosemite National Park, and for other purposes;

S. 2776, to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes;

S. 2788, to revise the boundary of the Wind Cave National Park in the State of South Dakota;

S. 2880, to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes;

H.R. 3786, to revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona; and

H.R. 3858, to modify the boundaries of the New River Gorge National River, West Virginia.

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

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF BUSINESS

Mr. REID. Madam President, we are going to talk about Monday's schedule, Tuesday's schedule, and then tomorrow's schedule.

ORDERS FOR MONDAY, SEPTEMBER 23, 2002

Mr. REID. Madam President, I ask unanimous consent that at 3:30 p.m., Monday, September 23, the Senate resume consideration of H.R. 5093, the Interior appropriations bill and resume consideration of the Dodd amendment No. 4522; that there be 60 minutes of debate with respect to the Dodd amendment prior to a vote in relation to the

amendment, with the time until 4:30 p.m. equally divided and controlled between Senators DODD, INOUYE, and CAMPBELL or their designees; that no amendment be in order to the Dodd amendment prior to a vote in relation to the amendment; that at 4:30 p.m., the amendment be temporarily set aside and the Senate then proceed to the motion to proceed to the motion to reconsider the vote by which cloture was not invoked on the Byrd amendment No. 4480; that the motion to proceed be agreed to and the motion to reconsider be agreed to, and there then be 60 minutes for debate prior to a vote on cloture with respect to the Byrd amendment No. 4480, with the time equally divided and controlled between the two leaders or their designees; that at 5:30 p.m., without further intervening action or debate, the Senate resume consideration of the Dodd amendment No. 4522 and vote in relation to the amendment; that immediately following the vote with respect to the Dodd amendment, regardless of the outcome of the vote, the Senate vote on the motion to invoke cloture on the Byrd amendment No. 4480; that if cloture is not invoked and the Dodd amendment has not been disposed of, then the Senate resume consideration of the amendment, and it remain debatable and amendable; and that on Monday the Senate resume consideration of H.R. 5005, the homeland security bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDERS FOR TUESDAY, SEPTEMBER 24, 2002

Mr. REID. Madam President, I ask unanimous consent that at 9:30 a.m., Tuesday, September 24, the Senate resume consideration of H.R. 5005, the homeland defense legislation, and resume consideration of the Byrd amendment No. 4644; that the second-degree amendment be withdrawn once this agreement is entered; that there be a total of 60 minutes for debate with respect to the amendment; with the time divided as follows: 45 minutes under the control of Senator BYRD or his designee, and 15 minutes equally divided and controlled between Senators LIEBERMAN and THOMPSON or their designees; that upon the use or yielding back of time, without any further intervening action or debate, the Senate proceed to vote on the Byrd first-degree amendment; that upon disposition of the Byrd amendment, the Senate proceed to a period of morning business until 12:30 p.m., for the purpose of tributes to Senator STROM THURMOND, with Senators permitted to speak for up to 10 minutes each; that the Senate stand in recess from 12:30 p.m. until 2 p.m., for the regular party conferences; that at 2 p.m., the Senate resume consideration of the Lieberman-McCain amendment No. 4694 and there be 15 minutes remaining for debate prior to a vote in relation to the amendment, with the time equally divided and controlled between the two leaders or their designees; that upon the use or yielding back of time, without further intervening action or debate, the Senate vote in relation to the amendment, with no second-degree amendment in order prior to a vote in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, after consultation with the Chairman of the Senate Committee on Finance, pursuant to Public Law 106–170, announces the appointment of Jack L. Hillyard, of Iowa, to serve as a member of the Ticket to Work and Work Incentives Advisory Panel.

ORDERS FOR FRIDAY, SEPTEMBER 20, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow morning at 10 a.m., Friday, September 20; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; that at 10:30 a.m., the Senate proceed to executive session to consider Calendar No. 1006, and vote on the nomination, with no intervening action or debate; further, that it be in order to request the yeas and nays on the nomination at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. REID. Madam President, I ask unanimous consent that following the disposition of the nomination, the motion to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session, and there be a period of morning business until 12 noon, with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees.

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

PROGRAM

Mr. REID. Madam President, the next rollcall vote will occur on Friday at 10:30 a.m. on the confirmation of Reena Raggi, to be United States Circuit Judge for the Second Circuit.

EXTENDING THE SENATE'S APPRECIATION TO THE STAFF

Mr. REID. Madam President, I would like to—we do not do this nearly often enough—extend our appreciation, that of the Senate, to the staff. This reading that I have done in the last few minutes has taken hours to accomplish. This is probably the 15th time they have typed this. We thought we had it done on a number of different occasions, and because of people's schedules and other things Senators wanted, they had to retype it again and again and again.

So I appreciate their patience. And I am sorry it took so long. I really wish we were accomplishing more with all of this work because, as a body, we have not accomplished too much, but we are moving on the best we can.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam President, it appears there is nothing further to come before the Senate. I therefore ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:19 p.m., adjourned until Friday, September 20, 2002, at 10 a.m.