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Senate

The Senate met at 9 a.m. and was called to order by the Honorable ZELL MILLER, a Senator from the State of Georgia.

PRAYER

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

God is good all the time; all the time God is good! We say with the psalmist, ''I would have lost heart, unless I had believed that I would see the goodness of the Lord in the land of the living.''—Psalm 27:13.

What do we mean when we affirm that You are good? You have taught us, dear God, that Your goodness is Your impeccable consistency. We always can depend on You to be the same yesterday, today, and tomorrow. You do not play favorites; You treat all Your children the same. It is only humankind that withholds Your blessings of justice, mercy, and plenty from some of Your people. Or we tolerate customs, laws, or social prejudices that block Your goodness being offered to all.

If we say with the psalmist, ''Blessed be the Lord, who daily loads us with benefits, the God of our salvation!''—Psalm 68:19, then help us, generous Lord, to be to others as kind, caring, and forgiving, just as you have been to us. May it be said of us, ''He/she is good all the time!'' Amen.

PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER. The Honorable ZELL MILLER 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, June 13, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ZELL MILLER, a Senator from the State of Georgia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MILLER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. REID. The Chair will shortly announce that the first hour of the Senate today will be morning business, until 10 a.m. The first half of that time is under the control of the majority leader. It is my understanding that Senator STABENOW will be here to talk about pharmaceutical products. The second half of the time will be under the control of the Republican leader.

At 10, we will begin consideration of the terrorism insurance bill. We have waited a long time to be able to have this measure on the floor. Industries all over America, for months, have been telling us this is necessary. I hope those people who don't want this legislation passed—and there are some—will offer their amendments and take whatever verdict the Senate renders and not try to stall and kill this legislation. If that is the case, I think the majority leader would have no alternative but to file a cloture motion.

There is ample time to amend this legislation. I think both leaders acknowledge the importance of this legislation and the need to move on. So if there is an effort to stall, after a period of time the majority leader will again have to make a determination as to whether a cloture motion will be filed. I hope that is not the case and that it moves forward. We almost passed it by unanimous consent before the Christmas break. Since that time, things have gotten worse instead of better. We have construction projects that are coming to a halt because they cannot obtain terrorism insurance. It has become extremely important that we do something about this. I hope we as a Senate can move forward.

Mr. President, the chair has some business to conduct.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the time shall be under the control of the majority leader or his designee.

The Chair recognizes the Senator from Michigan.

THE HIGH COST OF PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, it is a pleasure to be here again this morning speaking about one of the most important topics to touch American families, seniors, and businesses. The entire economy, right now, is struggling with the explosion of health care costs. Most of those relate to the crisis of prescription drugs.

First, I thank the Senator from Georgia for his leadership, for bringing forward and fighting for Medicare and prescription drug coverage for seniors. I was pleased yesterday to join with the occupant of the chair, Senator BOB GRAHAM from Florida, Senator TED KENNEDY from Massachusetts, Senator HARRY REID, our distinguished assistant majority leader, and many others who have come together to put forward a voluntary, comprehensive Medicare prescription drug benefit for our seniors, one we can be proud of, one that people can choose to sign up for if they need it; and if they choose not to because of other coverage, that is good as well. But it will be there for everyone. It will finally keep the promise of Medicare by truly covering the way health care is provided today. We know that is long overdue.

As we all know, in 1965, when Medicare was constructed, it covered the way health care was provided. When you went in the hospital and had an operation, you might need penicillin or something else connected with your stay in the hospital. But today is different. Most people don't go to the hospital. Most people are able fortunately to receive some kind of assistance, such as medications that prevent problems. Some have high blood pressure or high cholesterol and many other things that they need to take medication to control. You also may be able to take a pill that stops open-heart surgery. A gentleman in Michigan tells me he takes one pill a month, and it stops him from having to have open-heart surgery. He said that is great, but the pill costs $400 a month.

This is a gentleman who, fortunately, is a UAW retiree and is able to receive some assistance from an excellent benefit plan. But he said: What if I didn't have that? What if I was just on Medicare and didn't have that extra help that came from my job? That $400 a month that stops open-heart surgery is a wonderful benefit.

We celebrate the fact that that drug was created. But too many people would either not be able to afford that, would be sitting at the kitchen table, like a lot of people today, saying: Do I eat today? Do I pay the utility bill? Am I able to pay the other things that will allow me to live independently or do I get my medicine?

So I am very pleased to be a part of the effort that is building in the Senate to pass a real Medicare prescription drug benefit, which we intend to do.

I thank our leader, TOM DASCHLE, for making a commitment that we are going to bring this issue before the Senate for a vote in a matter of a few weeks.

There are those around the country who are listening today and saying, Sure, we have heard this before, but is it really going to happen? Are we really going to be able to move the ball forward?

The answer is, with the help of people who are watching and listening today, we will. The reason this has been so difficult an issue is that, unfortunately, we see an industry doing very well by diverting a lot of the current rules, by getting around a lot of the rules. The current system works well for the drug industry. There are six drug company lobbyists for every Member of the Senate. So their voice is heard here every day.

I was pleased yesterday to join with about 30 different health care consumer groups to launch an effort to get the people's voice into this debate. Not only are we asking people to write their Senators, their House Member, and the President and say, now is the time to act—it is past the time to act—but we are also asking people to join us in an effort called fairdrugprices.org. Fairdrugprices.org is a new action center. We are asking people to log on—maybe this is your first time on a computer; if you do not have a computer, ask a family member, ask somebody else, and if, like so many of us, you are learning all this, just type in ''fairdrugprices.org'' and go to this site.

You can sign a petition to send two messages to Congress: Pass a real Medicare prescription drug benefit and lower prices for everybody. We have a plan on how to do both. If you go to fairdrugprices.org, you can sign up to be a part of this process. You can also communicate with your Member of Congress through this site, as well as directly going to their site.

Also, we are asking you to share your story. If you are a small business, the senior premium for health care went up 30 percent last year, and insurance companies said most of that was the explosion in prescription drug prices. Or if you are an 85-year-old woman with breast cancer struggling to buy tamoxifen or a 65-year-old man who is struggling with high blood pressure and other ailments and struggling to get the medicine you need, sign up, share that story, and we will bring that story to the floor of the Senate. We will make the people's voice a part of this process in a very real way because when the people are engaged—and, Mr. President, you know this—the right things happen.

When people are involved in telling what is real—they are not making this up; this is not a made-up problem; they are not just trying to talk the talk—they want action. They want action from Senators. They want this to be bipartisan. They want the President to embrace this. They want us to solve the problem.

There are a lot of other issues we can talk about around here, but we want to get this done. This effort is beginning to really get up steam. We want to invite everybody to go to fairdrugprices.org and engage in this issue.

We also ask for some help to take a serious look at other proposals that are coming forward from other places that do not do the job. There are a lot of proposals that are being called Medicare prescription drug coverage. There are those who provide coverage that is affordable. We are pleased that our plan would be a $25-per-month premium and would provide comprehensive coverage with no gaps. It would not cut home health care to do it. It would not cut our hospitals or nursing homes to do it.

We have a real plan. I regret to say that our colleagues on the other side of the aisle, on the other side of the Capitol, through the Speaker and the Republicans in the House, have not yet put forward a real Medicare plan. Unfortunately, what they put forward covers very little of the prescription drug bill, and they are talking continually about including cuts to hospitals and other providers to pay for it and setting up new costs for home health care.

I know in my own family and friends' families, often when you are struggling with that prescription drug bill, you also need some home health care help. Those frequently go together.

Today we are very proud of the home health care industry, our visiting nurses, and our other small businesses that set up shop to help people live in dignity at home. We know it is good from a quality-of-life standpoint. We know it saves money. It is good on all accounts. Home health care makes sense.

My fear is that what is being talked about by our House Republican colleagues is charging copays. One will have to pay on the front end for visits. On the one hand, while saying we want to help with prescription drug coverage, on the other, we are going to create new costs for you, we will save a little money in this pocket and take a little more out of this pocket. In the end, that will not be helpful to people.

I call upon my colleagues on the other side of the aisle and the other side of the Capitol, in the House of Representatives, to join with us in a real effort. Do not add costs to home health care. Do not cut our providers who have already been cut enough. Join with us in something that is real and makes sense.

One of my other concerns about what the House is talking about is that it would not be a benefit under Medicare. They are saying let private insurance cover prescription drugs with prescription-only policies. I suggest that if the insurance companies wanted to do that, they would have already done that. The reason they do not is that it is very expensive to provide a prescription-only insurance policy, outside of Medicare or outside of a standard policy.

Ironically, if you go back and look at the debate prior to 1965 when Medicare came into being, it came into being because the only thing that older adults had at that time was to try to find insurance in the private sector, and about half of them could not find any or it was not affordable because it is

less profitable to cover older adults or to cover the disabled or to cover people who are likely to begin to have more health ailments. So those policies were not there.

Medicare came into being to make sure that everybody had access to health care; that our older citizens, our disabled citizens would be able to get the same care that other citizens received. That was a promise we made in 1965.

Now, instead of making sure that promise is real by covering prescription drugs, which is the way health care is provided today, we have our colleagues on the Republican side of the aisle saying: Let's go back to what did not work before 1965. Let's go back to the system that does not work.

We are saying that is not good enough. More importantly, the people of the country are saying that is not good enough. I believe people are watching and are holding us accountable. They are holding us accountable as to whether or not we are going to get past the talk and start walking the walk.

Are we going to make this happen or continue to set up straw men that sound good, get people through an election, but, in the end, do not create the ability for one senior to buy one pill? That is the challenge we face, and we have an opportunity because of the leadership in the Senate by our Senate majority leader, Senator DASCHLE, and Senator HARRY REID, and others who have said this is so important, we are going to make this a priority now, that this summer we are going to act on this issue; we are going to bring this up.

It is so important we now engage people and invite people to join us to make sure we are successful. This is not just about getting a vote or bringing up a bill, this is about fixing the problem. It is about creating a Medicare prescription drug benefit for everyone who needs it and making sure they then have the ability to get the health care they need.

Frankly, I am excited about what is ahead in the next few weeks and want to invite people to join us to be a part of this effort—again, fairdrugprices.org.

I want to also invite people from Michigan, if those from Michigan are listening, to visit my own Web site. We are asking people as well to come and join us and check out what is happening through my Senate Web site: Stabenow.Senate.gov. At this Web site, we are asking people to take a look at what we are doing and share the stories through our Web site as well.

I also mention this morning the important efforts to cut prices for everyone. As I said in the beginning, we have two goals. We have the goal of updating Medicare so it really provides health care and meets the promise that was made in 1965, but we also know that this issue affects everyone. As I said before, if one is a business owner, a farmer trying to get health care coverage for their family, a young working family, or an older working family, right now we have a very unfortunate situation in our country. In fact, in some cases we are paying for all of the initial research on these new lifesaving drugs into the billions, over $23 billion.

We have been increasing the research through the National Institutes of Health every year. As of this year, I believe, we have doubled in the last 5 years the funding for NIH, a very important thing to do. It is something we have had support for on both sides of the aisle. It is very important that we be able to move forward on this funding. That is good.

We then have a situation in our country where we allow companies to take that information that you and I pay for, and begin to develop these new drugs. As they do that, as a further incentive, we allow them to take deductions on their taxes for the research. We give them a new 20-percent tax credit on new research. We also allow them to write off their advertising, marketing, and sales costs. We give them up to a 20-year patent. We say it is so expensive to create these new drugs that we are going to make sure their name brand cannot be challenged and they cannot have competition for that formula for up to 20 years. So we protect that for them through a patent.

When all is said and done, after all this investment and all of this effort to support creating these new drugs, what do we have? Unfortunately, we have, as Americans, the highest prices in the world. That makes absolutely no sense.

What I fear is that we are seeing more and more an industry that is less focused on new breakthrough drugs and more focused on how to create more profit by slightly changing the drug to keep the patent going, making it a purple pill instead of a red pill, changing the box, promoting it, changing the name, keeping the patent going so there is no competition, and keep raising those prices right through the roof.

I was very interested in watching a program that Peter Jennings put forward on ABC a couple of weeks ago. I commend ABC and Peter Jennings for coming forward with something that was very comprehensive but, unfortunately, extremely disturbing. It indicated that about 80 percent of the new patents, the new drugs that are going on the market, the new patents approved by FDA on what is called standard drugs—that is a category that means there is very little difference between the drug that was already there and the new drug—80 percent are not drugs that have changed the formulas in a way that would improve health care.

What we see happening instead is this movement of sales and marketing and advertising, and now, unfortunately, in the last 5 years—in fact, since 1996—the FDA has changed the rules so that drug consumer advertising is allowed. They have loosened the rules, and we have seen an explosion in the amount of direct consumer advertising.

Anyone listening today, anyone listening in the Chamber, all we have to do is turn on our television set, and if not every ad, every other ad is a beautiful picture, a beautiful ad, for a prescription drug. That is great if they want to do that, but unfortunately we now see two and a half times more being spent on advertising than on research. The latest numbers show there was more spent on advertising Vioxx than Pepsi, Coke, or Budweiser.

As I have said so many times before, someone can decide not to have a Coke today, although I am pretty addicted to Diet Coke, but if someone is a breast cancer patient, they cannot decide not to take Tamoxifen without very serious consequences. So this is not the same and should not be treated the same.

So one of the bills that we put forward—and I appreciate the Presiding Officer's support and cosponsorship with me—is something called the FAIR Act, the Fair Advertising and Increased Research Act. It is a bill that would simply say we will allow the companies to write off advertising and marketing and sales from their taxes. In other words, we will subsidize that as taxpayers but only to the level we subsidize research. It makes sense to me. We will allow advertising, and certainly they can do as much as they want, but we just do not want to pay for it. So we are saying we will pay for as much or help subsidize as much on advertising as we do on research; beyond that, they are on their own.

I hope we will get a vote on that bill, that we will be able to cap those excessive advertising costs, because it is overdue and we know it is part of the explosion. It is not only the advertising costs, it is that increased utilization that comes from promoting medications and the top name brand rather than one that may be exactly the same that is not advertised.

That leads me to another very important issue, and that is the question of unadvertised brands. We know that at least half of the medications out today have another drug that is exactly the same or extremely close, that is just not advertised. It is called a generic. We know that if someone uses that unadvertised brand, they can cut their costs 35, 50, 75 percent. I have seen quotes of savings up to 90 percent. So there is a major effort now happening. I commend Blue Cross/Blue Shield of Michigan, which is working with our Chamber of Commerce and others, in a coalition, and I know it is happening across the country, to close the loopholes in the law.

Senator JOHN MCCAIN and Senator CHUCK SCHUMER have a bill, which I am pleased to be cosponsoring, that would close the loopholes which right now allow the drug companies to stop these unadvertised brands from going on the

market. So we want to address that as well.

We want to have the opportunity to do away with excessive advertising, use more of the unadvertised brands and drop the prices for people. We also want to open the border to Canada where right now one can buy prescriptions at half the price.

The final thing on our agenda is to support those States that are creatively looking for ways and acting to lower prescription drug prices for their citizens. About 30 different States, including my home State of Michigan, are developing ways to lower prices, some very creatively.

In Maine, for example, they have developed a policy where if someone is doing business and they have a Medicaid contract for prescription drugs, then they are requiring that same discounted price be provided that is provided to the State through Medicaid to those who do not have insurance but are not on Medicaid. So they are using their clout as purchasers to be able to lower prices, and they are being sued. Not surprisingly, a drug company lobby is suing all of the States that are doing that.

The final bill I have introduced is called the RX Flexibility for States bill, which would make it clear that States have a right to develop innovative programs to lower prices for their citizens and to use the Medicaid purchasing power as a part of that.

In conclusion, let me say we have a plan. As the Presiding Officer knows, because he is one of the key leaders on our Medicare plan, we have a Medicare plan. We have proposals to lower prices. We have a plan that will make sure our seniors and our disabled have what they need in lifesaving medicine. We will make sure small businesses can count on us to do something to lower prices for our farmers, our families.

I call upon colleagues to join as quickly as possible to put this plan in action. Again, I invite all citizens listening today to join www.fairdrugprices.org. Get involved. Put the people's voice in this debate. I know we will be able to get something done.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent I be allowed to use the remainder of the time in morning business. I see no one here from the minority.

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

REMEMBERING DR. BARNETT SLEPIAN AND CONDEMNING ANTI-ABORTION VIOLENCE

Mr. REID. Mr. President, after the attacks against our country on September 11th and with ongoing violence in the Middle East, we have taken steps to remind Americans that not all Arabs and not all Muslims are terrorists. And it is important to remember that not all terrorists are Arabs or Muslims.

Terrorism is not an ideology linked to any particular religion, race, or nationality; rather it is a tactic, a method deliberately chosen by those who reject peaceful means of promoting their cause and instead turn to violence. Obviously not all terrorists share the same goals—indeed, there are many cases where terrorists with diametrically opposed views are fighting against one another.

But terrorists seem to hold in common a belief that they are above the law and a common disregard for human life.

Unfortunately, we have homegrown terrorists right here in America:

People like Timothy McVeigh who bombed the Federal building in Oklahoma City and whoever is responsible for the anthrax attacks of last year.

America has also been plagued by numerous acts of violence by extremists in the anti-abortion movement. One of their victims was Barnett Slepian, a husband and a father of four. He was killed in his family's home in Buffalo, New York 3½ years ago shortly after returning from synagogue where he had gone to mourn his father's death.

Barnett Slepian was a gynecologist and obstetrician. He provided health care to women and delivered babies. And he also performed abortions at a downtown clinic, because he wanted to make sure that even poor women had access to safe, legal procedures. Because of this he was killed.

I didn't know Dr. Slepian, but I learned after his death that he was the uncle of a woman from Reno, Nevada who worked for me here in Washington.

Dr. Slepian's killer is not only a cold-blooded murderer, but should also be seen as a terrorist. The man police have identified as responsible for killing Dr. Slepian was recently extradited from France where he had fled. His name is James Kopp.

Kopp has been indicted for the shooting of a doctor in Canada and is a suspect in 3 other shootings of doctors who provided abortions. While Kopp alone might have pulled the trigger and fired the shot that killed Dr. Slepian, we have learned that he was part of an organized network of violent extremists, including a group that calls itself the Army of God. (Imagine that a group would invoke the Lord's name and believe that God sanctions their lawless violence. And this group of murderers professes a respect for life!)

This group and others similar to it have engaged in a long campaign of harassment, intimidation, and violence. Their crimes include kidnaping, bombing, arson, assault and murder. They have targeted health clinic employees, judges and other officials. And not only have they attacked and killed doctors, but they have also threatened the doctors' children. These groups have hosted Web sites that post the names, addresses, license plate numbers of doctors and others on hit lists and even put up pictures of their targets' family members and identify where their children catch the school bus.

Fortunately, the 9th Circuit Court of Appeals ruled just last month that targeting specific doctors in this way constitutes an illegal threat, and found those responsible for the Web sites in violation of the Freedom of Access to Clinic Entrances Act. I applaud the court's ruling, and I am pleased that the FACE legislation we passed has helped protect Americans. But we must remain vigilant and continue to take appropriate action to prevent extremist groups from terrorizing victims. Their intention is to intimidate and threaten, and sometimes they succeed as some doctors have given up their practice due to the emotional stress and constant fear they faced.

Dr. Slepian courageously endured threats for over a decade before he was murdered. We must have the courage to condemn the violent extremists in the anti-choice movement. Those who kill and commit other heinous acts to express their opposition to abortion do so with the support of many others people who fund their crimes, aid and abet them, harbor fugitives. Others help create a climate that encourages this violence through their hateful speech or by remaining silent.

We cannot remain silent. We must say loudly and unequivocally that murder is wrong.

America is a nation of laws. I believe in following the law. You might not always agree with the law or how it is interpreted. But that does not entitle you to willfully violate it without consequences. America instead offers you an opportunity to seek to change the law through peaceful means.

We express policy differences civilly through discourse and resolve them through the political process, not through violence. Here in the Senate we debate passionately, but in a manner of respect and civility, and attempt to persuade others of the merits of our positions.

Those who resort to violence are violating not only our laws but our American principles and values.

We in the Senate must identify them as terrorists. The American people must recognize them as terrorists. And law enforcement officials must treat them as terrorists—for that is what they are.

I suggest the absence of a quorum.

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

The senior assistant bill clerk proceeded to call the role.

Mr. FEINGOLD. Mr. 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. FEINGOLD. Mr. President, I ask unanimous consent to speak as if in morning business.

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

Mr. FEINGOLD. I thank the Chair.

Mr. FEINGOLD. Mr. President, I rise today to voice my concerns about the concentration of ownership in the radio and concert industry and its effect on consumers, artists, local businesses, and ticket prices.

I will be introducing legislation to address these concerns in the coming weeks, but wanted to make my colleagues aware of the seismic changes that have taken place in the radio and concert industries following the passage of the Telecommunications Act of 1996.

During the debate of the 1996 Telecommunications Act, I joined a number of my colleagues in opposing the deregulation of radio ownership rules because of concerns about the impact on consumers, artists, and local radio stations.

Passage of this act was an unfortunate example of the influence of soft money in the political process. As my colleagues will recall, I have consistently said that this act was really in many ways bought and paid for by soft money. Everyone was at the table, except for the consumers.

In November, we will finally have rid the system of this loophole, but we must repair its damage.

In just 5 years since its passage, the effects of the Telecommunications Act have been far worse than we imagined. While I opposed this act because of its anticonsumer bias, I did not predict that one provision would have caused so much harm to a diverse range of interests.

The provision I am referring to is the elimination of the national radio ownership caps and relaxation of local ownership caps, which has triggered a wave of consolidation and caused harm to consumers, artists, concert goers, local radio station owners, and promoters.

To put the changes of the 1996 act in perspective, it is helpful to compare them to other moves towards deregulation of radio ownership that began in 1984.

In 1984, there were limitations on the total number of radio stations that one company could own nationally and locally, and how long a company had to hold a station before being allowed to sell. That year, the ownership regulations were changed to allow one entity to own 12 AM stations, 12 FM stations and 12 television stations—an increase from 7 to each type a year earlier.

The Federal Communications Commission again loosened the ownership requirements in 1992 by allowing one company to own up to two AM and two FM stations in a specific market, so long as they did not account for more than 25 percent of the total listening audience. The national ownership limits were also raised to 18 AM and 18 FM stations.

This change brings us to the seismic shift that shook up the radio and live concert industries across the country—the passage of the 1996 Telecommunications Act.

This legislation did not simply raise the national ownership limits on radio stations—it eliminated them altogether. It also dramatically altered the local radio station ownership limits through the implementation of a tiered ownership system which allowed a company to own more radio stations in the larger markets.

The highest range was in the largest markets, those with 45 stations or more. In those markets, one group could own up to eight stations, with no more than five in either AM or FM. The strictest limit was in the smallest markets with less than 15 stations, where one entity could own five stations, but only three in any one service.

This change was not beneficial to consumers or local radio station owners or broadcasters. It simply led to a number of national super radio station corporations that now dominate the marketplace, and allegedly engage in anticompetitive business practices.

The concentration levels of radio station ownership, both across the United States and in most local markets, is staggering.

In 1996, prior to the passage of the Telecommunications Act, there were 5133 owners of radio stations. Today, for the contemporary hit radio/top 40 formats, four radio station groups—Chancellor, Clear Channel, Infinity, and Capstar—just four control access to 63 percent of the format's 41 million listeners nationwide. For the country music format, the same four groups control access to 56 percent of the format's 28 million listeners.

The concentration of ownership is even more startling when we look at radio station ownership in local markets.

Four radio station companies control nearly 80 percent of the New York Market. Three of these same four companies own nearly 60 percent of the market share in Chicago. In my home State of Wisconsin, four companies own 86 percent of the market share in the Milwaukee radio market.

Let me repeat, four companies control 86 percent.

The list continues in almost every market across the United States. The concentration of radio station ownership by a few companies is mind boggling, and its effect on consumers, artists and others in the music industry is cause for great concern.

Many of the same corporations that own multiple radio stations in a given market wield their power through their ownership of a number of businesses related to the music industry. For example, the Clear Channel Corporation owns over 1200 radio companies, more than 700,000 billboards, various promotion companies, and venues across the United States. Also, just three years ago, in 1999, Clear Channel bought SFX productions, the Nation's largest promotion company.

A national group of organizations, recently joined together to voice many of the same concerns that I have heard from my constituents in Wisconsin—that the high levels of concentration are hurting the entire industry.

This coalition of artists, labor groups, small businesses, and radio companies recently released a joint statement that expressed a number of concerns about the levels of concentration and the anticompetitive practices.

These concerns included that a corporation that owns radio stations, promotion companies and venues has a conflict of interest in terms of promoting its own concerts and tours on its radio stations over those of any competition.

They are also concerned about a corporation's interest in limiting the promotional support of bands and artists that are performing for other companies, performing at other venues or sponsored by other stations.

Mr. President, I ask unanimous consent that a joint statement by this group be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit No. 1.)

Mr. FEINGOLD. After I began looking into the consolidation trends, I was taken aback by the diverse range of people that expressed concerns about the effects of concentration and consolidation. Concert goers talk all the time about higher ticket prices.

Broadcasters, artists, and others in Wisconsin and across the country have told me about reduced diversity and local input in the music industry. And local businesses have spoken about anticompetitive behaviors that have put them on an unfair playing field.

Following the passage of the Telecommunications Act, and the resulting vertical concentration, a number of trends have emerged. Ticket prices have gone through the roof, during the same period in which a few companies consolidated ownership of radio stations, promotion companies, venues, and advertising.

This chart compares ticket prices during the period of consolidation following the 1996 act with the preceding 5 year blocks of time. Before the passage of the 1996 act, ticket prices rose slightly faster than the Consumer Price Index.

For example, from 1991 to 1996, concert ticket prices grew by about 21 percent, compared to the consumer price index increase of about 15 percent. Following the Telecommunications Act of

1996, however, ticket prices have increased almost 50—50—percentage points more than the Consumer Price Index. From 1996 to 2001, concert ticket prices grew by more than 61 percent, while the Consumer Price Index increased by only 13 percent.

Ticket prices have gone up by nearly 50 percentage points more than consumer prices since passage of the Telecommunications Act, and that doesn't even include the facility fees, parking charges, box office charges, or food and beverage increases.

I think we have to look into allegations that consolidation in the radio industry has triggered anticompetitive practices and raised ticket prices.

A broad coalition, including the American Federal of Television and Radio Artists, has also expressed concerns that consolidation in the radio industry has led to reduced diversity and competition in local markets.

As corporations buy stations in the same market, they combine newsrooms and reporters and share playlists and radio personalities—all with the same effect: less choice in music and less information for consumers.

Radio airwaves are public property. Unlike other business ventures, radio stations have acquired their distribution mechanisms—the airways—without any expenditure of capital. They were given access to the broadcast spectrum by the Government for free.

Since 1943, Congress and the Federal Communications Commission have tried to ensure that this medium serves the public good, but limiting access to information and diversity on the radio does not achieve this.

I have also heard concerns from artists and radio stations about how the vertically concentrated radio corporations leverage their market-power to shake down the music industry in exchange for playing their music.

As my colleagues are aware, payola—the practice of paying money to get music played—has been prohibited under Federal law since the 1960s. I have heard a number of concerns, however, about the alleged tendency of some owners of multiple radio stations to shake down the music industry.

Mr. REID. Will the Senator yield for a question?

Mr. FEINGOLD. Yes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I will ask a question.

Mr. President, I ask unanimous consent morning business be extended until the Senator from Wisconsin finishes his statement, which should be a couple, 3 more minutes.

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

Mr. REID. I have a question for my friend.

I have been listening to the Senator from Wisconsin. I think maybe there is one thing these people who own all this stuff have missed, and that is the parking lots. They own about everything else.

Mr. FEINGOLD. I am not certain they missed that.

Mr. REID. You have not mentioned that.

Mr. FEINGOLD. I am still checking into all the different aspects.

Mr. REID. To go to a concert, you need a place to park, right?

Mr. FEINGOLD. I am sure they will get to it if they haven't.

They are able to achieve this shakedown, it is said, by establishing exclusive agreements with independent promoters that collect a fee in exchange for access to the airwaves.

I am very troubled by these allegations. If true, they mean that artists that can't, or don't, pay these independent promoters will not be able to get access to the airwaves. Artists should not be required to pay for access to the airwaves. I am continuing to investigate these allegations of a new shakedown, but if they are true, this practice should be prohibited.

Finally, I am deeply disturbed about concerns that have been voiced by individuals and local businesses—promoters, radio station owners, and artists—that have been forced out of the business or have been put on an unfair playing field as a result of the concentration of market power caused by the deregulation of the 1996 act.

These are local promoters and businesses who have succeeded through economic downturns, recessions and many other challenging times. But when placed on an unfair playing field, they are being pushed out of the market.

Radio is a public medium and we must ensure that it serves the public good. The concentration of ownership, both in radio and the other facets of the concert industry, has caused great harm to people and businesses that have been involved and concerned about the radio and concert industry for generations.

It also harms the flow of creativity and ideas that artists seek to contribute to our society. This concentration does a disservice to our society at every level of the industry, and it must be addressed.

This is about the very freedom of radio as a medium. Radio is one of the most important media we have for exchanging ideas and expressing our creativity. But that free exchange of ideas often isn't free anymore—if you want to get played, often it's going to cost you. And if you can't afford it, then you might not get heard at all.

Being able to hear a variety of voices is fundamental to a free society. Concentration in the radio industry is diminishing the number of voices that get heard. And that risks diminishing our freedom.

It isn't just about who is talented, and who deserves to be played. It is about a shakedown, and that is just unacceptable for the industry, for the artist, and for all of us who listen.

While we took a step forward in reforming the campaign finance system earlier this year, we must fix the problems that the soft money loophole caused—including the gaping flaws of the Telecommunications Act that have hurt competition in the radio and concert industries.

In the coming weeks, I will be introducing legislation to address the concerns about concentration and anticompetitive practices that have resulted from the Telecommunications Act. I hope my colleagues will join me in this effort.

Mr. President, I just want to alert my colleagues to this trend, and we will introduce legislation to deal with it. I am convinced the complaints I have heard from such a wide variety of Wisconsinites are the same concerns being raised in all the States in this country, and I look forward to submitting a proposal and a bill to my colleagues.

I yield the floor.

EXHIBIT NO. 1

JOINT STATEMENT ON CURRENT ISSUES IN RADIO, MAY 24, 2002

We are a diverse coalition representing performing artist groups, labor, record labels, merchandisers, songwriters, community broadcasters, consumers and citizens advocates. We urge the government to revise the payola laws to cover independent promotion to radio, to investigate the impact of radio consolidation on the music community and citizens and to work to protect non-commercial space on both the terrestrial radio bandwidth and the emerging webcasting models.

Radio is a public asset, not private property. Since 1934, the federal government, through the Federal Communications Commission, has overseen the regulation and protection of this public asset to create a communications medium that serves the public interest. Unlike other businesses, radio stations have acquired their distribution mechanism—the airwaves—without any expenditure of capital. The public owns the airwaves. Owners of broadcast stations were given access to the broadcast spectrum by the government for free. The quid pro quo for free use of the public bandwidth requires that broadcast stations serve the public interest in their local communities.

However, it has become clear that both recording artists and citizens are negatively impacted by legislation, regulatory interpretations and by a number of standardized industry practices that fail to serve the public interest. We call on the Federal Communications Commission (FCC) to undertake a comprehensive review of the following aspects of the radio industry that are anti-artist, anti-competition and anti-consumer. Further, we call on Congress to be vigilant in their oversight of the FCC to ensure the public interest is being upheld in regards to radio.

Specifically:

1. We request that payments made to radio stations which are designed to influence playlists (other than legitimate and reasonable promotional expenses) be prohibited, unless such payments are announced over the air, even when such intent is subtle and disguised. This includes payments made through independent radio promoters.

2. We request an investigation of the impact of recent unprecedented increases in radio ownership consolidation on citizens and the music community.

3. We request an examination of the way vertical integration of ownership in broadcasting, concert promotion companies and venues decreases fair market competition for artists, clubs and promotion companies.

4. We request that policies that protect non-commercial space in the radio bandwidth and in the emerging webcasting models be enacted, securing the benefits of programming diversity for the music community and citizens.

BACKGROUND

Pay for Play and Independent Radio Promotion

Payola—the practice of paying money to people in exchange for playing a particular piece of music—has a long history in the music industry. The practice didn't garner much public attention until the late 1950s and 1960s when rock and roll disc jockeys became powerful gatekeepers who determined what music the public heard. Federal laws were passed starting in the 1960s that forbid the direct payment or compensation of disc jockeys or other radio staff in exchange for the playing of certain records unless such payments were announced over the air.

The various laws and hearings from the 1960s–1970s muted the prominence of payola for a while. However, payola-like practices eventually resurfaced, but in a more indirect form. Standardized business practices now employed by many broadcasters and independent radio promoters result in what we consider a de facto form of payola. Often, in an effort to stay within the law, the payment is characterized as, for example, payment to receive first notice of the station's playlist ''adds.''

The new payola-like practices take two primary forms. Radio consolidation has created the first type. Radio station group owners establish exclusive arrangements with ''independent promoters,'' who then guarantee a fixed annual or monthly sum of money to the radio station group or individual station. In exchange for this payment, the radio station group agrees to give the independent promoter first notice of new songs added to its playlists each week. Stations in the group also tend to play mostly records that have been suggested by the independent promoter. As a result of the standardization of this practice, record companies and artists generally must pay the radio stations' independent promoters if they want to be considered for airplay on those stations.

The second payola-like practice occurs after the music labels hire an ''independent radio promoter'' to legitimately promote their records to specific stations for a fee. Reportedly, certain indie promoters use the labels' money to pay the stations for playing songs on the air.

These practices result in ''bottom line'' programming decisions where questions of artistic merit and community responsiveness take a back seat to the desire of broadcasters to gain additional revenue. As a result, many new and independent artists, as well as many established artists, are denied valuable radio airplay they would receive if programming decisions were more objective. Furthermore, whatever form the pay-for-play takes, these ''promotion'' costs are often shared by the artists and adversely impact the ability of recording artists to succeed financially.

To protect the public interest, we request the payola prohibition be revised by the FCC so that it cannot be circumvented by any entity via the use of independent promoters. If the music played on the radio has less to do with the quality of the song than the economics of the business arrangement, how does this serve the needs of citizens? Also, when payments are not announced, isn't the public misled into thinking that the station chooses which songs to broadcast based on merit?

Impact of Widespread Industry Consolidation

The federal government must also examine the impact of loosened ownership caps on the listening public. Until 1996, the Federal Communications Commission regulated ownership of broadcast stations so any company could own no more than two radio stations in any one market and no more than 40 nationwide. When Congress passed the Telecommunications Act of 1996, the restrictions government ownership of radio stations evaporated. Now, radio groups own numerous stations around the country and exercise unreasonable control over the airwaves. For example, in 1996, there were 5133 owners of radio stations. Today, for the Contemporary Hit Radio/Top 40 formats, only four radio station groups—Chancellor, Clear Channel, Infinity and Capstar—control access to 63 percent of the format's 41 million listeners nationwide. For the country format, the same four groups control access to 56 percent of the format's 28 million listeners.

This consolidation has led to a new dynamic in the music industry. Radio station groups have centralized their decision-making about playlists and which new songs to add to the playlist. These centralized playlists have reduced the local flavor and limited the diversity of music played on radio. Due to their sheer market power, radio station groups now have the ability to make or break a hit song.

With the increased leverage resulting from ownership consolidation, at least one group owner is considering charging labels for merely identifying the name of the artist and song played. The CEO of Clear Channel told the Los Angeles Times that it might sell song identification as a form of advertising. This miserly practice would harm the music community and citizens, as it would make it difficult for radio listeners to identify new artists and purchase music. Once again, this practice would impact the ability of new and independent artists to succeed.

We request that the FCC investigate consolidation of radio ownership focusing on the public interest which radio stations are supposed to serve. This investigation should look at the difficulties small independent broadcasters face when going up against large and powerful radio station groups in a specific market. It should study the role that national playlist decisions have had on the skyrocketing cost of radio promotion. It should also take into account the impact of reduced staffing levels on members of local stations and the reduction of classical, jazz, bluegrass and other formats from the airwaves.

Vertical Integration of Radio Owners

Many radio groups are also vertically integrated companies increasing their already substantial leverage and control. For example, Clear Channel, a company that owns over 1200 radio stations, also owns tens of thousands of billboards, and various promotion companies and venues. In 1999 Clear Channel purchased SFX Entertainment, the nation's most powerful concert promoter. This gave Clear Channel control of the concert promotion industry in most of the key regions of the US virtually overnight. Clear Channel therefore has a direct economic interest in promoting its own concerts and tours on its numerous radio stations over those of the competition. It also has an interest in limiting the promotional support of bands and artists who are performing for other companies, at other venues or who are sponsored by other stations.

Some of the remaining independent concert promoters have alleged that Clear Channel is engaging in anti-competitive behavior by using this leverage to force smaller companies out of business. In particular, the mid-size promoter NIPP in Denver brought suit against Clear Channel in 2001, alleging that Clear Channel—which owns all three rock stations in the Denver area—was not running the ads that NIPP paid for on its stations to promote last year's NIPP-promoted Warped Tour. There have been other allegations from bands and performers—mostly off-the-record for fear of retaliation—who have stated that radio station groups have pressured them into playing shows for free in exchange for airplay, or who have had their songs removed from playlists for playing non-exclusive venues.

We would like to see the FCC investigate whether an artist's choice to play or not to play in Clear Channel venues or to use or not to use Clear Channel's promotion company impacts the artist's positions on or removal from Clear Channel playlists.

Community Radio

Rampant consolidation of commercial radio and increased budgetary pressures felt by non-commercial stations have led to a reduction in radio play for musical genres like classical, jazz, opera and bluegrass. Congress needs to reevaluate the current status of non-commercial radio, including exploring new strategies for sustaining existing community radio stations and moving forward with full implementation of community-based Low Power FM radio. After an intense lobbying campaign by the National Association of Broadcasters and NPR, the FCC's Low Power FM plan was scaled back significantly via an Appropriations rider in 2000. The FCC is currently following Congress' request for additional testing of the impact of these tiny stations on existing broadcasters. Once the FCC report is submitted to Congress, Congress must move forward by passing legislation to authorize the FCC to license these stations in urban areas. If consolidation in the radio environment has stifled competition and reduced diversity of programming, low power radio can begin to address the lack of community-based programming.

CONCLUSION

We are deeply concerned about payola and payola-like practices, as well as the problems caused by radio station ownership consolidation, and the vertical iintegration of station ownership with venue ownership and concert promoters. New rules must be written by the FCC to prohibit payments to radio stations from ''independent promoters'' unless such payments are announced. The FCC must seriously evaluate whether a radio station is even satisfying the current license requirement that sponsorship identification or disclosure must accompany any material that is broadcast in exchange for money, service, or anything else of value paid to a station, either directly or indirectly. The FCC should also consider whether radio stations are serving the public interest by contributing to localism, and independence in broadcasting. Finally, Congress must be vigilant in ensuring that the FCC is upholding the public interest in all of these matters.

Respectfully submitted by the following organizations:

American Federation of Musicians (AFM), American Federation of Television and Radio Artists (AFTRA), Association for Independent Music (AFIM), Future of Music Coalition (FMC), Just Plain Folks, Nashville Songwriters Association International (NSAI), National Association of Recording Merchandisers (NARM), National Federation of Community Broadcasters (NFCB), Recording Academy, Recording Industry Association of America (RIAA).

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

TERRORISM RISK INSURANCE ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2600, which the clerk will report.

The senior assistant bill clerk read as follows:

A bill (S. 2600) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to shortly yield to my colleague, the chairman of the Banking Committee, for an opening statement he may wish to make on this bill.

Mr. President, just for the order of business, we will probably take a few minutes with some opening statements this morning on the bill, although I think over the months there has been a lot of knowledge about what is involved. I know the Presiding Officer has an amendment and is interested in the subject matter. I think Senator KYL may have an amendment he wants to offer fairly soon. Senator GRAMM from Texas, obviously, is very familiar with the bill.

My hope is that colleagues who have amendments would, first of all, let us know what their amendments are. That would be helpful. I do know what many of them are already. There may be others. So I would ask staffs of Members of both parties if they would get to the ranking member or the manager of the bill the amendments from both sides so everyone has an idea what we are looking at over today and possibly tomorrow and/or however long it takes to get this done.

My hope is they would be relevant amendments, that we would stick with the subject matter at hand rather than using this vehicle to bring up extraneous matters.

With that said, let me turn to the chairman of the full committee. I thank him. I will make a longer statement in a few minutes myself. But I certainly thank the majority leader, Senator DASCHLE. I want to thank the minority leader. Senator GRAMM has been deeply involved.

Certainly the chairman of the committee, Senator SARBANES, has been involved in this issue from the very beginning. Going back to last fall, when we tried to sort this out, he made a Herculean effort to bring it together. When we do these things, it becomes difficult because we get 97 other people, as I mentioned yesterday, who all have something they want to add to the discussion and debate. As a result of that, a good effort did not work out as well as we wanted initially, but I think a better effort may prevail as a result of more people being involved.

So while we have lost some time, I think the product we are putting before the Senate today is actually a stronger proposal.

With that, I will turn to my colleague from Maryland.

Mr. REID. Will the Senator from Maryland yield to the Senator from Nevada to make a brief statement?

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I yield to the Senator from Nevada.

Mr. REID. Mr. President, I, on behalf of Senator DASCHLE, alert everyone, as Senator DODD has done, that we want to have ample opportunity for everyone to offer any relevant amendments. We think it is very important that if people believe this bill isn't what it should be, they have an opportunity to make it better. But I hope that everyone understands we are not going to wait forever to move on cloture if it appears people are stalling, trying to kill the bill, through amendment or otherwise.

There will be ample time for amendments, I repeat. But we are not going to stand around here for hours at a time in wasteful time. We have so much to do.

The last week before the July recess we have to spend on the Defense authorization bill. We have to do that. And that leaves next week to complete everything else that needs to be done.

So I say to everyone, if they have amendments, come over and offer them. Senator SARBANES and Senator DODD have worked on this legislation for months. We almost had it done before Christmas of last year. Senator DODD and I have offered numerous unanimous consent requests so we could move forward on this more quickly.

So I repeat, for the third time, as I did when the Senate opened this morning, we want to have a bill that comes out of the Senate, and we are going to get one, one way or the other. We hope it would be done with people cooperating, trying to improve the legislation; when they offer an amendment, and it does not pass, or it is tabled, that they do not start crying and say: Well, I am going to kill the bill then.

This legislative process is what it is. This legislation is important. We are going to do everything we can to move it expeditiously.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I commend my colleague, Senator DODD, for his leadership on this very important issue. I have joined with him in cosponsoring the legislation he has introduced, S. 2600, which is now before the body. I thank Senator DASCHLE and Senator REID for moving the Senate to this issue, and we appreciate the willingness of the other side of the aisle to cooperate in that endeavor.

This bill is now open to amendment, and we hope as we move forward today, in short order, that those who have amendments will be offering them and that we will be able to consider them as we address the important issue contained in the legislation.

This legislation is designed to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism. It obviously stems from the attacks of September 11 which raised a very large question about the future availability of property and casualty insurance for terrorism risk.

Shortly after those attacks, the administration, interacting with the Congress, put forward certain ideas for addressing this issue, and there has been an effort to try to deal with this issue over the intervening months. It is a difficult and complex question. A number of questions have been raised with respect to it. Hearings have been held by more than one committee in the Congress on both the House and the Senate side. The Banking Committee held hearings in late October in which the witnesses who appeared acknowledged the need for legislation and agreed that the future availability and affordability of terrorism insurance would be placed in jeopardy absent congressional action.

Many have outlined the potential negative consequences for the U.S. economy from the financial instability which would arise if terrorism insurance were not available.

That view is reflected in the congressional findings on which the Terrorism Insurance Act rests. Let me quote briefly from those findings. It is very important to lay the basis as to why we are trying to move this legislation. I quote:

Widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and the cost of future terrorist events and, therefore, the size, funding, and allocation of the risk of loss caused by such acts of terrorism.

A decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising from terrorist events or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, and generate a dramatic increase in rents and otherwise suppress economic activity.

The findings go on to say:

The United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the U.S. economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

That basically sets out the problem we are trying to address with this legislation.

There is recent evidence that property and casualty insurers are excluding terrorism coverage from the policies they write. The U.S. General Accounting Office recently analyzed the terrorism insurance market and found that, and I quote:

. . . some sectors of the economy—notably real estate and commercial lending—are beginning to experience difficulties because some properties and businesses are unable to find sufficient terrorism coverage, at any price.

Furthermore, where terrorism insurance is available, it is often expensive and significantly limited in both the amount and the scope of the coverage.

The consequence of all of this is that you have a number of properties currently either uninsured or underinsured. And the potential consequences of this situation, if left unaddressed, are cause for serious concern. That is why we are here today.

In the event of another attack, a widespread lack of insurance coverage could hinder recovery efforts as property owners struggle to meet the costs of rebuilding without the support of insurance. As the GAO noted, property owners ''lack the ability to spread such risks among themselves the way insurers do,'' and, as a result, I am quoting the GAO:

. . . another terrorist attack similar to that experienced on September 11th could have significant economic effects on the marketplace and the public at large. These effects could include bankruptcies, layoffs, and loan defaults.

The GAO also found that even in the absence of further terrorist activity, even in the absence of it, inadequate insurance coverage could have an adverse effect on the willingness of lenders to finance new construction projects as well as the sale of existing property. Already the GAO found:

[s]ome examples of large projects canceling or experiencing delays have surfaced with a lack of terrorism coverage being cited as a principal contributing factor.

The GAO concluded that ''the resulting economic drag could slow economic recovery and growth,'' even if the terrorist attack does not materialize.

So we have a problem either way. If the terrorist attack should materialize, the lack of coverage would markedly hinder recovery efforts. But even if it doesn't, you have an economic drag taking place because of the unwillingness of lenders to finance new construction projects as well as the sale of existing projects.

Most people seem to believe that in time, the insurance industry will be able to underwrite the terrorist risk. But they don't now, at this point, have the experience and the factual basis on which to make those calculations. In the meantime, a short-term Federal backstop for terrorism insurance would help to stabilize the marketplace and forestall the potential negative consequences which I have just quoted, identified by the GAO.

The legislation we have before us, which Senator DODD has brought to the body, works off of the proposals that were developed by the administration late last year. This Terrorism Risk Insurance Act establishes a shared compensation program that will split the cost of property and casualty claims from any acts of terrorism during the next year between the Federal Government and the insurance industry.

The act would terminate at the end of the year, unless the Treasury Secretary determines that the program should be in place for an additional year. So it is, by its very definition, short term. The premise of it is that over that period of time the insurance industry will be able to develop the knowledge, the expertise, and the capability to underwrite the terrorist risk. Under this legislation, the definition of an act of terrorism will be uniform across the country. Insurance companies providing commercial property and casualty insurance are required to participate in the program; voluntary participation is allowed with respect to personal lines of property and casualty insurance. Participating insurance companies must offer terrorism insurance coverage in all of their property and casualty policies for all participating lines. Each participating insurance company will be responsible for paying a deductible before Federal assistance becomes available. So the first dollar will come from the insurance industry.

In the first year of the program, the amount of the deductible is determined by dividing $10 billion among participating insurance companies based on their market share. If the Secretary calls for a second year, the deductible will be determined by dividing $15 billion among participating insurance companies based on their market share.

For losses above the companies' deductibles, but not exceeding $10 billion, the Federal Government will pay 80 percent, and the companies will pay 20 percent. For any portion of total losses that exceeds $10 billion, the Government will cover 90 percent and the companies will cover 10 percent.

Losses covered by the program will be capped at $100 billion. Above this amount, it will be up to Congress to determine the procedures for and the source of any payments.

This framework provides to the insurance industry the ability to calculate at the top level what they may have to cover in damage. Therefore, it gives them the ability to calculate what the premiums ought to be and to structure a properly arranged financial system. We do that, of course, by providing that above certain levels the Federal Government will assume 80 or 90 percent—depending on the figure—of the losses.

I think this is a fairly simple program. We have had a lot of complex suggestions made to us—some extremely complex, I may say. I think this is pretty straightforward on its face. It is limited in its duration.

One of the guiding principles in the bill that I think is important is that, to the extent possible, State insurance law should not be overridden. We seek to respect the role of the State insurance commissioners as the appropriate regulators of policy terms and rates. We are anxious to try to keep the State insurance commissioners in the picture. That is where the responsibility has heretofore been. There is not an effort in this bill to make any radical change in that existing arrangement.

In conclusion, I think the Congress needs to act on this issue. We run the risk of serious damage to our economy. I know there are many steps between now and final enactment of the legislation. We look forward to continuing to consult with the administration over this matter, as we have been doing. But, again, I commend Senator DODD for his extraordinary work in crafting the bill that is before us and getting it before the Senate.

Yesterday some reference was made to some of the procedural problems that we encountered on the way to the floor. But through the actions of Senator DASCHLE and the concurrence of Senator LOTT, we are here now with the legislation before us, and the Senate now has an opportunity to address this very important issue. I hope we will now be able to consider amendments on their merits, dispose of them, and then move to final action on this legislation.

Again, I underscore the fine work that Senator DODD has done on this legislation from the very beginning and, certainly, in bringing us to this point today.

I yield the floor.

Mr. DODD. Mr. President, I thank my colleague from Maryland very much. As I said a few moments ago, but for his involvement as chairman of the Banking Committee, we would not have been able to produce this product. He is an original sponsor, along with Senator SCHUMER and Senator CORZINE, of S. 2600. I would like to do this.

BILL NELSON, my colleague from Florida, wants to be heard on the bill. Senator SCHUMER is here as well. I gather some others are ready to come over to offer the lead amendment. That will be the manner in which we will probably proceed. I know Senator SCHUMER has an ongoing Judiciary Committee meeting. I want to accommodate Members.

I will yield to my colleague from New York, with the indulgence of my colleague from Florida, to allow him to make opening comments, and then I will turn to Senator NELSON. I will make comments myself later so other Members can go back to the hearings, and then we will deal with the amendment process.

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

Mr. SCHUMER. Mr. President, I thank my colleague from Connecticut. I will have more to say in a general nature, and I will probably do that during the amendatory process.

First, I thank our chairman of the Banking Committee, Senator SARBANES, as well as Senator DODD, and he, in particular, for his leadership on this issue; it has been second to none.

We desperately need this bill. I also thank the White House for their involvement. They have recognized the problem and have stepped to the plate. I recognize Senator LOTT, as well as many of my colleagues on the other side who see this as a problem. I will make a couple of brief points.

First, this is vitally needed—desperately in my city. We have example after example of projects not being prefinanced, several defaulting, and projects delayed or not undertaken because of the inability of people to get terrorism insurance. Lenders will not yield, will not give loans to projects of large economic agglomeration, whether they be in large cities or places such as Disneyland, Disney World, and Hoover Dam, unless we solve this problem. It has already begun to slow down the economy.

As the chairman said, construction workers are being laid off and construction jobs are declining. This is a sore on the economy. It is an open cut. Every day that we don't solve it, more blood comes out of the wound.

In my city and in my State, this is essential. Obviously, we were the nexus of the terrorist attack on 9–11. Insurance rates are going through the roof. Some of that is not caused by the lack of terrorism insurance, but some of it is. It is vital that we solve this problem. Just the other day we got a call from a developer refinancing an average office tower on Third Avenue, with a $3 million increase in insurance. Another friend owns smaller properties. A third of his cashflow will be eaten up by insurance. He will not build or rehabilitate another building. So this is an issue of jobs. It is vital—vital to America, vital particularly to our large cities, including New York.

I will make one final point, and I will make the balance of my points later. Each of us has other things that we would like to do. Each of us may have our own proposal—a different type of proposal. We could probably come up with a hundred solutions to this problem. I had a proposal supported by Secretary O'Neill that would have gone much further. It would be easy to stand here and say this solution is not the whole solution.

If each of us pushes in our own direction, we will get no bill. The same is true for those who wish to make this a test of tort reform. Please, please, I plead with my colleagues, do not have this proposal wrecked on the shoals of tort reform as so many other proposals. The Patients' Bill of Rights comes to mind. Yes, we can have a fight on tort reform. There are strongly held views. It ought not be on this bill. It will sink this bill.

I argue to my friends, anyone who tries to put the burden of tort reform on this proposal, this proposal's shoulders are not broad enough to carry that. If you do, you will sink the bill. You will hurt our economy.

In conclusion, Mr. President, this is a test in our post 9–11 world: Can this body deal in a bipartisan way with complicated issues that are vital to our future even if the immediate impact is not seen? That relates to a whole lot of other issues as well. We have to be in a new frame of mind. We have to come together. This is crucial legislation, even though it is not on the lips of the average American citizen, and I urge my colleagues to support it.

I once again thank my colleague from Connecticut for his graciousness in yielding me a couple of moments. I will speak at length under the amendatory process. I thank him for his leadership, as well as our chairman and Senator DASCHLE for bringing this bill to the floor. It is at the 11th hour. It is not too late yet. It will be if we do not get this bill done in the next few days.

Mr. DODD. Mr. President, I thank the Senator from New York.

How much time does the Senator from Florida request for general comment on the bill?

Mr. NELSON of Florida. Yes, I would like to make an opening statement and have 10, 15 minutes.

Mr. DODD. Why don't I say 10 minutes? The Senator from New Jersey wants to be heard. I need to be heard. We have other Members who want to be heard. This will keep the process moving. If the Senator gets to 10 minutes and there is something that has to be said, I will add a few more minutes.

Mr. NELSON of Florida. Would the Senator like me to defer and let the Senator from New Jersey proceed? Once I get on a roll, I do not want to stop.

Mr. DODD. We do not want you to stop. We do not want you on too long a roll. We want a 10-minute roll.

Mr. NELSON of Florida. I understand the Senator wants to limit my roll, and I do not want you to limit my roll.

Mr. DODD. That is R-O-L-L, not R-O-L-E.

I yield 10 minutes to the Senator from Florida.

Mr. NELSON of Florida. Mr. President, something this important should not have a limit of 10 minutes. I accept the good nature of the prime sponsor of the bill. Basically, we are here talking about making insurance available and affordable. After September 11, we ended up having something that was neither: not available nor affordable. As a matter of fact, one only has to look to the front page of the Washington Post today. This is chronicling what has happened:

Insurance rates rise in DC. They soar downtown. Coverage more limited since September 11.

That is the headline from today's Washington Post. It points out that in the downtown area, there is a hiking of rates. One example given by the Washington Post is 160 percent. I can give innumerable examples—and I will in the course of this debate—of multiple hundreds of percent in rate hikes, and thus that brings us to this point of considering this legislation.

I want the sponsor of the bill, Senator DODD, to listen. I want to direct something to him so that he knows my good faith.

I was sitting in the chair presiding last evening when this matter was brought up. A unanimous consent request was presented. Even though I was seated in the chair, in my capacity as a Senator from Florida I could have objected. I did not object because of the good faith he and I both have over the issue, that this is an issue that ought to be hashed out, it ought to be discussed, it ought to be thoroughly debated, and then the amendatory process can work its will in the Senate. It is in that atmosphere of good faith that I go forward.

I think the bill offered by the Senator from Connecticut is significantly flawed, although I think it is a good-faith attempt. It is trying to address a problem, and the problem is what we all know of September 11. But several things have happened since September 11 in the insurance marketplace. The marketplace has responded. Capital is flowing big time into the reinsurance companies, reinsurance being an insurance for insurance companies against catastrophe; in this case, the terrorism risk.

In the aftermath of September 11, when we thought this was going to be a problem endemic to the whole country on any kind of commercial building or large structure that might be a target of terrorists, what we have found in the 8 or 9 months since is that the marketplace has responded. Reinsurance companies have provided the coverage, and the cost of that reinsurance for this kind of catastrophe has been coming down and down as more money has flowed into the reinsurance marketplace. As a result, we do not have to kill a bumble bee with a big stinger with a sledgehammer. Instead of us having a bill that applies across the board, what we ought to be doing is rifleshooting where the problems are.

The Senator from New York just stated several examples. Certainly his constituency of Manhattan is a place where they are having difficulty getting insurance for tall buildings. So, too, would be large structures such as a football stadium, a baseball stadium. So, too, would be in my home State major identifiable high-visibility targets, such as the crowds that go to Disney World, major tourist attractions. Airports would clearly be another one, and I can go down the line.

That does not mean that every little commercial building, every medium-sized commercial building, every strip mall, every air-conditioned mall, in fact, cannot get terrorism insurance, because they can. The marketplace has responded.

We are coming to the floor with a bill that is fatally flawed because it is

overreaching the problem, and the problem is certain types of buildings that need coverage from terrorism. Let's examine that.

What kind of terrorism? Most insurance policies already have an exclusion for chemical, biological, and nuclear devastation. So if those insurance policies are not covering chemical, biological, and nuclear terrorism, what kinds of terrorism are we talking about that an insurance company would cover? We are talking about the use of conventional weapons; what we so horribly learned on September 11, which is the use of an airplane or the use of explosives as they tried to do in the early nineties at the basement of the World Trade Center. Those are the things about which we are talking.

When one takes the application of conventional explosives and applies it to commercial buildings, does the insurance marketplace today respond with the coverage? My contention is, yes, it does. The insurance marketplace is not going to respond to chemical terrorism, biological terrorism, or nuclear terrorism because that is already exempted in most policies, with the result that the bill is overreaching because of it trying to apply to the whole country when, in fact, we have certain structures that are indeed threatened and the marketplace cannot respond to that. That is the first flaw of this bill.

The second flaw of this bill is that it contains no provision to protect consumers from rate gouging. It is not there. I am going to offer an amendment later on in the process that will limit the rate increases, that will have the Secretary of the Treasury, after consultation with the insurance commissioners of the 50 States, through their organization, the National Association of Insurance Commissioners, set a range of where the rates should be. That, by the way, is very similar to what the insurance commissioners do in the 50 States on commercial policies. They set a range or a band of where that insurance rate premium ought to be.

The problem with terrorism insurance is, the insurance commissioners have difficulty figuring out what ought to be the rates, because the traditional way of determining if a rate is actuarially sound is by experience and by data, and we do not have hardly any experience except for what happened on September 11. Therefore, that is why I am going to offer an amendment later on that is going to point out that the best way of determining what the rise in rates ought to be to cover the terrorism risk would be through the advice to the Secretary of the Treasury who is prominent in Senator DODD's bill as being the place of limiting the rate hikes. The fatal flaw is this bill overreaches and this bill does not have any provision to protect consumers for rate gouging.

I see the Presiding Officer is starting to twist in the seat as if my 10-minute time limit is up, which is exactly what I thought was going to happen, but I am just getting into my speech.

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON of Florida. I am going to need to stop——

Mr. DODD. I say to the Senator, there are other Members who want to be heard.

Mr. NELSON of Florida. I do not want to hold up the Senator from New Jersey. Why don't I stop and I will come back after he finishes his statement.

Mr. DODD. Fine. Any Senator can speak for as long as they want. There are no limits under this bill. If the Senator wants to talk, go ahead and talk. I am trying to move the process along. I know the Senator has an amendment he wants to offer on the subject matter itself, so I will be glad to yield to him a few more minutes now if he would like to finish up rather than break the flow of his remarks. I am trying to see to it that we do not delay the process any longer than we have to, so we can get to amendments and vote on them and then go on to other business.

Mr. NELSON of Florida. I assure the Senator, as he knows, I am going to be heard on this subject. I have not even started to talk about the amendment. I will hold that until I actually offer the amendment, but I do not want to hold up the Senator from New Jersey if he needs to go back to committee. Why don't I sit down and I will seek recognition right after he finishes.

Mr. DODD. I must say to my colleague, I am going to be heard on the bill itself after he gets finished. Then I presume someone may show up on the other side. We have not heard from anybody on the other side. We have been dominating the debate, so I caution my colleague that he may find himself waiting a little bit.

Mr. NELSON of Florida. I ask unanimous consent that I have another 10 minutes.

Mr. DODD. That is fine.

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

Mr. NELSON of Florida. I thank the Senator from Connecticut.

So where are we? Why do we need a bill such as this? I think there is a legitimate question that the risk of terrorism is something that heretofore among insurance companies was not covered. Basically, we never anticipated what happened. Now we have this threat facing us.

The Senator's bill, in fact, says that because terrorism is such, as we would say in the South, an odoriferous act or one that is so repugnant, akin to an act of war, that the Federal Government has a basis for stepping in and insuring part of the risk. Thus, the Senator's bill, through a process of either an 80/20 split or a 90/10 split with the higher figure of 80 or 90 percent being picked up by the Federal Government of the terrorism risk, thus that is then a protection for insurance companies or it is another means of insuring against the terrorism risk.

I think that is reasonable. I think when we deal with this mass of losses it is very difficult to insure against in certain areas. But if we look at how this vast but strong economy, this free marketplace that provides insurance, and insurance against catastrophe, has responded, it has responded for most cases except the ones we have enumerated.

Any responsible legislation should explicitly require assurances of reasonable premium rates, as we respond to this new kind of risk. That is lacking in this bill, and the evidence continues to mount that insurers are unjustifiably increasing the premium prices, and they are going to continue to do so even with a substantial Government backstop that is being provided in this bill.

I, again, call attention to a story in this morning's Washington Post where it talks about how the insurance rates have gone up in downtown Washington. Again, it is not because of the chemical, biological, or nuclear threat. The article talks about the ''dirty'' nuclear bomb. That is not going to be covered under these insurance policies. These insurance policies have increased rates presumably to cover the terrorism risk only from the conventional kinds of explosives.

I have received a note that Senator CORZINE has to leave now, so I yield to the Senator so he can make his remarks.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Let me say to my colleague from New Jersey, I thank him for cosponsoring the bill. He has been an invaluable asset in putting this proposal together. Senator CORZINE is a new Member of this body but, as all of us in this Chamber know, and his constituents know, he spent a very distinguished career in the area of finance and was the leader of one of our great leading investment banks in the world and brings a wealth of experience and knowledge into any subject matter but particularly ones involving a subject matter as complicated as the issue of this bill, terrorism insurance. So I wanted to express publicly to him my sincere sense of gratitude for his tireless efforts, going back many months now, in dealing with this issue. He has very valuable suggestions and input that has contributed to this product. We would not have put together, I think, as good a bill as I think we have without his input and his involvement. So I wanted to express my gratitude to him and I look forward to working with him.

Mr. NELSON of Florida. Mr. President, do I still have the floor?

The PRESIDING OFFICER. The Senator has the floor.

Mr. NELSON of Florida. I would propose that to accommodate the Senator, since he has to leave, we yield some

time to him with me still retaining the floor so I can finish my remarks. I am trying to be accommodating, but I still have not completed my remarks.

Mr. DODD. That is fine.

Mr. NELSON of Florida. With that understanding, I yield to the Senator from New Jersey.

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

The Senator from New Jersey.

Mr. CORZINE. Mr. President, I rise today to join my colleagues in support of S. 2600.

Let me begin, by applauding the majority leader and Senator DODD for exerting the necessary leadership, and doing what needed to be done to bring this bill to the floor. Now, it is time for all Members of the Senate to recognize the urgent need before us, and move to act on this bill.

The tragic events of September 11 highlighted the enormous exposure that insurance companies would face in the event of future terrorist attacks.

In this time, when we receive different terrorist alerts almost weekly, and we are faced with the uncertain nature of future attacks, many insurers and reinsurance firms have concluded that terrorism is no longer an insurable risk.

As a result, late last year, many insurers announced that they would no longer provide coverage for terrorism-related losses. Without access to reinsurance coverage, primary insurance companies now find themselves subject to the full exposure of terrorism risk.

This issue is not new. Many of us first learned about them in October of last year. And it left many concerned. While we all knew that it would be impossible to predict the true impact of the lack of terrorism insurance on our Nation's economy, there was overwhelming agreement among scholars, economists, and participants in our economy—that this issue had the potential to pose real problems in some economic sectors.

The threat that loomed led to hearings in the Senate Banking Committee, and it fueled discussion among Members in the Senate about how to best craft a solution before the end of last year when 70 percent of reinsurance contracts were up for renewal.

There was considerable debate about how, and what, that response should be. We debated the proper role of the Federal Government in ensuring that commercial insurers could provide terrorism insurance, knowing that their ability to cede some of that risk to reinsurers had all but vanished.

Many Members of this body, people like Senator DODD, Senator SARBANES, Senator GRAMM of Texas, Senator HOLLINGS, Senator SCHUMER, Senator ENZI, Senator NELSON of Florida and myself put forth ideas on how to accomplish that.

And let's be clear, there was a great deal of difference in the ways members thought we should approach this problem. But behind those differences, there was a singular purpose to solve the problem.

I think we all were determined not to engage in partisan politics or to undermine a possible solution by promoting pet policy priorities. Everyone I just mentioned didn't agree on every aspect of the product that was eventually produced. I certainly didn't.

But, ultimately, everyone agreed that we should act to bring a proposal to the floor, with an expectation that amendments would be offered, including amendments that dealt with tort and liability issues.

The proposal that was presented late last year—late last year was not simply the result of a bunch of Democrats getting in a room and saying ''Voila.'' It was the result of serious discussion and negotiations between Democrats and Republicans and there was considerable input from the State insurance commissioners, this administration and the Treasury Department.

In fact, the Federal backstop provisions of this bill had more than input of these folks it had their support. The bill we are debating today is that same proposal.

Now we have an opportunity to respond to this growing emergency.

If we fail to act, or if this bill becomes stalled by those seeking to pile their pet policy priorities onto a measure that at its core seeks to provide relief to American businesses, then our economy will be harmed.

Every day that passes without our action, leaves American businesses, development projects, workers and vital infrastructure exposed to potentially devastating losses, and that's a real threat to our economic recovery.

In fact, the lack of terrorism insurance coverage has already begun to create a drag on commercial lending and business activity. In April, the Federal Reserve Board surveyed commercial loan officers regarding their recent lending activity and terrorism insurance. The responses are troubling to say the least.

The report indicated that 55 percent of banks had not received applications to finance ''high profile or heavy traffic commercial real estate properties.'' In fact, two national lenders have completely stopped making loans to these types of properties—GMAC Commercial Holding and Mutual of Omaha—altogether.

The report also states that 20 percent of banks reported weaker demand for new commercial real estate financing. And while not referenced specifically in the Fed report, we know that some existing commercial borrowers may be in technical default on loan covenants because they lack terrorism coverage.

Each of these elements reflects the economic threats that are posed by the lack of affordable, comprehensive terror insurance coverage. The threat that accompanies the decrease in commercial lending and subsequently to development translates to one thing the loss of jobs.

But there is more. The lack of terrorism insurance coverage is also affecting our securities and our bond markets.

According to the Bond Market Association, to date, $7 billion worth of commercial real-estate loan activity has already been suspended or cancelled due to problems related to terrorism insurance, that is 10 percent of the commercial-mortgage-backed-securities (CMBS) market.

And overall, CMBS activity is down a staggering 26 percent in the first quarter of this year. That level of decline in commercial investment activity is disturbing to think of when you consider that that sector was one of the ones that remained strong throughout last years' recession.

And there is even more to illustrate the there is an economic consequence that accompanies our failure to act on this issue.

Last month, Moody's Investors Service issued an opinion indicating that it is preparing to downgrade billions of dollars of debt of large loan transactions, commercial mortgage-backed securities, particularly on high-risk and ''trophy'' properties in the near future if we fail to pass this legislation.

The American Academy of Actuaries reports that ''there is a reluctance to finance [development] projects of $100 million or more, and some investors are reluctant to buy bonds tied to individual office towers, apartment building and shopping malls.''

And a report issued last month by the Joint Economic Committee offers data illustrating the economic drag that higher insurance costs, for terrorism and non-terrorism related coverage, is having on American business. The report calls these factors ''a one-two punch'' that is proving harmful to America's economy.

That report cites data from the Commercial Insurance Market Index, which indicates that premiums for commercial insurance policies have increased by 30 percent in first quarter of this year. And those increased costs are in addition to the increased costs of obtaining terrorism insurance, a real cost burden to our businesses.

The report cites the example of a building in my state, New Jersey, which prior to 9/11 had an $80 million insurance policy that included terrorism coverage at a cost of $60,000. The new policy for that building has a premium of $400,000 for property-casualty insurance and another $400,000 just for terrorism insurance.

That's a dramatic increase for the same coverage. And that building's lucky at least they got fairly comprehensive coverage. Many others find themselves facing similar cost increases for half the coverage.

In either case, these costs undermine productivity and any growth or investment opportunities that the owners could possibly take on. And it is nationwide trend.

I want to reiterate that point. Because this is more than a Northeast, an

urban, or a ''big city'' issue. The inability of business and organizations to obtain terrorism insurance coverage is truly a national problem.

Consider this:

In Cleveland, the insurer for the Cleveland Municipal School District has notified the district that its new policy will exclude losses due to terrorism.

In Seattle, the Seattle Mariners baseball team had difficulty securing $1 million in terrorism insurance coverage for their $517 million stadium.

The St. Louis Art Museum's insurer informed that museum that it would no longer be covered for terrorism losses. That could well prevent touring shows, and undermine tourism in that city.

And a collection of Midwestern airports reported that their aviation liability premium increased close to 300 percent post 9/11 and those policies excluded terrorism losses.

Last year, when this issue first surfaced, we tried to move a bill forward, but that process didn't take hold. Many members believed this issue wasn't a problem for them that it wasn't in their back yards.

We know better than that now. At least I hope we all do.

The impact of the lack of terrorism insurance is being felt in cities and towns all throughout America. And so I say to all my colleagues this is an issue that affects your state and your constituents.

If there's a port in your state, your affected. If there's a bridge or a tunnel in your state, you are affected. If you have an airport or railway system in your state, you are affected. If you've got an NFL, NBA, NHL or Major League Baseball stadium or arena in your State, you're affected. If you've got a college football stadium in your State, where tens of thousands of people gather on Saturdays to root for their team and sing their alma mater, you're affected.

It is time to stop the stalling, stop the games and time for us to pass an interim federal backstop to ensure against future acts of terrorism.

It is time for us to pass this bill, and I strongly urge my colleagues to support it.

I thank the Senator from Connecticut for his efforts and persistence in this endeavor. I look forward to helping him as this process goes forward.

Again, I thank my colleague from Florida for being generous and respectful, giving me the opportunity to present my remarks.

Mr. NELSON of Florida. Of course, the Senator from New Jersey is one of the great new bright lights of this body. What a privilege it is for me to serve with him. What a privilege it is to have the value of his opinion.

I agree with everything he said. Now the question is, how do we get from here to there, to protect everybody and protect the consumer as well from being gouged with the price hikes, because even though the people who pay these premiums in fact are the owners of these large commercial structures, guess what happens when they have to pay the increase of a premium hike. That is passed on to the consumers.

That is the case I am making, that we have to have this insurance available—and we are in large part doing that by the mechanism of this bill, so the Federal Government provides the insurance for the risk to the tune of 80 percent or 90 percent. But in the process of what we are going to charge for the portion that is covered by the insurance company, that is going to be passed on to the consumers.

Ultimately, I will offer an amendment that will call for a range, as determined by the Secretary of the Treasury, as to what can be charged, where that premium, going into an insurance company, will be separated for accounting purposes, it will be segregated, so it will not be mixed up with all the other premiums for a slip and fall and dog bites and all kinds of liabilities. It will be separate, so it will be under the glare of the full light of day as to how much premium is there, and therefore the Secretary of the Treasury, with the advice of the National Association of Insurance Commissioners, can determine what is a range—not a specific amount, but what is a range that is fair and affordable. That is the place I am going.

The only effective way to guarantee that the rates will be stabilized under this circumstance is to federally regulate the premium rate for the risk of terrorism. Why Federal? Because the 50 insurance commissioners do not have the data to do this. And the Federal Government is picking up the biggest part of the risk under this bill. Remember, it is only the risk, basically, from conventional kinds of terrorism because chemical, biological, and nuclear terrorism is exempt from most commercial insurance policies. So that is not a risk we are going to be protecting.

The Secretary of the Treasury is in the best position to consult with the actuaries and to determine the actual financial risk insurers would assume under the bill. If the Congress commits billions of taxpayer dollars and mandates no real rate protection, we will have shirked our responsibility to the taxpayers and to the consumers.

We gnash our teeth around here on politically charged issues such as raising taxes. Let me tell you, as an insurance commissioner for 6 years, there is an issue that is more explosive to the consuming public than the raising of taxes, and that is the raising of their insurance premiums.

So I call to the attention of the Senate that as you consider a bill such as this that has no mechanism by which to stop those rate hikes, you had better think twice, and hopefully you will think very favorably about the amendment I will be offering later on.

We can only rely on the States to monitor rates. State insurance commissioners traditionally do that. That has been carved out under Federal law as a regulation of insurance reserved to the States. State insurance commissioners in fact, however, do not have the data nor do they have the experience of the data with which to be able to judge these rates. On the contrary, in some States they do not regulate the rates of commercial policies at all. In other States, such as my State of Florida, the State of Florida Department of Insurance sets a range of the commercial policies' rates, as to what they may be, without the approval of the Department of Insurance.

The PRESIDING OFFICER (Mr. JOHNSON). The time of the Senator has expired.

Mr. NELSON of Florida. I will conclude my opening remarks. I look forward to the debate. I thank the Senator from Connecticut for bringing this important legislation to the floor. I thank the Senate for this opportunity to be heard on a most important issue, important not only to the businesses of this country but to the consumers of this country as well.

Mrs. CARNAHAN. Mr. President, I strongly support the Terrorism Risk Insurance Act.

The September 11 tragedy has affected our Nation in innumerable ways. One of the economic impacts has been that the availability and affordability of terrorism insurance has been severely limited.

Uncertainty in the market is freezing commercial lending, preventing real estate transactions from going forward, and slowing various construction projects. Therefore I believe that we should move quickly to enact a federal terrorism insurance backstop.

I have heard from businesses throughout Missouri—from various sectors of our economy—that are being adversely impacted by current market conditions. But the lack of terrorism insurance is hurting working families as well.

As President Bush pointed out, ''If people can't get terrorism insurance on a construction project, they're not going to build a project, and if they're not going to build a project, then someone's not working.''

This legislation will promote investment and provide the certainty necessary to reinvigorate commercial lending activities.

I have supported each of the unanimous consent requests that have been offered since December to bring a terrorism insurance bill before the Senate.

I am pleased that we have finally been able to take up this bill. This meaningful Federal backstop is long overdue, and I hope that we can enact it expeditiously.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I see my friend from Kentucky. I will take a few minutes to

make an opening statement. I see he is here. I do not want to delay him any longer. I will truncate my remarks and then my anticipation is we will turn to the Senator from Kentucky to offer an amendment to get the process going.

Let me take a few minutes, if I may. We have now heard from a number of my colleagues. I appreciate the comments of my colleagues, particularly those of Senators SARBANES, CORZINE, and SCHUMER.

I ask unanimous consent the junior Senator from New York, Mrs. CLINTON, be added as a cosponsor of this bill as well.

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

Mr. DODD. I thank the leadership for their efforts on this bill. This is a complicated area of law. This is a thankless task. When you get involved in something such as terrorism insurance, there are other matters that may attract and galvanize the attention of the American public, but this is a subject matter that can glaze over the eyes of even the most determined listener, when you get into the arcane world of insurance, particularly of terrorism insurance, the reinsurance industry dealing with commercial loans and lending practices, and how it affects the market at large.

I beg the indulgence of our colleagues when we go through this, to understand what we have tried to do here in as much a bipartisan fashion as possible, with the advice and consultation of organizations, from the AFL/CIO to major banks and lending institutions, insurance companies, the Department of the Treasury, and others in crafting something that will get us out of this particular situation.

Let me just preface my remarks by saying this is a problem. I know there may be some who will argue this is not an issue. It is a massive issue and a growing one. I wish it were otherwise. I wish this were not the case. But the data that is coming in indicates that we have a major blockage, if you will, in the normal flow of commerce, and that is the inability to acquire terrorism insurance, which has a very negative impact when it comes to lending institutions putting their resources on the table, where the exposure could be significant.

Just to put it in some perspective for people, the calculation of the casualty and property loss—I am obviously not going to talk about the loss that goes beyond that we can put a dollar sign on. But for the loss to which you can put a dollar sign in the property and casualty area on September 11, the estimates run no less than $50 billion, just in property and casualty.

If you start adding others, obviously the numbers go up. To give you some idea, if you had a September 11-like event somewhere in the United States and an accumulation of events like September 11, the availability of resources today to pay the property and casualty losses is about 20 percent of that number. That is the situation we are in.

You can understand, while people may wish that it somehow were done by just the Federal Government writing a check and the people providing this kind of coverage, that in a free market you have to encourage or induce people to stay involved. There is no requirement under law that they provide this kind of coverage.

The idea of how we can keep commerce moving, and major construction programs underway—by the way, based on the accumulated evidence we have, most every State can demonstrate some serious problem they have in a major commercial or real estate development.

This morning's newspaper headlines in the Washington Post that my colleague from Florida has raised, I think, point out the problem we are facing. I will talk about properties in the District of Columbia. Obviously, the attack on the Pentagon on September 11, and the news the other day about so-called ''dirty'' bombs that might have been used—and I gather this was somewhat shaky information, but put that aside for a second—the Nation's Capital certainly is a target of opportunity.

We see rates already going up for properties located in the District of Columbia. That is the subject matter of the Washington Post article this morning. In fact, the Washington Post itself is having a difficult time getting coverage for workman's compensation, and the National Geographic building has a similar problem, and there are similar problems around the city.

I will not go into all of the details in the article, suffice it to say that this is a significant story and my colleagues ought to take a look at it. It highlights some of the difficulties we are facing.

This is not a perfect piece of legislation. Obviously, many of us might have written this somewhat differently than proposed. But, obviously, in a body like this with 100 Members, with a lot of different ideas and thoughts, you try to come together with what you can to make some sense and move the product forward.

There are differences of opinion on the substance of this legislation. We are going to hear some of them raised with the amendments that will be brought up and debated. My hope is that the substance of this legislation will prevail.

The provisions that deal with the creation of a temporary Federal backstop for terrorism insurance represent a very hardcore compromise negotiated with Senator GRAMM of Texas, Senator SARBANES, Senator SCHUMER, myself, Senator ENZI, as well as the State insurance regulators, White House, and the Treasury Department. This is a modified version of what we agreed to last fall. Senator GRAMM is not a sponsor of the bill which I introduced for the reason I am sure he will explain himself when he comes to the floor.

There is a lot in this bill that is very similar to what we worked out last fall, but it would not move along at that time for reasons I will not bother to go into again.

Who is supporting what we are trying to do?

I am troubled by our delay in enacting this legislation because of the tremendous demand that we act and act precipitously. There is a bipartisan letter from 18 Governors from across the country representing every region of the country, which I ask unanimous consent to be printed in the RECORD.

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

APRIL 15, 2002.

Hon. TOM DASCHLE,
Senate Majority Leader, Capitol Building, Washington, DC.
Hon. TRENT LOTT,
Senate Republican Leader, Capitol Building, Washington, DC.
Hon. DENNIS HASTERT,
Speaker of the House of Representatives, Capitol Building, Washington, DC.
Hon. RICHARD GEPHARDT,
House Democrat Leader, Capitol Building, Washington, DC.

DEAR CONGRESSIONAL LEADERS: As a result of the events of September 11th, the nation's property and casually insurance companies have or will pay out losses that will exceed $35 billion dollars. Since the first of January, many insurance companies, self-insurers and states have been faced with a situation where they are unable to spread the risk that they insure because of the unavailability of reinsurance protection. In the event of another major attack, some companies or perhaps a segment of the industry would face insolvency. While most states have approved a limited exclusion for terrorism with a $25 million deductible, exclusions for workers' compensation coverage are not permitted by statute in any state. The present situation poses a grave risk to the solvency of the insurance industry, state insurance facilities, economic development initiatives, and the ability of our states to recover from impacts of the September 11th attacks.

In the months after the attack on our nation, legislation passed in the House and was introduced in the Senate to create a backstop for the Insurance industry so they could continue to provide protection to their customers. The Administration has also supported this concept. Currently, there is broad bi-partisan agreement for providing an Insurance backstep. Governors believe this is an important goal that should be inhibited by other issues.

Since late December, the lack of a financial backstop has started to ripple through the economy and will continue to do so. This will further impact the ability of the economy to recover from the current recession.

As Governors, we are facing many critical issues resulting from the September 11th crisis. The emerging problem in insurance coverage only serves to exacerbate our recovery efforts. In view of this, we, the undersigned Governors, respectfully urge the Congress to quickly complete its work on the terrorism reinsurance legislation in order to return stability to U.S. insurance markets.

Sincerely.

Jim Hodges, Governor, South Caroline; Mike Johanns, Governor, Nebraska; Paul E. Patton, Governor, Kentucky; Judy Martz, Governor, Montana; Don Siegelman, Governor, Alabama; Bob Holden, Governor, Missouri; Mark R.

Warner, Governor, Virginia; John G. Rowland, Governor, Connecticut; Angus S. King, Jr., Governor, Maine; Mike Huckabee, Governor, Arkansas; Jim Geringer, Governor, Wyoming; George H. Ryan, Governor, Illinois; Bill Owens, Governor, Colorado; Scott McCallum, Governor, Wisconsin; Jeb Bush, Governor, Florida; Frank O'Bannon, Governor, Indiana; Jane Swift, Governor, Massachusetts; Bob Taft, Governor, Ohio.

Mr. DODD. Mr. President, they lay out their concerns about what is going on in their own States.

We have letters from 30 of our Senate colleagues representing a broad array of the political spectrum. I ask unanimous consent that those letters be printed in the RECORD.

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

UNITED STATES SENATE,
Washington, DC, April 22, 2002.

Hon. TOM DASCHLE,
Majority Leader, Senate.
Hon. TRENT LOTT,
Minority Leader, Senate.

DEAR MAJORITY LEADER DASCHLE AND MINORITY LEADER LOTT: We are writing to urge prompt Senate passage of short-term, terrorism insurance backstop legislation that would stabilize the insurance market for policyholders and provide financial security in the event of future terrorist acts. As you both know, members of this body quickly responded with a legislative package in the wake of September 11 to ensure the continued availability of insurance for terrorist-related acts. The proposal provided a short term, financial backstop so that private markets for terrorism coverage could be reestablished.

While the House passed H.R. 3210, the ''Terrorism Risk Protection Act'' late last year, the Senate was unable to bring a legislative package to the floor before our adjournment in December. Since that time, we have heard from the financial services industry, the building and construction sectors, the labor community, small businesses, and other impacted parties that there is currently either no insurance against acts of terrorism or inadequate levels of insurance. This problem is having a delirious impact on our economy, including with respect to the financing and construction of new real estate projects. A host of additional parties, including hotels, convention centers, hospitals, local municipalities, and professional sports teams are also pressing for needed action. Particularly troubling is the evidence that insurers cannot provide needed workers compensation coverage where there are large aggregations of individuals. As you know, these claims are bolstered by a recently released study by the General Accounting Office and by testimony provided recently to the House Financial Services Subcommittee on Oversight.

The Senate should be proud of its work following the tragic events of September 11. We passed numerous pieces of legislation to address the security of our country and the viability of key sectors of our economy. We should also try to prevent severe economic dislocation and should certainly not fall short in helping to ensure that employers and their workers have adequate levels of insurance in the event of additional terrorist acts.

We urge you to bring a terrorism insurance bill to the Senate floor expeditiously.

Sincerely,

Judd Gregg; Jim Bunning; John Breaux; E. Benjamin Nelson; Dick Lugar; Jesse Helms; Wayne Allard; Mike DeWine; Susan Collins; Mike Enzi; Jack Reed; George V. Voinovich; Debbie Stabenow; Mary L. Landrieu; Zell Miller; Max Cleland; Dianne Feinstein; Lincoln Chafee; Chuck Hagel; John Ensign; Olympia Snowe; John F. Kerry; Ted Kennedy; Orrin Hatch; Daniel K. Inouye; Evan Bayh; Joe Lieberman; Jon Corzine.

Mr. DODD. Mr. President, we have had repeated letters from the President, Secretary O'Neill, and others in the administration which certainly point out the difficulty.

I will quote the President's comments during the White House gathering back in April. He said:

If people can't get terrorism insurance on a construction project, they are not going to build the project. If they are not going to build the project, then someone is not working. We in Washington must deal with it, and deal with it in a hurry.

Secretary O'Neill commented:

There is a real and immediate need for Congress to act on terrorism insurance legislation. The terrorist attacks on September 11th have caused many insurance companies to limit or drop terrorists risk coverage from their property and casualty coverage, a move that leaves the majority of American businesses extremely vulnerable. The dynamic, in turn, threatens America's jobs, and will wreak havoc on America's economy.

Just this week, Secretary of Treasury O'Neill, Larry Lindsey, Director of the National Economic Council, Mitch Daniels, Director of the Office of Management and Budget, and R. Glenn Hubbard, Director of the Council of Economic Advisors, wrote Senate leadership outlining again the significance of moving forward with this bill.

The labor unions as well have called for action here—a rare occurrence when you get this kind of symmetry between both labor and management.

I quote from Ed Sullivan, president of the Building Construction Trades Department of the AFL–CIO. He says:

President Bush, like all of us, realize that as long as terrorism is a threat, new job-creating projects are being delayed or canceled because we do not have adequate insurance coverage, or workman's compensation coverage available.

The Union Building Trades:

Our members join in urging the U.S. Senate to pass terrorism risk insurance legislation without delay.

The National Association of Insurance Commissioners from across the country, which is made up of State insurance regulators, which continues to strongly urge the creation of a Federal backstop for terrorism insurance, has to its displeasure begun the process of excluding terrorism insurance from standard casualty property policies.

On behalf of the national insurance regulators, I strongly urge the Senate to quickly pass legislation that will make insurance affordable and available to all American consumers and businesses. Only the Federal Government has sufficient resources at this time to help restore adequate levels of risk measurement and financial certainty to our markets.

Finally, a broad coalition of small and large businesses and consumers of terrorism insurance have called for Senate action as well. There are some who believe there is no reason for the Federal Government to act. They cite a few press articles which suggest terrorism insurance is available in some areas and wonder why the Congress should step in with legislation such as we are proposing.

Terrorism insurance is available, it is true, in limited areas. However, it is not available in many buildings, powerplants, shopping centers, and transportation systems that are perceived as high risk for terrorism acts—hence, the article this morning in the Washington Post about our Nation's Capital. In those cases where terrorism insurance is available, it is often unaffordable and very limited in its scope and amount of coverage.

There are plenty of examples. Also, again, the Washington Post story this morning is the one that comes to mind immediately. I mentioned the National Geographic headquarters in town dropped its workman's compensation because it received threats to large concentrations of employees and joined with the District of Columbia government's insurer as a last resort.

The Washington Post is trying with inability to secure its own workman's compensation insurance. Workplaces around the Nation's Capital have either been denied coverage or have offered reduced coverage.

Why is this going on? When you have a $50 billion event, you can understand.

If I could wave a magic wand and say, whether you like it or not, you have to be there, you have to have premiums—the law requires them to collect premiums so they can provide the kind of resources they need to pay out if an event occurs. The law requires it.

The question is how do you know how big an event is going to be. We had a $50 billion one. That is at least a floor of what we know it costs. That is without including workman's compensation, life insurance and others. Just in property and casualty, that is the number.

If you are going to have the industry be out and the private sector do this, they have to cost it out. I wish it could be for nothing. I wish it wouldn't cost anything at all. That is a mythical world. The reality is that banks don't lend money unless they can have some coverage to protect their exposure. If you are not going to give the coverage to protect the exposure, they don't lend the money.

It is not complicated. If you look at the commercial mortgage-backed security business, which covers all but about $1 billion of all commercial lending that goes on, already in the first quarter it is down $7 billion—10 percent. You are already finding a stall going on in that area.

Most of my colleagues understand that it is like residential mortgage-backed securities. Security in the commercial area is where they go out and bundle them together and have a secondary market to cover it. Right now,

10 percent in the first quarter is already down in that area.

I am not making the numbers up to highlight the significance of what we are talking about. George Washington University's downtown campus three blocks west of the White House has cut the school's former $1 billion property and casualty policy in half, and its premiums have been raised 160 percent, and advise that renewing terrorism coverage would cost 15 times more. That is what we are up against here.

I can rail against it. Obviously, there is no great wisdom here to attack the insurance industry. That is a pretty safe bet out there politically.

But the fact is, when you end up with institutions like George Washington University, the National Geographic, private sector people here in the Nation's Capital, it would be difficult to say we are going to go out and cover this after we had a $50 billion loss, to just jump back in somehow; and for people to say, by the way, don't raise your premiums to do it, and you better have the resources to pay for it. I do not know where people acquired their math knowledge, but this does not work out, unfortunately.

So what we are trying to do is get this industry back in because we cannot require them to do it. So we have come up with a backstop idea that says: Look, the first $10 billion of losses you are on the hook for. When it gets beyond that, we are going to work out a system that allows us to help in that kind of cost, for 2 years, by the way, with a sunset provision.

Some would like it longer. I think we could make a good case for it being longer because it is awfully difficult, with some major real estate development going on that has more than a 2-year lifespan. But I am not sure how much this institution will tolerate in terms of time, so it has to be abbreviated to some extent. Then, hopefully, as the market develops, the costing out can be calculated, and we can get the Federal Government out of this altogether.

I know of no one who wants to turn the Secretary of the Treasury into an insurance regulator. I am afraid that is what some of my colleagues are suggesting. That is not what this is about. That is a separate debate. Maybe someday we are going to have a debate around here that says the Federal Government ought to become an insurance company. That is a debate, but I don't think that is the debate we want to have here today.

The debate here today is whether or not we are going to set up a program that is going to cause the flow of commerce to get reignited in areas where we have a significant stall.

Let me stay to my colleagues—and my colleague from Florida raises the issue—our bill does require that there be an accounting here separating out the premiums collected for terrorism insurance from the normal course of business. We do not go as far as my colleague from Florida would like, but in our bill that we have proposed there is an accounting requirement that says you must at least have a separate accounting for the premiums collected for terrorism insurance.

So there is a long list here of projects that I could talk about that go all across the country that highlight everything from the Golden Gate Bridge to the Dolphin Stadium in Florida that are having problems—the United Jewish Appeal, the Hyatt Corporation, the Steve Wynn's operation in Las Vegas our colleague from Nevada has already talked about, Amtrak, the Cleveland Municipal School District, Baylor University. The list goes on and on and on.

Again, we are not making these stories up. This is the evidence we are receiving from across the country, that there is a problem, and it is a growing one. We probably should have acted earlier, but I don't think it is too late for us to be moving forward.

So that is the background of it. Every perspective homeowner, of course, needs insurance to obtain a mortgage from a bank. Similarly, industry as diverse as commercial real estate, shipping, construction, manufacturing, and retailers require insurance to obtain credit loans and investments necessary for their business operations. Additionally, the creation of new construction projects require business loans. I think most people understand that.

If you ever bought a home, you know you don't get the mortgage unless you have insurance. That is what the law requires. That is just as true in the commercial areas. So if there isn't insurance available, the banks are not going to lend you money to buy a house. Maybe some people can buy a house by just writing out a check. Most Americans need a mortgage. And most Americans understand that the banks want to have some insurance on that property to cover their potential loss. So that is why you have to be able to get that.

That is true in commercial areas as well. If you can't get the insurance, then the banks don't lend you the money to build the projects, and people lose jobs. Those are the dots you connect, and that is what is going on all across the country as one of the effects of 9–11. It is a more complicated subject matter, but it is a serious one that the President, the Secretary of the Treasury, organized labor, and others have highlighted.

Some critics will argue, Why should we do anything to help the insurance industry? Quickly, let me add, this is not about the financial health of the insurance industry at all. It is about the financial well-being of nearly every individual and company in America that requires this industry to be healthy enough to be in business.

If you end up being put out of business because you don't have the resources, your solvency gets wiped out, as it would be today with a 9–11-like event. As I mentioned earlier, there are only about 20 percent of the resources to cover a similar kind of event that occurred 9 months ago on the 11th of September. So this is not so much about their health and well-being as it is those who rely on this industry for their own health and well-being.

As I said, the industry is paying off losses from the September 11 attacks estimated to be roughly $50 billion. The industry has made clear that despite this unprecedented loss, it remains very strong and solvent.

The question that many will ask is why we need to help an industry that is financially sound? And I think I have laid that out. The answer is we are not protecting insurance companies, we are protecting policy owners and businesses and workers.

This legislation makes sense because it is based on three principles that must be included in any bill that reaches the President's desk.

First, it makes the American taxpayer the insurer of last resort. We could do what we did in World War II. In World War II, the Federal Government insured everything. We just paid all the claims. I don't need to tell you what could happen if that happened today. But that is a point of view: Just let the Federal Government pick up the claims of this stuff, and don't worry about having a private sector insurance industry being involved at all.

But I don't think most Americans think that is a wise solution necessarily given the potential exposure we have. So I think it makes sense to have the industry be the ones that are going to be on the front lines responsible to do what is best, to calculate the risk, to assess premiums, to pay claims. I don't necessarily believe we want to set up another agency of Government, maybe under homeland security. Now that we are reorganizing Government, maybe someone would like to add a branch to become an insurance company. I don't think so.

Secondly, the legislation should promote competition in the current insurance marketplace. Competition is the best way to ensure that the private marketplace assumes the entire responsibility for insuring against the risk of terrorism without any direct Government role as soon as possible. That is why this bill has the very short lifespan we are talking about. This is not setting up something in perpetuity. It is setting up a very short lifespan.

Right now it is 24 months in the bill. And I think there will be suggestions to extend that, which may have some merit, by the way, I suggest, to those who may be offering them. But it is going to be limited, in any case.

Thirdly, the legislation ensures that all consumers and businesses can continue to purchase affordable coverage for terrorist acts.

Without action, consumers would be unable to get insurance, or insurance that is available would be totally unaffordable for them.

Very simply, and lastly, I will just explain briefly—Senator SARBANES has done this already—but let me just take another minute or so for those who may not have heard his comments to briefly describe how S. 2600 actually works.

It will provide Federal terrorism insurance in the event of another significant terrorist attack. This legislation is designed to maximize private sector involvement and minimize the Federal role. The bill does not create a new Federal insurance regulator; rather, it promotes the authority of existing private sector mechanisms.

The Federal backstop is temporary, lasting only 1 year unless extended for an additional year by the Secretary of the Treasury.

The bill envisions that the private sector alone would respond to small-scale attacks, such as car bombs, arson fires, and the like.

The Government intervention only occurs in insured losses in excess of a specific trigger. The amount each insurance company must pay before the Federal participation begins is determined by a statutory formula based on each company's market share. Larger companies pay more through the resulting individual company retentions.

Individual company retentions are calculated based on each company's market share of $10 billion in the first year, and $15 billion in the second year if the program is extended, meaning that large companies would sustain hundreds of millions of dollars in losses before the backstop is triggered.

In addition, once the backstop is triggered, each insurance company remains responsible for 10 to 20 percent of every claim dollar paid.

Lastly, I would say as well, regarding the States, we require that these actions be brought in Federal court, that there be a venue that is closer to where the action may have occurred.

But let me quickly point out, we have tried very strongly to retain the role of the State insurance commissions. There are 40 States right now that allow for rates to go into effect, and then the State commissioners can determine whether or not those rates are excessive or not. And 10 States require that rates be approved before they go into effect. That is in commercial property.

In this bill, we say the rates could go into effect, but we do not deny, as exists in 40 States, the State insurance commissioners to then rule on those rate increases. So we are not setting a Federal regulator in that regard. We are still keeping that in the States, and the State insurance commissioners do not lose that power.

The State insurance commissioners have the responsibility, obviously, to keep an eye on the rates, but they also have an obligation to see that the insurers are solvent so they can pay claims, if, God forbid, some event occurs. So the responsibility is dual, both to the insurer to make sure they have the assets and, of course, to the policyholder to make sure their rates are not too high and coverage will be there, if needed. We make it very clear in this bill that we want to keep the role of the State insurance commissioner viable.

We don't want to get in the business of setting up some massive new government program with a new regulator with a whole bunch of new rules established at the Federal level to start regulating this industry. That is a debate that will occur to some degree down the road, but today is not the day. This is not the place or time for that debate. This is an emergency. It should have been dealt with a long time ago.

My hope is that my colleagues will offer their amendments, we will get through this, and vote it up or down. Maybe our colleagues will decide this bill is not necessary; they don't want to be a part of it. Then we ought to say so. Then end the debate entirely and go about our business. I suspect that a majority of our colleagues think this has value and is important. My hope is we can get it done sooner rather than later.

I turn to my colleague from Kentucky who, I know, has a very important amendment. We will try to deal with that and move the process along.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 3836

Mr. MCCONNELL. I thank my friend from Connecticut. I certainly agree with him that this is legislation we should have passed quite some time ago. The principle sticking point with which I am concerned is the liability issue.

Under the underlying bill, punitive damages are available against victims of terrorism. Let me repeat that. Having just been attacked by the terrorists, the victims of that terrorist act are subject to punitive damages under the underlying bill.

The only concession that those advocates of this kind of litigation have made is to take the taxpayers off the hook for punitive damages. But the way the thresholds are allocated under the balance of the bill, it is highly likely that the taxpayers will be liable under any attack, and all other kinds of damages other than punitive damages will be available against the taxpayer.

We are talking about a bill that while certainly in concept is desirable, it has a number of significant flaws, one of which I would like to begin to try to fix this morning by laying down the amendment I will lay down shortly.

While many of my colleagues on the other side of the aisle have been talking about the need for a terrorism insurance bill, my Republican colleagues and I have been busily preparing for action. Two weeks ago, Senator GRAMM and I broke a month-long logjam by informally offering a proposal for a base text that establishes a responsible program for Federal assistance and assures that we don't punish the victims of terrorism for the criminal acts of the terrorists.

For months now, the Senate has been locked in a debate about whether an American victim of a terrorist attack, whether it is Walt Disney World, the Mall of America, Giants Stadium, or the Las Vegas MGM Grand, should be held liable for punitive damages.

Remember, punitive damages are intended to punish bad actors. That is what punitive damages are about. In all other ways, defendants are compensated. Punitive damages are designed to punish the defendant. They are not designed to compensate victims.

Nothing in the Republican proposal for a base bill has sought to limit damages to compensate victims. There are no efforts on our part in the Senate to limit damages to compensate victims. What we are talking about is punitive damages which are designed to punish defendants.

We are talking solely about whether American victims of a terrorist attack should be punished not once but twice, attacked first by the terrorists, attacked second by the lawyers.

In pondering this question our colleagues who disagree and their allies have raised an interesting point—that there are some victims of terrorism whose conduct may be so flagrant, indeed so criminal, that as a matter of public policy, we should not let it go unpunished. So to address that concern head on, Senator GRAMM and I offered a new compromise for a base bill that I fully expected my Democratic colleagues would embrace, at least I had hoped they would. Our proposal would permit punitive damages against any defendant who has been convicted of a crime in State or Federal court. Using our criminal justice system to determine what conduct is worthy of punishment is a simple, commonsense solution to ensure that no criminals avoid punitive damages in civil cases.

Let me state that again: In an ideal world, we would not have any punitive damages available against a victim of a terrorist attack. But to help address the concerns of those on the other side that punitive damages might lie in some extraordinary circumstance, the amendment I am about to offer provides a punitive damage opportunity against victims of terrorism who themselves have been convicted of a criminal act. That makes sense because if you have been convicted of a criminal act, punitive damages ought to lie because of the nature of the conduct.

Although Senator GRAMM and I informally offered this proposal before the Memorial Day recess, we did not formally offer it on the floor because we wanted to give the other side plenty of time to consider this approach as a compromise for a base bill.

Actually our proposal was the second compromise supported by many on this side of the aisle. The first compromise from the House-passed bill included a

stripped down liability section agreed upon by Senators GRAMM, SARBANES, DODD, and ENZI. But that compromise was later undone in December by others on the other side of the aisle.

After months of inaction, Senator GRAMM and I came back to propose this second compromise in the hopes that our colleagues on the other side would agree to these protections.

Sadly, the opposite appears to have taken place. Our colleagues on the other side rejected our idea by proceeding to a bill that would allow American victims of a terrorist attack to be held liable for punitive damages. Under this underlying bill, American victims of a terrorist attack could be held liable for punitive damages.

This approach to punitive damages does not compensate plaintiffs, does not prevent the double punishment of American companies who are victims of a terrorist attack, and does nothing to prevent insurance money intended to rebuild homes and reopen American business from being diverted to pay lottery-sized litigation awards.

The message this sends to the American people is that some of our colleagues are not truly concerned with guarding against criminal conduct. Instead, they appear more concerned with guarding the rights of personal injury lawyers to seek punitive damages against American victims of terrorism, protecting the opportunity for American lawyers to seek punitive damages against American victims of terrorism.

On Saturday, the New York Times, certainly a publication I am not frequently allied with on any matter, asked Senate Democrats to move toward our liability proposal. This is the New York Times talking:

Senate Democratic leaders eager to pass their own bill must compromise, even if it means offending trial lawyer groups.

This is the New York Times.

Senate Republicans appear willing to accept far more modest curbs on terrorism-related litigation than their House brethren. Their proposals provide the basis for an eventual reconciliation of House and Senate efforts.

This is in the New York Times, the liberal New York Times, in an editorial entitled ''Insuring Against Terrorism,'' June 8, 2002, just a few days ago.

The home office of the New York Times, of course, is in New York City where this problem is the most apparent. They would like to see some action, and they think having some reasonable limits on punitive damages makes sense in the context of moving this legislation along.

On Monday, four top administration officials, including Treasury Secretary O'Neill, National Economic Council Director Larry Lindsey, Office of Management and Budget Director Mitch Daniels, Council of Economic Advisors Director Glenn Hubbard, announced they would recommend that the President veto legislation that ''leaves the American economy and victims of terrorist acts subject to predatory lawsuits and punitive damages.'' They sent a letter to Senator LOTT, dated June 10. Let me say it again. All four of these top officials in the Bush administration say they would recommend the President veto legislation that ''leaves the American economy and victims of terrorist acts subject to predatory lawsuits and punitive damages.''

That gives us some parameters or outlines here if we are serious about making a law and not simply playing legislative games. We ought to pass a bill that has a chance of being signed. I think it is pretty clear that the President's top advisers in this area would recommend that he veto legislation similar to the underlying bill. So we have an opportunity, if we are serious about this legislation, to fix it up and get rid of this outrageous punitive damage provision that subjects victims of terrorism to these awards, unless they themselves have engaged in criminal conduct, in which case I must say I think they deserve punitive damages in that unlikely eventuality.

Interestingly, for those who say liability protections are not an important part of terrorism insurance, let me share with you a quote from a recent report by the Joint Economic Committee:

Liability costs are estimated to constitute the largest single cost of the 9–11 attacks and could easily exceed the property damage, life insurance, and workers compensation payments combined.

That is from the ''Economic Perspectives on Terrorism Insurance,'' prepared by the Joint Economic Committee in May of this year.

With this backdrop, I send the amendment to the desk on behalf of myself, Senator GRAMM, and Senator LOTT.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. GRAMM, and Mr. LOTT, proposes an amendment numbered 3836.

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

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

The amendment is as follows:

(Purpose: To provide for procedures for civil actions, and for other purposes)

On page 29, strike line 1 and all that follows through page 30, line 17, and insert the following:

SEC. 10. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for such claims, except as provided in subsection (f).

(2) PREEMPTION OF STATE ACTIONS.—All State causes of action of any kind for claims arising out of or resulting from an act of terrorism that are otherwise available under State law, are hereby preempted, except as provided in subsection (f).

(b) GOVERNING LAW.—The substantive law for decision in an action described in subsection (a)(1) shall be derived from the law, including applicable choice of law principles, of the State in which the act of terrorism giving rise to the action occurred, except to the extent that—

(1) the law, including choice of law principles, of another State is determined to be applicable to the action by the district court hearing the action; or

(2) otherwise applicable State law (including that determined under paragraph (1), is inconsistent with or otherwise preempted by Federal law.

(c) FEDERAL JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 90 days after the date of the occurrence of an act of terrorism, the Judicial Panel on Multidistrict Litigation shall assign a single Federal district court to conduct pretrial and trial proceedings in all pending and future civil actions for claims arising out of or resulting from that act of terrorism.

(2) SELECTION CRITERIA.—The Judicial Panel on Multidistrict Litigation shall select and assign the district court under paragraph (1) based on the convenience of the parties and the just and efficient conduct of the proceedings.

(3) JURISDICTION.—The district court assigned by the Judicial Panel on Multidistrict Litigation shall have original and exclusive jurisdiction over all actions under paragraph (1). For purposes of personal jurisdiction, the district court assigned by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

(4) TRANSFER OF CASES FILED IN OTHER FEDERAL COURTS.—Any civil action for claims arising out of or resulting from an act of terrorism that is filed in a Federal district court other than the Federal district court assigned by the Judicial Panel on Multidistrict Litigation under paragraph (1) shall be transferred to the Federal district court so assigned.

(5) REMOVAL OF CASES FILED IN STATE COURTS.—Any civil action for claims arising out of or resulting from an act of terrorism that is filed in a State court shall be removable to the Federal district court assigned by the Judicial Panel on Multidistrict Litigation under paragraph (1).

(d) APPROVAL OF SETTLEMENTS.—Any settlement between the parties of a civil action described in this section for claims arising out of or resulting from an act of terrorism shall be subject to prior approval by the Secretary after consultation by the Secretary with the Attorney General.

(e) LIMITATION ON DAMAGES.—

(1) IN GENERAL.—Punitive or exemplary damages shall not be available for any losses in any action described in subsection (a)(1), including any settlement described in subsection (d), except where—

(A) punitive or exemplary damages are permitted by applicable State law; and

(B) the harm to the plaintiff was caused by a criminal act or course of conduct for which the defendant was convicted under Federal or State criminal law, including a conviction based on a guilty pea or plea of nolo contendere.

(2) PROTECTION OF TAXPAYER FUNDS.—Any amounts awarded in, or granted in settlement of, an action described in subsection (a)(1) that are attributable to punitive or exemplary damages allowable under paragraph (1) of this subsection shall not count as insured losses for purposes of this Act.

(f) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way be construed to limit the ability of any plaintiff to seek

any form of recovery from any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(g) EFFECTIVE PERIOD.—This section shall apply only to actions described in subsection (a)(1) arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including any applicable extension period.

Mr. MCCONNELL. Mr. President, this amendment replaces the liability section of the underlying bill with the liability section proposed in the compromise bill sponsored by Senator GRAMM and myself.

The compromise has three principal elements. First, consolidation of all claims in a single Federal district court; second, approval of settlements by the Secretary of the Treasury; third, a ban on punitive damages, unless the defendant has been convicted of a criminal offense that is related to the plaintiff's injury.

The first two provisions should not spark any controversy. The proponents of the underlying bill themselves have agreed to Federal jurisdiction over these claims, and the approval of settlements by the Secretary of the Treasury simply protects the taxpayer dollars that will be exposed to potentially enormous lawsuits under this program. And since the underlying bill now—unlike an earlier version—prudently bans punitive damages against the Federal Treasury, this approval process ensures that a party does not attempt to casually circumvent that ban through a settlement.

So, again, this is a debate about whether we should expose American victims of terrorism to punitive damages—damages that heap additional punishment on American victims, even after the plaintiff has been fully compensated for his or her injuries.

Let me make a very important point to those of my colleagues who are traditionally wary of liability protections. Lawsuits arising out of terrorist attacks will be a wholly different animal. They will not feature the traditional small, sympathetic plaintiffs against the crotchety, arrogant big business that makes for such effective television movies and plaintiffs' lawyers' tales. No, these lawsuits will pit victim against victim—victim against victim—both of whom have been devastated by a coldblooded terrorist attack, and both of whom will be faced with traumatic physical, emotional, and financial recovery.

While it is important to ensure that an injured plaintiff be compensated for his or her injuries—and this amendment does just that—it is absurd, immoral, and it is un-American to impose additional punishment on an American victim of terrorism.

For those who remain concerned about punishing egregious conduct, my amendment does not extend the punitive ban to any defendant who is engaged in criminal conduct. History reminds us that punitive damages have always been about punishing bad actors, not about compensating victims. Punishment has long been a hallmark of our criminal justice system. Indeed, punitive damages draw their origins from the English common law cases of assault and battery, where the criminal law provided an inadequate remedy. So it only makes sense that we should rely on our criminal justice system to determine whether additional punishment is warranted against American victims of terrorism.

If American defendants have engaged in criminal activity, maybe punitive damages are appropriate in those limited circumstances. But what we cannot and must not do is take the punishment reserved for the terrorists who seek to destroy our buildings, our transportation systems, our fire and rescue personnel, and our way of life and transfer that punishment to American victims of terrorism who bear no relation to the hijackers and suicide bombers, or the terror that they unleash on America.

To be perfectly candid, my amendment does not do enough to protect liability costs from skyrocketing out of control and to protect against runaway lawsuits against terrorist victims. Indeed, this amendment moves along way off the litigation management provisions in the House-passed bill. If I had my own way, I would be offering something a good deal more comprehensive than what I have offered a few moments ago. Indeed, I think it is important for everybody to remember what kind of awards are still possible, even if my amendment is adopted, as I hope it will be. There is no limit to the amount of damages an American plaintiff can receive as compensation for physical or economic loss. Let me say that again. I am not proposing any kind of limitation on the amount of damages an American plaintiff can receive as compensation for physical or economic loss.

No. 2, I am not proposing to limit the amount of damages an American plaintiff can receive as compensation for noneconomic damages—pain and suffering losses. There is no limitation under my amendment on recovery for pain and suffering.

In addition, there is nothing to prevent American defendants and victims of a terrorist attack from having to pay for the pain and suffering caused by terrorists. I could have gone a lot further, but there is no limitation under this amendment on recovery for pain and suffering against the victims of terrorism or the taxpayers of the United States. And there is no limit on the amount of money an attorney can take from the plaintiff's award. I must say, I hated not putting that in.

This is very similar to the Federal Tort Claims Act which has been on the books since the late forties. If you sue the United States under the Federal Tort Claims Act, all the cases are in Federal court. There are no punitive damages, and there is a 25-percent limit on lawyer's fees, which seems to me is entirely appropriate. A limitation on lawyer's fees puts more money in the hands of the victim.

I know what a sensitive subject that is for many in this body, so that is not in this amendment. I did not even limit the lawyer's fees which would have been a very provictim provision. I did not do that. Yet remarkably, this is not enough for some people. Even after a plaintiff has been fully compensated for all his or her fiscal, economic, and noneconomic damages, the underlying bill demands the right to seek additional punitive damages to punish American property owners, American shopkeepers, and American air carriers who are also victims of terrorism.

Under this amendment, no victim is going to be denied the right to fully recover under every other provision. The only thing that is being denied is to get punished for the second time. First, you have been attacked by the terrorists, and then you are going to be attacked by the lawyers if we do not pass this amendment.

Just yesterday this body voted, regrettably, to impose double taxation on American families afflicted by the death tax—double taxation. You get taxed once during your life, and then you get taxed again when you die. Almost immediately afterwards, our colleagues moved to proceed to a terrorism insurance bill that would impose double punishment. Yesterday they voted in favor of double taxation, and today they are advocating double punishment on American victims of terrorism. First, you get attacked by the terrorist, and then you get attacked by the lawyers for punitive damages.

I hope our colleagues will join me in curing the latter error by supporting this amendment. If not, they should be prepared to explain to the American people why—why—in the aftermath of a terrorist attack it is somehow permissible in this country to punish American victims of terrorism for the harm caused by the terrorists. That is what this amendment is about.

Let me reiterate before relinquishing the floor that all other kinds of damages are available to victims of terrorism, to the plaintiffs—pain and suffering, economic compensation—but the only thing that would be denied would be the opportunity to get punitive damages which are, in effect, damages allowed for criminal-type behavior from the victim of a terrorist attack. I have even modified that to allow punitive damages against a victim of terrorism if that victim has been convicted of a crime. That is the category of behavior which historically has made available punitive damages.

This is a very modest amendment. I would have loved to have gone a lot further. I find it outrageous that it is possible for any lawyer in America in any one of these lawsuits to get more than a fourth. I think the Federal Tort Claims Act would have been a perfect way to limit the lawyer's compensation and provide more assistance for

the victim, but I have not offered that because I know there is substantial reluctance in this body, as we have seen time and time again, to impact the compensation of the plaintiff's bar. So I have not done that in an effort to make this more attractive.

This is a very modest step in the direction of protecting the victims of terrorism from being attacked twice. I hope it is something we can pass overwhelmingly in the Senate whenever we get around to having a vote.

Mr. President, I yield the floor and hope that whenever this is voted upon, it will be adopted overwhelmingly.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me talk just a moment about the bill and where we are, and then talk about this amendment. This is the third bill now where we have not written a bill in committee, where we have brought a bill to the floor, basically a partisan bill, for no purpose. I do not think I am saying anything others will not agree with in saying Senator DODD and I have pretty consistently been the two most committed people toward passing a bill. But rather than sitting down and trying to work out the provisions of this bill on a bipartisan basis, we have a bill that has been brought to the floor of the Senate which has never been passed by a committee, much less the committee of jurisdiction. We basically are converting this into a partisan issue which I think makes no sense whatsoever.

Let me give a little bit of history so my colleagues understand how we got to be where we are and what the two overriding issues are. There will be many other issues raised, I am sure, but I want people to know what the two overriding issues are.

Way back last fall, Senator SARBANES, Senator DODD, Senator ENZI, and I met with the Secretary of the Treasury in the wake of 9–11 to try to put together a bipartisan bill. In fact, we agreed to a bill. The Secretary of the Treasury endorsed the bill on behalf of the administration. All four of us had a press conference and announced the bill. That bill worked as follows:

It was a 2-year bill with a possible extension to the third year. The first year there was an industry retention, and I want to define this term because we are going to be hearing it now for an extended debate. There was an industry retention whereby the industry had to pay $10 billion in the case of a terrorist attack before the Federal Government would begin to pay the bills, the idea being that the insurance companies are selling insurance, they are collecting premiums, and they should have a stake in the process and the Federal Government should come in in those events that are so large and so costly that the insurance industry could not sustain it, and that the market for insurance and reinsurance potentially would not develop with the risk as large as it might without the Federal backing.

Our bipartisan bill had a retention of $10 billion the first year, $10 billion the second year, and if the Secretary of the Treasury concluded that a third year was required, he could extend the bill for a third year with a retention of $20 billion. Above these retention levels where the private insurance company would pay, the taxpayer pays 90 cents out of every dollar of the claim.

Why did we have an industry retention rather than an individual company retention? We had an industry retention because our purpose is not to get the Government into the insurance business permanently, but to build a bridge to transition from where we are today in the wake of 9–11 to a period when, hopefully, we will do a better job of managing these risks at the national level in terms of our antiterrorist policy and, secondly, over time, we can develop the insurance structure to build the risk that remained into the term structure of insurance rates.

If we do not have an industry retention, the incentive for companies to spread the risk is reduced.

If my risk as the Gramm Insurance Company is only some portion of $10 billion based on my size in the industry, then once I am above that level of exposure, the Federal Government is picking up 90 percent of the cost.

What we are trying to do is to get insurance companies to syndicate so that no insurance company insures the Empire State Building. They might join 10, 20, or 30 other insurance companies in doing it and, in doing so, spread the risk. We want to develop reinsurance so that these risks can be disseminated.

Having an industry cap or an industry retention, rather than an individual company retention, puts pressure on companies to enter into reinsurance. It provides an incentive and in fact a profitability for reinsurance to emerge. The purpose of the bill is to develop reinsurance and syndication.

Having reached that agreement, we also agreed on a set of provisions related to lawsuits in the wake of terrorist attacks. We agreed that all lawsuits had to be brought in Federal court because this was a Federal program. We agreed that the cases could be consolidated. We agreed to require that the Treasury would have to sign off on any out-of-court settlement in these cases. And we agreed there would be no punitive damages in the case of a terrorist attack. This was a compromise.

Treasury wanted a lot more in the way of protection. The House had passed far more comprehensive protections, but this was a compromise we worked out. As we all know, there was an objection to the liability parts of the bill and the bill died.

Then we got into December. In December, in trying to write a bill, we were literally faced with a situation where the bill was going to go into effect within 3 weeks of the day we were writing it, when we tried to put together a compromise. With 3 weeks before supposedly the vast majority of insurance policies were expiring, we believed there was not time for a reinsurance market to emerge, that there was not time for companies to be able to lay off this risk by syndication. So the proposal was made that we have individual company retention levels.

Might I say that the day we announced a bipartisan compromise with an industry retention level of $10 billion, virtually every insurance company in America supported that bill.

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

Mr. GRAMM. Yes, I would be happy to yield.

Mr. LEAHY. I ask this with some trepidation because I know that every day I hear my good friend from Texas speaking, it is one less day I am going to have the opportunity to hear him. And I mean that sincerely. I really do enjoy his statements. I wonder if he has some idea how much time he needs?

Mr. GRAMM. I think I should be through within, say, 10 minutes.

Mr. LEAHY. I thank the distinguished Senator.

Mr. GRAMM. So the day we introduced the bill with a $10 billion industry retention, based on the logic that we wanted to encourage reinsurance, that we wanted to encourage syndication, there was broad support in the insurance industry and in American business for that compromise.

We got to December, 3 weeks away from—at least as we are told, and as I believe actually did happen—tremendous numbers of insurance policies expiring on January 1. So recognizing we were writing a bill where the industry would have only 3 weeks to try to respond to it, the bill that was put together had not an industry retention but an individual company retention that would produce a situation where, with as little as $50 million of cost, the Federal taxpayer could be pulled into the process, a far cry from the $10 billion retention we had had in the original compromise. The logic of it, as of December 10, was that we were 3 weeks away from the beginning of the year and there was not time for this syndication to occur, there was not time for reinsurance to occur.

Now it is 7 months later. Insurance companies have sold terrorism insurance, not at the price we might have chosen, not to the people we might have chosen they sell it to, but the point is at inflated rates, because things changed, the market changed, and we expected rates would go up. It was, in fact, required that they go up economically. Now insurance companies have sold all these policies based, at that point, on no Government backstop. To come back in now with an individual company retention that could put the taxpayer at risk, when the costs are as small as $50 million or $100 million, makes absolutely no sense.

What has happened, as we might expect it to happen, is that if I were running an insurance company and I had a choice between having Government backup begin at $100 million versus $10 billion, I would not be running an insurance company long if I did not decide that $100 million was better than $10 billion. So now we are having this debate driven by insurance companies that want the low retentions.

In December, when we were writing a bill to go into effect in 3 weeks, there was not any other choice, but once that marker got out there and people saw it as a possibility, then they decided this deal they were willing to sign on in October, which protected the taxpayer by having insurance companies pay the first $10 billion, that that was no longer acceptable. Seven months later, premiums collected, risks taken to come in with an individual company retention level at the level that is being discussed now in this bill, would grant a huge windfall. I think it is not justified and not good public policy, and that is an issue that has to be dealt with. We have to decide, are we representing the taxpayer or are we representing some other interest? It seems to me to put the taxpayer at risk, to back up policies that have already been sold, with no Government backup, where premiums have already been collected on the basis that there would be no Government backup, to now come up with a backup that is in the tens of millions rather than $10 billion, is to basically have the taxpayer enter into a situation where the initial risk is borne largely by the taxpayer and not by the insurance company.

Let me say to my colleagues that if this were World War II instead of a new kind of war, we could have had a Government insurance program. We had one in World War II. We had two kinds. We had one for international shipping and we had one for domestic assets. Both companies made money. Both companies, when we signed the peace treaty on the *Missouri*, faded out. The problem now is this war will not end with a peace treaty on the *Missouri*. It will end with the scream of some terrorist. But there will not be a signed agreement that it is over, nor will we know that is the last terrorist in the world.

We have to decide if this is a transition bill that is trying to build these risks into the structure of insurance rates, or are we getting the Government permanently in the insurance business in America. That is a fundamental question. When we decided in October, we answered the question. When this bill was written in December, we were forced into this low deduction by having only 3 weeks. Seven months later, that makes no sense.

This is the issue that needs to be dealt with. I hope it can be compromised on a bipartisan basis. As I said earlier, from the beginning I have believed we needed a terrorism insurance bill.

Finally, I turn to the liability question, and I will be brief. We have before the Senate the most modest proposal related to punitive damages that has been discussed thus far in this bill. We had a bipartisan agreement that banned punitive damages outright, a complete ban. The House adopted a bill that had extensive protections from predatory lawsuits in a terrorist attack. In my mind, to unleash predatory lawsuits after a terrorist attack is like piracy on a hospital ship. It is outrageous and unacceptable.

Now, the Senator from Kentucky has given a very watered down compromise and, I think, a reasonable one, and to me acceptable—though I like the House provisions better; I like the proposal of the President better. What his compromise says is that you cannot sue victims of terrorism for punitive damages. You can sue the terrorists, but you cannot sue the victims, the people who were in the attack, the people whose buildings and lives were destroyed, unless they have been convicted of a felony related to the attack. In other words, they had some measure of criminal culpability.

I don't know how anyone can be against this proposal. If you are against this proposal, you are basically willing to unleash predatory lawsuits on anyone—in this case, including victims of terrorism.

Let me conclude and yield the floor by urging my colleagues to vote for the McConnell amendment. The President has said in a letter, through four spokesmen, including the Secretary of the Treasury, that he will not sign a bill that does not protect people from predatory lawsuits that arise from a terrorist act. I hope my colleagues will vote for the McConnell amendment.

Second, I hope we can work out a compromise on this retention issue. We should be able to work out a compromise. I commend to my colleagues that we do it. If we do it, we can immediately transform this bill into a bipartisan bill. We can get an overwhelming vote for it. We could end the debate on it. If not today, certainly early next week.

There is work that has yet to be done. I hope we can do it together. There is no reason we cannot.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I will not be long. I rise in support of the McConnell amendment. I pick up on where the Senator from Texas left off: This should be a bipartisan bill. There is no reason why in dealing with such a serious issue as this that we should not be able to work in a bipartisan way with our colleagues in the Senate. That applies also to the House of Representatives and the President.

Everyone realizes this is a piece of legislation that must be done. We are hearing from folks back home in the business and insurance community as to the impact of not having any kind of terrorism insurance fallback for these coverages, and the Federal Government does have a role to play.

I serve on the Banking Committee, and I have expressed to my ranking member some of my concerns for us being involved at all. However, I am convinced there is some action we need to take in the short run to address this crisis of businesses not being covered by terrorism insurance, projects not moving forward because of the lack of terrorism insurance. Obviously, there is a need to do this.

There are some areas that, frankly, that I do not believe belong in a bill dealing with this issue. The one that I believe is the most egregious is a concept that is remarkable; that is, that victims of terrorism, who have been either physically or financially and certainly emotionally hurt by terrorists, will be liable to be sued.

Senator MCCONNELL takes a very small part of this liability. I have a problem with any victim being sued for anything. Think back to the days we were at war. Can anyone imagine in previous years if someone in America had been killed as a result of World War II, the Germans or the Japanese bombing someplace in America, that people in America would have rushed to the lawyers and then to the courtroom to sue the restaurant they worked in that was hit by the bomb? Can anyone imagine the Senate, in 1941–42, passing a bill saying people who worked in a restaurant in Hawaii when a bomb was dropped, that the waitress who worked in the restaurant could sue the restauranteur whose place was destroyed for damages? On top of that, this bill says not just for any damages but for punitive damages. In other words, damages having to do with any kind of pain, suffering, injury, or loss of wages, but simply to punish the victim.

We will allow people who were injured economically, emotionally, physically, as a result of an act of war—and this terrorist act was an act of war—to be sued under this bill.

Look back in history. I do not know that there is a precedent for allowing this during a time when we are at war. This was an act against America. This is a very bad and dangerous step we are taking in the Senate.

What Senator MCCONNELL is trying to do is a very small piece of the overall structure of this bill that allows, if the McConnell amendment passes, the restaurant owner of the World Trade Center, whose business was destroyed—he may have escaped; maybe he was not there that day; his business was destroyed, his employees were killed, maybe even family members were killed—will now be in court. Under this bill, he will be in court defending himself from lawsuits. After going through what he has gone through, he now has to defend himself from lawsuits. But worse, he has to defend himself from lawsuits that will seek to punish him because he was a victim. Imagine that.

One can make an argument—and I would not agree—he would have to pay compensation for pain and suffering or wages, but now we will say he will be liable to be sued, to be punished, and he was a victim of terrorism.

Victims of terrorism should not be punished. Victims of terrorists should not be punished by the Senate. It should not be permitted. It is an outrage to every victim who suffered on September 11; if every victim who suffered in September 11 owned anything that was destroyed, and had anyone working for them, they are now going to be on the firing line, again. It is not bad enough that they were hurt physically, emotionally, and economically as a result of terrorist acts. We are now going to put them through another act of destruction in the courtroom.

Even if this amendment is agreed to, that is going to occur. All we are saying is, Members of the Senate, don't allow lawyers—who certainly will do so and certainly have done so already with past terrorist acts—come into court and attempt to punish victims. That is over the top. It is over the top. It is not necessary. It is inhumane.

Mr. MCCONNELL. Will the Senator yield for an observation?

Mr. SANTORUM. I am happy to yield to the Senator from Kentucky.

Mr. MCCONNELL. After making this argument a week or so ago, the American Trial Lawyers Association said there could be some circumstances under which the defendant himself engaged in criminal behavior. So I modified this amendment to include, if the victim of terrorism himself were convicted of a crime in connection with that event, then punitive damages would lie because that would warrant punishment.

Mr. SANTORUM. Absolutely.

Mr. MCCONNELL. But there are no other circumstances—I agree with my friend from Pennsylvania—under which punitive damages ought to lie against the victim of terrorism. I thank the Senator for his observations. I think he is right on the mark.

Mr. SANTORUM. I thank the Senator from Kentucky for further clarifying his own amendment. I think it is important to say if someone is, maybe, in complicity with a terrorist or did something with respect to his business that was, as the Senator from Kentucky said, criminal in nature, that would be prosecuted. Then I think it is a reasonable recourse for some sort of civil damages to be awarded.

But to have a blanket provision that says every victim is a potential defendant in a lawsuit, where the lawyer is saying you should be punished because you were a victim in a terrorist act, I find that to be almost something that is so absurd; it is remarkable to me that we are even debating the existence of this provision.

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield to the Senator from Kentucky for a question.

Mr. MCCONNELL. Will the Senator agree that if punitive damages were available, they would be sought in every instance?

Mr. SANTORUM. I am a lawyer. I did practice law before I came here, but not as much as many here. But I do know, one of the things that happens when you file lawsuits is, you do not leave anything out. If you have damages available to you, you file for them and you let those who are responsible for making the decision as to what your plaintiff should receive—whether it is the jury or judge—you let them decide what the plaintiff is permitted to receive.

There is no question in my mind. Imagine, that victims of terrorism——

Mr. LEAHY. Will the Senator yield for a question?

Mr. SANTORUM. Let me finish my statement, and then I will be happy to.

There is no question in my mind that there will be hundreds, if not thousands, of lawsuits where victims of terrorism will be sued for punitive damages in order to punish them because they were victims.

I will be happy to yield for a question.

Mr. LEAHY. Madam President, the Senator has the floor and of course can speak as long as he wishes. I do not mean to suggest otherwise.

Mr. SANTORUM. I was just about to finish.

Mr. LEAHY. We had an informal understanding that originally I was going to follow the Senator from Texas. If not, I will pass it on to the Chair. I just wondered how much longer he might be.

Mr. SANTORUM. I was about to finish. I am happy to do so.

I encourage my colleagues, No. 1, as I said before, to see if we can work out some sort of bipartisan agreement. This should not be a partisan bill. This should be a bill on which we work together in the Senate.

No. 2, I encourage, as a good starting point for that bipartisan arrangement, to support this very minimalist amendment, with all due respect to my colleague from Kentucky. It is a minimalist amendment to eliminate the most egregious aspects of lawsuits available to plaintiffs who want to sue victims of terrorism; that they at least should not be punished, pay compensation as a punishment, unless there was some sort of criminal behavior attached to the victim.

I yield.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I must oppose this amendment by my good friend from Kentucky, Senator MCCONNELL, to add controversial so-called ''tort reform'' measures to the terrorism insurance bill. This amendment would limit the legal rights of future terrorism victims and their families. That is not fair or just.

I have worked with the distinguished majority leader, Senator DODD, Senator SARBANES and others to craft a balanced compromise in the substitute amendment on legal procedures for civil actions involving future acts of terrorism.

The underlying Dodd bill protects the rights of future terrorism victims and their families while providing Federal court jurisdiction of civil disputes involving acts of terrorism and excluding punitive damages from Government-backed insurance coverage under the bill. These provisions do not limit the accountability of a private party for its actions in any way.

Further, the underlying Dodd bill fully protects Federal taxpayers from paying for punitive damages awards. Under the Dodd bill only corporate wrongdoers pay punitive damages, not U.S. taxpayers as some have incorrectly claimed on the Senate floor.

But the McConnell amendment would prohibit punitive damages in almost all civil actions covered by the bill. This latest offer excuses wanton, reckless, and even malicious conduct by a corporate wrongdoer. The amendment provides that a corporate wrongdoer must have engaged in criminal conduct and must have already been convicted under State or Federal law before it can held liable for punitive damages.

This is a ridiculously high standard that excuses and immunizes all sorts of bad acts that should be punished and deterred.

The McConnell amendment, for all practical purposes, eliminates punitive damages, which in turn, completely undermines the civil justice system. There is no effective punishment, and consequently no real deterrent, for misconduct. Right now, the threat of punitive damages makes would-be wrongdoers think twice.

Without the threat of punitive damages, callous corporations can decide it is more cost-effective to continue cutting corners despite the risk to American lives. This would let private parties avoid accountability in cases of wanton, willful, reckless or malicious conduct. That is outrageous and irresponsible.

Punitive damages are monetary damages awarded to plaintiffs in civil actions when a defendant's conduct has been found to flagrantly violate a plaintiff's rights. Under this amendment, those plaintiffs will be victims of terrorism and their families.

The standard for awarding punitive damages is set at the State level, but is generally allowed only in cases of wanton, willful, reckless or malicious conduct. These damages are used to deter and punish particularly egregious conduct. Eliminating punitive damages totally undermines the deterrent and punishment function of the tort law.

The threat of punitive damages is a major deterrent to wrongdoing. Eliminating punitive damages would severely undercut this deterrent and permit reckless or malicious defendants to find it more cost effective to continue their callous behavior without the risk of paying punitive damage awards.

For example, this amendment would permit a security firm to be protected from punitive damages if the private firm hired incompetent employees or deliberately failed to check for weapons and a terrorist act resulted. This amendment fails to protect the interests of victims of terrorism and their families.

I helped author the September 11th Victims Compensation Fund to take care of any terrorism victim suffering physical injury or death. As a result, I was open to public interest retroactive liability limits up to insurance coverage for the September 11th attacks, such as limits for the airlines industry to keep them out of bankruptcy and limits for the owners of the World Trade Center to rebuild.

But liability limits for future terrorist attacks are irresponsible because they may restrict the legal rights of victims and their families and discourage private industry from taking appropriate precautions.

Restricting damages against the wrongdoer in civil actions involving personal injury or death, for example, could discourage corporations from taking the necessary precautions to prevent loss of life or limb in a future terrorist attack.

There is no need to enact these special legal protections and take away the rights of victims of terrorism and their families.

At a time when the American people are looking for Congress to take measured actions to protect them from acts of terror, these ''tort reform'' proposals are unprecedented, inappropriate and irresponsible. At the very moment that the President is calling on all Americans to be especially vigilant, this amendment is calling on all American businesses to avoid their responsibility for vigilance under existing law.

I am disappointed that some may be taking advantage of the situation to push ''tort reform'' proposals that have been rejected by Congress for years. This smacks of political opportunism.

I cannot support rewriting the tort law of each of the 50 states for the benefit of private industry and at the expense of future terrorist victims and their families. I urge my colleagues to defeat this amendment.

Madam President, the distinguished Presiding Officer has been as involved in getting compensation to victims of terrorism as anybody here.

I raise these points on the floor that we all want to help victims of terror, and we will, but we don't want to give a wish list to anyone.

Medical laboratories specializing in nuclear medicine might know that their security system is broken. They say: Well, you know, it will take a few hundred dollars to fix it, and we are not going to bother. So it stays broken for months. At the same time, even though they might put high-security locks on the room that houses its vault, they don't put security locks on the storage room that houses nuclear materials.

Say during this period when it is operated without a functioning security system a lab discovers various containers of nuclear matter, including dozens of vials containing radioactive iodine, are missing, and it fails to report that fact to local, State, or Federal authorities and doesn't take any action to repair its security system. This is not a far-fetched example.

Let us say that nuclear material is traced back to the laboratory and it is later used to fuel a ''dirty'' bomb that exposes American cities. Under this amendment, you can't go back and prosecute that corporation. They have no criminal prosecution. You can't go back. Come on. What is going to be the incentive for that corporation that failed to fix their security system and to fix the locks on their doors? It is just another example.

I see the distinguished acting majority leader.

I yield the floor.

Mr. REID. Madam President, I have spoken to my friend, the distinguished senior Senator from Kentucky, Mr. MCCONNELL, indicating we will move to table. I have been told that the Republican leader may speak before we do that. That being the case, I certainly don't want to move to table if the Republican leader wishes to speak.

I ask unanimous consent that when the quorum call is called off, I be recognized. I alert everyone that I will move to table. As everyone knows, the Republicans have their policy luncheons on Wednesdays, and we have ours on Thursdays. I would really like to get the vote out of the way before that time, if we could. We are going to go into a quorum call awaiting the Republican leader.

I ask unanimous consent that I be recognized following the calling off of the quorum.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Madam President, I thank Senator REID for making sure I have this opportunity to express myself before we go to a vote on this important issue.

I do think we need to move this legislation forward. I have met with individuals, insurance companies, the construction industry, hotels, and others. As Senator REID has pointed out, they are concerned about the growing problem in this area in terms of coverage. I wish we could have moved it earlier. There have been a lot of efforts on both sides to make it happen. We were not successful.

Now we do have it on the floor. Obviously, there are going to be some important amendments that will be offered to change some of the provisions in the legislation. But I think this is one of the most important ones. The liability provisions in this legislation, or lack thereof, is a critical point. I am very much concerned about jurisdiction and venue, where these actions might occur arising out of terrorism. I would be very concerned about the preemption of State causes of action provisions that would be included.

But the most important point is, how would you deal with the punitive damages issue? I have real concerns and problems with punitive damages coming out of the U.S. Treasury as a result of an action involving a terrorist attack. So I hope we can find a way to resolve the problem.

Senator MCCONNELL has been very diligent in staying behind this and working to find an appropriate solution. I think he has come up with one, and this is the key part of it. It says that to the extent punitive damages are permitted by applicable State law, punitive damages may be recovered against a defendant in a civil action involving an act of terrorism only if ''the harm to the plaintiff was caused by a criminal act or course of conduct for which the defendant was convicted under Federal or State criminal law, including a conviction based on a guilty plea or plea of nolo contendere.''

This is the right solution. This is a fair solution. It does not set a precedent saying that there can be no punitive damages; it just says it can only occur under these conditions that were outlined where there was a criminal act or course of conduct that led to the situation where a terrorist could make this kind of attack or hit.

The President has made it clear that if we do not deal with this appropriately, he will not sign this legislation. So rather than trying to find a time to deal with it later, or to deal with it in conference, or, in effect, try to call either side's bluff, this is the right solution. It does not set the precedent; it does provide for damages under these certain circumstances where there has been neglect or egregious action that led to the terrorist attack.

So I urge my colleagues to support the McConnell proposal that I have cosponsored, and oppose the motion to table this important issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. CRAPO), and the Senator from Rhode Island (Mr. CHAFEE) are necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''no.''

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

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—50

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

NAYS—46

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

NOT VOTING—4

Chafee	Helms
Crapo	Jeffords

The motion was agreed to.

AMENDMENT NO. 3834

Mr. NELSON of Florida. Mr. President, I send to the desk an amendment. It is my understanding the amendment number is 3834.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 3834.

Mr. NELSON of Florida. 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 amendment is as follows:

(Purpose: To restrict insurance rate increases for terrorism risks)

At the appropriate place, insert the following:

SEC. ___. INSURANCE RATE INCREASES FOR TERRORISM RISKS.

(a) CALCULATIONS OF TERRORISM INSURANCE PREMIUMS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall promulgate regulations establishing parameters for insurance rate increases for terrorism risk.

(2) CONSULTATION.—In developing the regulations under paragraph (1), the Secretary shall consult with the NAIC and appropriate Federal agencies.

(3) MODIFICATIONS.—The Secretary may periodically modify the regulations promulgated under paragraph (1), as necessary to account for changes in the marketplace.

(4) EXCLUSIONS.—Under exceptional circumstances, the Secretary may exclude a participating insurance company from coverage under any of the regulations promulgated under paragraph (1).

(b) SEPARATE ACCOUNT REQUIRED.—If a participating insurance company increases annual premium rates on covered risks under subsection (a), the company—

(1) shall deposit the amount of the increase in premium in a separate, segregated account;

(2) shall identify the portion of the premium insuring against terrorism risk on a separate line item on the policy; and

(3) may not disburse any funds from amounts in that separate, segregated account for any purpose other than the payment of losses from acts of terrorism.

(c) LIMITATION ON RATE INCREASES FOR COVERED RISKS.—

(1) EXISTING POLICIES.—Any rate increase by a participating insurance company on covered risks during any period within the Program may not exceed the amount established by the Secretary under subsection (a).

(2) NEW POLICIES.—Property and casualty insurance policies issued after the date of enactment of this Act shall conform with the regulations issued by the Secretary under subsection (a).

(d) REFUNDS ON EXISTING POLICIES.—Not later than 90 days after the date of enactment of this Act, a participating insurance company shall—

(1) review the premiums charged under property and casualty insurance policies of the company that are in force on the date of enactment of this Act;

(2) calculate the portion of the premium paid by the policy holder that is attributable to terrorism risk during the period in which the company is participating in the Program; and

(3) refund the amount calculated under paragraph (2) to the policy holder, with an explanation of how the refund was calculated.

Mr. DODD. Mr. President, will my colleague yield? I inquire, it is a quarter after 1, so we can give our colleagues an indication of time, how much time would my colleague like?

Mr. NELSON of Florida. About 3 hours.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, while some Members are still in the Chamber, I want them to understand an essential truth that a public which is averse to raising taxes is all the more averse to hiking insurance premiums. Let me repeat that.

We all know that the consuming public is averse to raising taxes, and we are sensitive to that fact, but equally or more sensitive is the issue of passing legislation that hikes insurance premiums, and that is what we are facing.

We have an underlying bill that is trying to solve a problem. The problem is that terrorism has now become an insurance risk. In large part, this bill takes that risk off individual insurance companies and has the Federal Government assume a large part of that risk, so much so in one computation, it is 80 percent of the risk; in another computation it is 90 percent of the risk.

In the very complicated formula of the bill, it has the responsibility of each insurance company with a de minimis amount that it would pay out in the case of a terrorism incident and, mind you, this is only a terrorism incident which is using conventional explosives. It does not include—because they are exempt from almost all insurance policies—the terrorism risk when the terrorist uses chemical, biological, or nuclear weapons.

As a result, we are talking about a risk, as we learned on September 11, in the totality of the picture of the risk, to the whole country and risk to individuals, businesses, owners of high-rises and large businesses, medium-size businesses and small businesses. We are talking about a risk that, albeit still a substantial risk, it is a risk that in large part is being picked up by the Federal Government.

I do not object to that, and I will restate what I said this morning to my good friend and colleague and the sponsor of this legislation, Senator DODD. If I had objected to that, we would not be on this legislation because I was in the Chamber when the unanimous consent request was propounded last night, and I could have easily entered an objection. I did not, and that is why we are on the bill.

I do not object to the Federal Government picking up a major part of the terrorism risk, albeit only the conventional risk; it is not chemical, nuclear, or biological. What I do vigorously object to is that in the underlying bill of the Senator from Connecticut, there is no process in place that can limit the rate hikes of the insurance companies with regard to the terrorism risk.

Mr. DODD. Will my colleague yield on that point?

Mr. NELSON of Florida. Certainly.

Mr. DODD. I say to my colleague, what we do is leave all the State insurance commissioners—and under the present scheme, and my colleague is a former commissioner and knows this better than I do, there are 40 States that allow for rate increases to go into effect, and then the commissioners can overturn those rate increases. In 10 States, the rates have to be approved before they go into effect.

In this bill we apply the standard used in the 40 States, but the State insurance commissioners do not lose their power to turn down that rate increase. We do not have anyone in the Federal Government doing that, but we leave it at the State level for those rate determinations to be made at the local level. That is what the bill requires.

Mr. NELSON of Florida. I was glad to yield to my colleague, and I hope he

will interject these comments so we can have an honest and fair debate about this issue because the very point that the Senator from Connecticut has made is the flaw of this bill. The 50 insurance commissioners of this country usually do not set the rates on commercial policies, and the ones who do, such as the State of Florida, set a range for rates, but that is with regard to all the conventional types of risk—theft, dog bite, slip and fall, and so forth.

The fact is that the 50 insurance commissioners, if they were to do what the Senator from Connecticut says, do not have any actuarial data on which to make a judgment about whether or not a rate hike is actuarially sound for the de minimis terrorism risk that the insurance company is now assuming.

Wait, wait. Let me finish.

Mr. DODD. Will the Senator yield so I may comment further?

Mr. NELSON of Florida. I will not yield. I will finish the answer and then I will yield to the Senator.

My amendment sets a process in place. We have the Secretary of the Treasury. Now why would we go to the Secretary of the Treasury? Because the insurance commissioners of the 50 States determine if rates are actuarially sound on the basis of an experience or on the basis of data coming from an experience, and the fact is that the insurance commissioners of the 50 States do not have that data and experience.

So in the Nelson amendment what we do is put into place a process by which actuarially sound judgments can be made on whether or not the rate hike is just right or whether the rate hike is too high or whether the rate hike is not high enough. You mean it could not be high enough? In fact, that is something we ought to know. We ought to know what is the appropriate hike to cover the insurance risk that is being assumed by the insurance company since most of the terrorism risk is being assumed by the Federal Government.

For example, under the Nelson amendment, the Secretary of the Treasury shall promulgate regulations establishing parameters for insurance rates for terrorism risk. That says ''parameters.'' It does not say he sets the rate. It says he sets the parameters.

Then what does it say? It says the Secretary of the Treasury is going to consult in developing the regulations of setting those parameters. The Secretary shall consult with the National Association of Insurance Commissioners and appropriate Federal agencies. Then we go on to give an escape valve, a safety valve. The Secretary may periodically modify the regulations promulgated, as necessary, to account for the changes in the marketplace.

What do we give further on a safety valve? Then we say, under exceptional circumstances the Secretary may exclude a participating insurance company from coverage under any of the regulations promulgated. So we give all kinds of leeway and exceptions, and yet we set up a process by which we can determine if rates are actuarially sound.

Now, why is this important? It happens to be important because guess who is going to pay? If there is not an actuarially sound rate, guess who is going to pay. The consuming public. You say, oh, no, this is just on tall buildings. So it is going to be the owner of a tall building, a big business. Not so. That is a cost of doing business that is passed on to the consuming public.

So whether it is a football stadium, a shopping mall, a tall building, a short building, wherever it is, a small business, a large business, that cost, that rate hike that so many in the real estate industry have decried because, in fact, they have experienced those rate hikes, as chronicled by this morning's Washington Post, in downtown DC, rate hikes of 160 percent and above since last September, where do we think that is going and who do we think is going to pay it? It is going to be the consuming public.

Because of that is why the Consumer Federation of America has endorsed this legislation. This is dated today. They say it would require the Secretary of the Treasury to set parameters for terror insurance rates. This is the Consumer Federation of America. It would require insurers to issue rebates for terror insurance premiums already, and I will explain that in a minute. It would require insurers to separately itemize terrorism rates on the insurance bill.

Let's talk about those two provisions. Why would we want to separately itemize terrorism rates on an insurance bill? So the consumer will know how much of their premium they are paying is going to pay for the terrorism risk. It is all a matter of mathematics. It is all a matter of calculations. It is all a matter of what is supposed to be a determination to know if a rate is actuarially sound. If it is, as I hope it will be under the process that we are putting in place in this amendment, then the consumer ought to know how much it is they are paying.

If one has a bank statement and they have an extra charge by the bank, certainly they want the consumer to know how much extra that bank is charging and for what. And so, too, with this. We set up a process which says they shall identify the portion of the premium insuring against the terrorism risk on a separate line item on the policy.

What we do also, as an accounting mechanism, is we cause the insurance company to deposit the amount of the terrorism rate increase in a separate, segregated account so it does not get mixed in with all the other premiums, so we can keep it highlighted, so we know what it is. Then when funds are disbursed to pay if a terrorist strikes and there is an obligation on the part of the insurance company to pay, then those funds would be distributed from that separate account. The consumer would know how much of their premium they, in fact, are paying.

The other thing the Consumer Federation of America pointed out is that this Nelson amendment would require insurers to issue rebates for terror insurance premiums already collected. What do we do there? This is a little complicated, but the essence of it is, if there is a policy in existence and we know that rates have been jacked up already, as has been indicated by this morning's Washington Post story, under the Nelson amendment, if law, the Secretary of the Treasury would say that the rate hike should not be this, which has already been imposed, but instead should be this high. What about the difference over the remaining life of that policy—it may be only a few months left because policies are issued on an annual basis, 1-year policies—that that difference is going to be rebated to the consumer. What does that mean? That means if the insurance company, as so many have already, hiked the rates, as indicated by this morning's newspaper story, up here, but the Secretary of the Treasury comes along and says after evaluating and consulting that the rate hike ought to be here, not here, that for the remainder of the months of that policy the difference is going to have to be rebated to the consumer or to the policyholder, in this case mostly commercial policyholders.

So what we have is a commonsense amendment. It is an amendment that not only will help the big real estate properties that have been putting the pressure on the majority leader to bring this to the floor because they are feeling the heat of all these increased rates. I don't blame them. I sympathize with them.

They need to understand what we are trying to do. Instead of letting it operate in the sphere of the insurance company determining what the rate should be, the real way to regulate what those rates would be is to collect data through the Secretary of the Treasury that determines if the rate is accurate.

This affects the big properties, but it affects little properties as well. This underlying bill applies to commercial property and casualty. Many of these policies are held by small businesses whose insurance premiums have increased exorbitantly, significantly raising the cost of running their business. Commercial policyholders will ultimately pass their premium cost on to consumers in the form of higher prices for products and services. Offering rate protection will allow businesses, large and small, to obtain reasonably priced insurance, eliminating the need to pass their cost on to consumers.

Discussing the question of whether or not insurance companies have hiked rates since September 11, we saw in this morning's paper:

Property insurance for the firm that manages the office building at 1700 Pennsylvania

Avenue will cost twice as much as last year's $2 million premium.

That is the first paragraph of the story in the newspaper.

The second paragraph:

At George Washington University, insurers have cut the school's former $1 billion property and casualty policy in half.

They cut the coverage in half, and they raised the premium at the same time 160 percent. That is the second paragraph.

The third paragraph:

The National Geographic has been dropped by its workers' compensation provider because of the perceived threats to large concentrations of employees that are in the D.C. area.

This story, as well as many others, can give example after example of how insurance rates have been hiked, which in large part has caused a number of real estate trade associations to start sounding the alarm that the rates have gone up so much, they need some relief.

What has been said about this in the insurance industry? I am sad to say what has been said is quite revealing. At the end of November, in a statement quoting a Lloyd's of London investor newsletter quoted in the Washington Post, they said, when talking of the effects of September 11 on the insurance industry premiums:

[There is a] historic opportunity [to make profits off of 9/11. Disaster insurance premiums have shot up to a level where very large profits are possible.]

Doesn't that make your blood boil, that there would be people in the boardrooms of insurance companies who are considering the tragedy of September 11 as an excuse to hike insurance premiums big time? Doesn't that make your blood boil?

Another quote from the CEO of Zurich Financial Services from a Reuters story at the end of November as well:

As respects to the terrorist attack of September 11, the industry ''needed it to operate efficiently. The players who are strong, in a responsible manner, and are aggressive, will be the winners of the next 15 years.'' In other words, the industry will profit from the price hikes they are now trying to put in place.

Does that concern Members?

I come to the floor to offer an amendment on a bill that I question the need for but I did not block because I thought it ought to be aired and discussed and voted on. I come to offer an improvement to that bill on its fatal flaw. The fatal flaw is that it does not have a provision to protect consumers from rate hikes and rate gouging.

When dealing with insurance, consumers have to have two provisos: Insurance has to be available, and it has to be affordable. Part of the reason for the bill coming to the floor is that the perception is out there, particularly among large real estate properties, that it is neither available nor affordable. What this amendment tries to do is, in making it available as the underlying bill does, in a huge Federal subsidy—in other words, the Federal Government taking over most of the insurance risk for terrorism risk—we are making it affordable by not letting the hikes go through the roof and all the way to the Moon.

Organizations such as the Consumer Federation of America, which point out they endorse this amendment to protect businesses and consumers from being gouged with unjustifiable rates, have endorsed this legislation.

The underlying legislation I did not block because I thought it ought to come here, but I question whether this is the way we ought to approach it. It is using a sledgehammer in what otherwise ought to be a much more delicate procedure to solve the problem. What is the problem? The problem is, some 8 or 9 months after September 11 certain properties are still having difficulty getting insurance. Where are those properties? They are generally in highly identifiable trophy properties such as tall buildings, such as highly visited facilities like stadiums, such as tourist attractions, such as ports that have cruise traffic. But there is a large part of America that is not like that. Most of America does not have high-rise buildings. Most of America is not highly, densely urbanized. Most of America is not the financial district of the country; namely, Manhattan in New York City. Most of America is not the seat of Government of the United States, Washington DC. Most of America has found its commercial properties to be insured. Why? Because in the last 6, 7, 8 months, the marketplace has responded.

In the last half year, money, capital, investments are flowing into the reinsurance industry. Reinsurance is insurance for insurance companies to insure against catastrophe, such as the terrorism risk.

As a result of there being more supply of this money going into the reinsurance marketplace, the price of reinsurance has started to come down. As a result of the price coming down, because there is more capital available, it has started to ease the price that is being charged to most of America.

So here we are, coming along with an underlying bill that says basically we are going to hold the insurance company on any future conventional weapons terrorism risk only a little bit responsible. Instead, we are going to shift most of that terrorism risk over to the Federal Government of the United States.

For certain properties, I agree there is a legitimate need for the Federal Government to backstop insurance companies. Those are primarily your trophy properties. But because the insurance marketplace has responded over the last half year, we do not need to respond with this kind of legislation, and we surely do not need to respond with this kind of legislation which, in fact, has no ability to limit the rate hikes that will occur.

Thus, I offer my amendment as a means of process.

Let me close by saying this: Let's get it to its bottom line. Let's get it to its political raw. I am afraid if you vote for this without the Nelson amendment, you or any Senator vote for this without the Nelson amendment, a legitimate charge can be made that the Federal Government took over the biggest portion of the insurance terrorism risk without a limitation on the insurance premium hikes.

I do not think any Senator wants to be accused of that. I say again, the American public does not like you to vote for tax increases, but let me tell you there is something they do not like even more. They do not like people to vote on jacking up their insurance rates. You can make this a much better bill by adopting the Nelson amendment, which will put in place a process whereby the Secretary of the Treasury will determine if the rate is actuarially sound or if it is not. The Secretary of Treasury could be determining maybe it is not enough. But, then again, he could be determining that maybe it is way too much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank my colleague from Florida for this amendment. Let me start out speaking for a moment about the underlying legislation. Then I want to speak about the Nelson amendment.

I am glad the Senate is finally acting on the whole question of affordable terrorism insurance. Over the past 6 to 8 months, I have heard from developers, lenders, and retailers in my State who are saying this is getting very expensive. Basically a lot of construction projects have been stalled or have fallen through the cracks. Some of the major landmarks in Minnesota, such as The Mall of America, have had trouble with their lenders. So I want to be honest with my colleagues, to me this is really about jobs. If the insurance is not there or it is too expensive, then the projects do not get built and planned development may not happen; jobs are lost. Therefore, I think the underlying bill is important.

That is why I support the Nelson amendment. What the Nelson amendment says is if the Federal Government is basically going to assume the financial risk of a terrorist act, then we should ensure that the insurance industry is passing on this reduced risk in the form of lower insurance premiums to businesses.

The background of my colleague from Florida is in this very area, and he can speak about this with more expertise, but he is saying we do not want to end up giving private insurance companies a blank check to gouge businesses. That is the real danger.

In other words, if the problem the Senate is trying to address is the skyrocketing costs of terrorism insurance, and we address it by reducing the liability of the insurance industry to acts of terrorism, then we should make

sure the loop is closed and businesses are not charged exorbitant rates for insurance the United States taxpayers are actually providing. I believe that is what the Nelson amendment says. Therefore, I think it is common sense. I think it will make terrorism insurance more available. I think it will prevent the gouging of businesses. I think it will prevent us from giving just a blank check to this insurance industry. That is why I support the amendment.

I think this amendment is good for our businesses. I also think this amendment is in the spirit of the underlying bill. I think it does not in any way, shape, or form—I say to my colleague from Florida—negate or undercut this legislation. I just think it strengthens it. I think it closes a loophole and provides the additional protection we need to have, to make sure that we, the taxpayers, are not underwriting the insurance business which then gouges business. I believe that is what this is about—strong probusiness and strong proconsumer.

If I could just take another minute or two, I ask unanimous consent that I may take 5 minutes to speak as in morning business.

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

The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

(The remarks of Mr. WELLSTONE pertaining to the introduction of S. 2617 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me first say that I believe the Senator from Florida is to some degree correct about his concern. I think his remedy is wrong, and I am not going to support it. But I believe there is a problem. I wish to try to set out what I think the problem is and why I don't think this is the remedy.

The problem is that, beginning in January of this year, huge numbers of insurance policies expired. We tried last year without success to pass a bill. That effort went into mid-December. I am familiar with it because I was involved in it. Insurance companies sold policies beginning in January, and we are in June. Policies have been sold. Rates have gone up, as they had to go up because risks have gone up.

But if we come in now with a bill that has a very low retention, where the taxpayer is going to become the net payer before there is a substantial or mega loss—I remind my colleagues that when we first started debating this no one proposed that we go into business with the insurance companies. No one has proposed—I don't think anybody proposed. Maybe I had better be careful because for every bad idea there is a constituency. But I don't think anybody has proposed that we set up a Government insurance program.

The proposal has been that, once there is a cataclysmic loss, the Federal Government be the backup for insurance companies. The word that has been used throughout the debate is the Federal Government would be the ''backup.'' In October, when we were putting together a bill that had a retention rate of $10 billion, which meant that private insurers had to lose $10 billion before we stepped in and started to pay 90 percent of the costs, $10 billion is a cataclysmic loss.

What happened as the bill evolved in December, and when we were only weeks away from the bill going into effect, that $10 billion retention got changed to individual company retentions. So the level at which the taxpayer starts paying has gone down and down. Now we find ourselves in a position where various interests that would have been delighted in October to have gotten the $10 billion retention now oppose it, wanting individual company retentions.

The Senator from Florida is simply pointing out that to come in now where the Federal Government is going to pay out money before there is a mega loss is going to create a situation where people have charged premiums and sold policies based on one set of circumstances.

We are about to change those circumstances. In doing so, you are going to have a net wealth effect. There is no question about it.

I think the solution is to change the bill before us and require a higher level of loss—a higher level of ''retention,'' as it is called in the industry—so we simply move back to insure the kind of loss that no one was able to insure against in any case.

But I wanted to make it clear that there is some validity to the Senator's argument and concern about equity.

Having said that, I am very loathe to getting the Federal Government in the business of setting insurance rates. We have never done it before. It is something that has been done by the States. Those State regulations are still in place.

I know our distinguished colleague from Florida has been a State insurance commissioner, and he understands how difficult it is to set these rates. As difficult as it is for Florida and Texas, it would be more difficult for the Federal Government because we have never done it.

I simply, again, make the point that I made earlier; that is, I think there are two problems with this bill as it exists now. One is we are leaving victims of terrorism unprotected against predatory lawsuits. On a straight party-line vote a minute ago, we decided to do that.

The second problem is that we have a retention level in this bill now that is so low that it doesn't take into account the fact we have had 7 months where insurance has been sold with no Federal backup. Also, the most critical point is that, if we want a reinsurance market to emerge, if we want to encourage syndication, you don't do that with individual company retention. I am afraid we are creating a hothouse plant here which will never get out of subsidization. We will never get out of this business if we leave the bill the way it is now.

I am not saying that the $10 billion retention solves every problem in the bill. It doesn't. But at least it forces companies to syndicate, and it forces companies to be willing to purchase reinsurance. That creates the profits to bring it into existence.

I intend to vote against the amendment of the Senator from Florida, but I wanted to make it clear that he has raised an issue that the current bill does not deal with. If this amendment is not successful, I hope we will find a way for dealing with it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have spoken to the Senator from Florida, the sponsor of this legislation. At approximately 3:15—he thinks that would give everyone enough time to say what they have to say, and we have a presentation to be made by Governor Ridge at 2:15—I alert everyone that we probably will have a vote at about 3:15 this afternoon on this matter.

Mr. NELSON of Florida. Mr. President, will the Senator yield?

Mr. REID. Yes.

Mr. NELSON of Florida. Does that mean we will continue in session even while Governor Ridge is speaking?

Mr. REID. That is right.

Mr. NELSON of Florida. I ask unanimous consent that Senator CLINTON be a cosponsor of the amendment.

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

The Senator from Utah is recognized.

AMENDMENT NO. 3839

Mr. HATCH. Mr. President, on December 5, 2001, the Senate ratified two extremely important international treaties, the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism, both of which further our efforts in the worldwide war on terrorism.

Under the terms of these treaties, which were negotiated under the auspices of the United Nations, the United States and the other countries who are signatories to the treaties, have obligated themselves to prohibit acts of terrorism, or in support of terrorism, within their national borders. The signatories to these treaties are committed to fighting the global war against terrorism.

I rise today to offer an amendment that would implement the terms of these treaties by creating new criminal offenses for terrorists who detonate bombs in public places, and for those individuals who aid terrorists by providing or collecting funds for use in terrorist activities. I had hoped that

there would be no need for such an amendment today. There is bipartisan support for passing implementing legislation.

I commend Senator LEAHY for supporting almost identical legislation that I am presenting and attempting to pass such legislation just last night. The bill was cleared on the Republican side. However, I understand that the Democrats refused to pass it. That is most unfortunate, and I am disappointed in the Senate's failure to act.

This is critical legislation that we must enact promptly. As I have already stated, the Senate already ratified these treaties on December 5, 2001. the House of Representatives acted soon thereafter, on December 19, 2001, to pass a bill, H.R. 3275, which is identical to the amendment I am offering today. There has been overwhelming, bipartisan support for this legislation. H.R. 3275 was passed by a vote of 381–36. For one reason or another, however, the bill has been stalled in the Senate.

I urge my colleagues to give their unanimous support to this amendment. The President of the United States, as well as Treasury Secretary Paul O'Neill, Secretary of State Colin Powell, and Attorney General John Ashcroft, have all voiced support for this implementing legislation. Indeed, we have an obligation under the treaties we ratified to enact this legislation.

Here is what my amendment would do. It would meet our obligations under the two treaties by prohibiting certain acts within our borders. With respect to the Terrorist Bombings Convention, the legislation would prohibit delivering or detonating an explosive or other lethal device in a public place, a transportation system, or a State or government facility. With respect to the Terrorist Financing Convention, the legislation would prohibit providing or collecting funds with the knowledge or intent that such funds be used, in full or in part, to finance an act of terrorism.

Mr. President, it is essential—now more than ever—that the United Sates maintain its position at the forefront of nations in opposition to terrorism. This legislation fulfills our obligations under the treaties we already have ratified. Identical legislation has already passed the House of Representatives. So I sincerely hope that we will adopt this amendment here today, and on its own, so that we can deliver it to the President to sign and thereby continue to lead the world in the fight against terrorism.

Now, could I ask the Parliamentarian, is it possible for me to offer this amendment as a second-degree amendment to the Nelson amendment?

The PRESIDING OFFICER (Mr. CARPER). The Nelson amendment is subject to a second degree.

Mr. HATCH. Then I will call up the amendment and offer it as a second-degree amendment.

Mr. GRAMM. Why don't you just ask it be set aside and offer yours as a first degree?

Mr. HATCH. Mr. President, instead of doing that, I ask unanimous consent that we set aside the pending amendment, and I will offer this as a first degree.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The Senator from Utah retains the floor during the unanimous consent request.

The Senator from Utah.

Mr. HATCH. Mr. President, I renew my request to set aside the Nelson amendment, and send an amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

Mr. REID. Will the Senator from Utah yield for a unanimous consent request?

Mr. HATCH. Excuse me?

Mr. REID. Will the Senator from Utah yield for a unanimous consent request?

Mr. HATCH. I am happy to yield for such purpose.

Mr. REID. Mr. President, it is my understanding the Senator from Utah has asked—and everyone has agreed—that the Nelson amendment be set aside, and his amendment would stand separate from that.

Therefore, I ask unanimous consent that at 3:15 today Senator DODD or his designee be recognized to offer a motion regarding the Nelson amendment.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON of Florida. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. I would ask that you amend that unanimous consent request so that I have 5 minutes to close before the vote on my amendment.

Mr. REID. That would be fine that you would have 5 minutes and also that the minority would have 5 minutes. So we would begin that at 5 after 3 p.m.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 3839.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise to speak on S. 2600, the Terrorism Risk Insurance Act of 2002. Naturally, I supported the amendment of the distinguished Senator from Kentucky, Mr. MCCONNELL. I am very disappointed I was unable to speak on the McConnell amendment before the premature motion to table. I think most of us agree that something needs to be done in this area. What we need to agree on is how to resolve the issue in a prudent and responsible manner that provides the appropriate stability to our economy without exposing our taxpayers to an unreasonable financial burden. Let me begin by stressing the importance of this issue. Insurance plays a vital role in this country, not just in helping in the recovery after a tragedy, but in the day to day operation of our national economy. We all know the devastating impact the events of September 11th had on our Nation—the human cost alone. What some do not realize is the economic impact that has resulted and which will continue to have a negative effect on business, the normal flow of commerce, and especially the jobs of everyday Americans if we do not act and if we do not act responsibly. Insurance is necessary to the operation and financing of property and the construction of new property. Without insurance, our economic growth is in jeopardy, businesses will fail, and jobs will be lost. My constituents have come to me on multiple occasions, imploring that the Senate act on this issue. They are genuinely concerned about the negative impact lack of coverage will have on their businesses and on their employees.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated June 10, 2000, from the Treasury Department and signed by not only the Secretary of the Treasury but the Director of the Office of Management and Budget, the Director of the National Economic Council and the Director of Economic Advisors—all urging that the Congress act to address this issue, but, most importantly, all noting that it must be addressed in a reasonable and responsible manner.

Mr. President, I ask unanimous consent that letter be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY,
Washington, DC, June 10, 2002.

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

DEAR SENATOR LOTT: The War on Terrorism must be fought on many fronts. From an economic perspective, we must minimize the risks and consequences associated with potential acts of terror. No measure is more important to mitigating the economic effects of terrorist events than the passage of terrorism insurance legislation.

Last November 1, the Administration publicly agreed to bipartisan legislation negotiated with Chairman Sarbanes, Chairman Dodd, Senator Gramm and Senator Enzi. While the House of Representatives quickly responded to this urgent need by passing appropriate legislation, the Senate did not act

and has not passed any form of terrorism legislation in the intervening seven months.

The absence of federal legislation is having a palpable and severe effect on our economy and is costing America's workers their jobs. In the first quarter of this year, commercial real estate construction was down 20 percent. The disruption of terrorism coverage makes it more difficult to operate, acquire, or refinance property, leading to diminished bank lending for new construction projects and lower asset values for existing properties. The Bond Market Association has said that more than $7 billion worth of commercial real estate activity has been suspended or cancelled due to the lack of such insurance. Last week, Moody's Investors Service announced that 14 commercial mortgage-backed transactions could be downgraded due to a lack of such insurance.

Without such insurance, the economic impact of another terrorist attack would be much larger, including major bankruptcies, layoffs and loan defaults. While we are doing everything we can to stop another attack, we should minimize the widespread economic damage to our economy should such an event occur.

One important issue for the availability of terrorism insurance is the risk of unfair or excessive litigation against American companies following an attack. Many for-profit and charitable entities have been unable to obtain affordable and adequate insurance, in part because of the risk that they will be unfairly sued for the acts of international terrorists.

To address this risk at least two important provisions are essential. First, provisions for an exclusive federal cause of action and consolidation of all cases arising out of terrorist attack like those included in the Air Transportation Safety and System Stabilization Act, are necessary to provide for reasonable and expeditious litigation.

Second, the victims of terrorism should not have to pay punitive damages. Punitive damages are designed to punish criminal or near-criminal wrongdoing. Of course such sanctions are appropriate for terrorists. But American companies that are attacked by terrorists should not be subject to predatory lawsuits. The availability of punitive damages in terrorism cases would result in inequitable relief for injured parties, threaten bankruptcies for American companies and a loss of jobs for American workers.

It is also clear that the potential for massive damages imposed on companies that suffer from acts of terror would endanger our economic recovery from a terrorist attack. Indeed, the added risks and legal uncertainty hanging over the economy as a result of last September 11th are major factors inhibiting a business willingness to invest and to create jobs. It makes little economic sense to pass a terrorism insurance bill that leaves our economy exposed to such inappropriate and needless legal uncertainty.

The bipartisan public agreement reached between the Administration and Chairman Sarbanes, Chairman Dodd, Senator Gramm and Senator Enzi last fall provided these minimum safeguards. We would recommend that the President not sign any legislation that leaves the American economy and victims of terrorist acts subject to predatory lawsuits and punitive damages.

The American people and our economy have waited seven months since our public agreement on legislation. The process must move forward. Prompt action by the Senate on this vitally important legislation is needed now.

Sincerely,

PAUL H. O'NEILL,
Secretary of the Treasury.
MITCHELL E. DANIELS,
Director, Office of Management and Budget.
LAWRENCE LINDSEY,
Director, National Economic Council.
R. GLENN HUBBARD,
Director, Council of Economic Advisors.

Mr. HATCH. My colleagues from Kentucky and Connecticut have already referred to this letter, but I would like to highlight a few of the specific points conveyed in that letter.

Quoting the letter:

In the first quarter of this year, commercial real estate construction was down 20 percent. The disruption of terrorism coverage makes it more difficult to operate, acquire, or refinance property, leading to diminished bank lending for new construction projects and lower asset values for existing properties. The Bond Market Association has said that more than $7 billion worth of commercial real estate activity has been suspended or cancelled due to the lack of such insurance.

Without such insurance, the economic impact of another terrorist attack would be much larger, including major bankruptcies, layoffs and loan defaults.

This letter really underscores the serious ramifications to our economy that have resulted from a lack of coverage for terrorist acts and supports congressional action in this area. However, it seems to me we ought to do it in a responsible manner. The letter goes on to state:

One important issue for the availability of terrorism insurance is the risk of unfair or excessive litigation against American companies following an attack. Many for-profit and charitable companies have been unable to obtain affordable and adequate insurance, in part because of the risk that they will be unfairly sued for the acts of international terrorists . . . It makes little economic sense to pass a terrorism insurance bill that leaves our economy exposed to such inappropriate and needless legal uncertainty.

In the event of a terrorist attack it is contrary to commonsense to place unlimited exposure on companies—who are themselves victims of that attack—for the criminal acts of third parties, the terrorists. I do not suggest that we should limit the recovery of economic damages of an injured victim if there is culpability on the part of a business. However, we must provide some stability in the litigation process by streamlining a Federal cause of action and not allowing punitive damages unless criminal conduct is proven, as the distinguished Senator so aptly argued in the prior amendment. Punitive damages are designed to punish the defendant, not compensate the victim. I ask my colleagues, is it fair to punish a defendant business for the criminal acts of a third party?

The President may well veto any measure that unreasonably exposes taxpayers and fails to provide stability to our economy. We need to act in this area, but if we fail to do so in a responsible manner, legislation may never be enacted and we will have failed in our responsibility.

My colleague from Kentucky, Senator MCCONNELL, has offered an amendment that I think is both reasonable and necessary to ensure that we address this issue in the proper and most effective manner. His amendment provides for a Federal cause of action and consolidation of multiple actions relating to the same event by the panel on multidistrict litigation. When we are dealing with a catastrophic event, it makes sense to have a process in place that avoids inconsistent judgments in multiple courts which could result in disparate treatment of victims.

This amendment of the distinguished Senator from Kentucky does not ban punitive damages. Let me restate, it does not ban punitive damages. It ensures that punitive damages are not counted as an insured loss covered by the Government backstop, as does S. 2600. Senator MCCONNELL's amendment goes on to provide that punitive damages will be available to a claimant, if State law so provides, but only if criminal conduct by the defendant is proven. This is reasonable and just. Without this limitation, then we are in effect punishing victims of terrorism and lining the pockets of the trial lawyers, not the victims. My colleagues on the other side of the aisle seem to think that if they merely provide that the Government will not cover punitive damages that is all that is necessary. I submit that the provision regarding punitive damages in S. 2600 actually compounds the problem. Insurance companies do not generally cover punitive damages, so those that are really at risk of bearing the brunt of the terrorist attacks are the insured businesses, businesses that provide jobs. Do we really want to undercut the real purpose of enacting Federal terrorism insurance legislation?

Senator MCCONNELL's amendment has another important aspect—settlement approval by the Secretary of the Treasury. If the Government is going to act as a backstop for insurance, then we must ensure that the Government's generosity is not abused. An approval mechanism such as that proposed by Senator MCCONNELL will work to ensure that any settlement of a claim is justified and supportable by the underlying facts and not a rush to the courthouse so that the trial lawyers can cash in and the defendants can reach their, what is in essence a deductible limit, resulting in the Government responsibility kicking in prematurely.

We are seeking to provide stability to our economy, but S. 2600, as currently written, will actually hurt those we are trying to help. If given the opportunity I would have urged my colleagues to support this amendment so that we can provide the necessary stability to our economy in an appropriate manner.

I hope before this debate is over we can return to this issue and resolve it. It is hard for me to support a bill such as this if we don't resolve this type of problem, because we are creating problems, not resolving them. Frankly, it is

about time that we do what is right around here rather than what is politically important to one side or the other.

This is a very important bill. I want to vote for it. I want to support it. I want to see that our businesses are protected. I want the Federal Government to step to the plate. But I want them to do it under the right circumstances with well-written laws that will make a difference in the fight against terrorism but will not destroy companies or businesses or jobs, which is what I think this current bill will do.

I appreciate the leadership of those who are trying to resolve this problem and who have brought this bill to the floor. I want to support them, but we have to start worrying about what works economically, what works legally, what is fair legally, what really should be done. We have to punish the perpetrators and not punish those who are the victims.

In many cases, the bill as written does not solve those problems. I think we should spend a little more time in trying to find some common ground to help resolve these problems.

Good trial lawyers don't need punitive damages. If they are really good, they can still get tremendous judgments and awards against those who are negligent, those who haven't done what is right. But when you allow punitive damages, that can lead to runaway juries and other problems. As an example, States such as Nevada have had so many medical liability cases brought now that they are losing their obstetrician-gynecologists, neurosurgeons, and other surgeons. Physicians are going to other States or they are just getting out of the business. That is starting to happen all over America because we are not approaching these problems in ways that really make sense. On this bill, we ought to approach it in a way that makes sense.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I believe Senator LEAHY from Vermont will talk with the Senator from Utah about his amendment which, except for the word ''terrorism,'' is unrelated to the substance of the underlying bill. I think the effort was to make that a freestanding proposal to deal with implementation of a convention dealing with terrorism. My hope is that the members of the Judiciary Committee will work on this to see if they can't resolve that matter to have it be dealt with as a freestanding proposal rather than as an amendment.

The reason I say that to my friend and colleague from Utah is that if we begin to open up this bill to matters unrelated to the subject matter, we will delay enactment of this bill. It may die here on the floor. If Members are interested in seeing us get something done on terrorism insurance, we need to stick with amendments related to the subject matter.

My friend from Florida has offered an amendment related to the subject matter. I may disagree with him on the amendment, but I appreciate the fact that we are offering language that relates directly to what is before us.

I know Senator LEAHY, the chairman of the Judiciary Committee, is working his way over here to talk with the Senator from Utah. Maybe they can resolve this matter and there can be a way to deal with this rather than having us necessarily get caught up in extensive debate on the implementation of a convention in the midst of the terrorism insurance bill, which is of concern to me, that we would end up off on a tangent and not get the matter before us considered properly.

I see my colleague standing.

Mr. HATCH. Mr. President, I will be happy to work with the distinguished Senator and listen to any suggestions that are made.

I think it is very pertinent to this bill. I would like to work with him. I am open and will be happy to get our two staffs together.

Mr. DODD. I appreciate the comments of the Senator from Utah. I hope my other colleagues on the Judiciary Committee have heard his statement. That seems to leave the door open for some possible resolution of the matter.

Let me address the Nelson amendment. My colleague from Florida has offered an amendment that comes in several parts. I will emphasize to him that the first parts of it deal with basically having the Secretary of the Treasury, as I read it, becoming an insurance regulator, a Federal insurance regulator.

I will hold some hearings, as the chairman of the Securities Subcommittee, with the permission and approval of the chairman of the committee, Senator SARBANES. But we want to hold hearings at some point on the whole issue of a Federal regulator of insurance. That is a very important debate and discussion.

I know the Senator from New York, Mr. SCHUMER, has a significant interest in that subject, as does my colleague from New Jersey. It is a very divided constituency within the insurance constituency as to whether there ought to be a Federal regulator or not. That is going to require a number of hearings as to whether or not we want to make that step and move forward.

I do not have an opinion on that issue one way or the other.

Mr. NELSON of Florida. Will the Senator yield?

Mr. DODD. I am happy to yield.

Mr. NELSON of Florida. Mr. President, the Senator raised a very legitimate question. I think that ought to be hashed out. However, the Senator's bill does self-destruct at the end of year 2002, unless it is extended by the Secretary for 1 more year.

Mr. DODD. That would be 1 year. The bill before us is only a 2-year bill. So it is 1 year and a second year if the Secretary of the Treasury agrees to it.

Mr. NELSON of Florida. That is correct. Therefore, we are not talking about this Senator's amendment having any kind of permanent regulation of rates at the Federal level. Rather, we are looking at a process to affect this specific bill having to do with terrorism rates of which the Federal Government is picking up 80 or 90 percent.

Mr. DODD. Mr. President, I will concede that point because this is a 2-year bill that sunsets. Obviously, we are talking about if all of a sudden the Department of the Treasury—is going to set rates and engage in all of the activities that a normal insurance commissioner would, on a Federal level it is going to require a rather significant step forward.

Let me address this. The one point the Senator from Florida has raised with which I agree—the language is different, but I think the point is the same. In the underlying bill, on page 12, lines 7 through 12, paragraph 2, under conditions for Federal payments:

> No payment may be made by the Secretary under subsection (e) unless . . . (2) the participating insurance company provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the program.

In effect, it is separate accounting so that we have a very clear accounting procedure which allows that whatever premiums are collected for terrorism insurance would be accounted for separately from other premiums collected. The language the Senator from Florida has is even more explicit. It requires segregation of the funds and the like. I don't disagree with him on that part of his amendment, that we ought to have separate accounting.

Secondly, in response to some comments made by my colleague from Florida, there are significant reporting requirements. Let me remind my colleagues again, what we have done with the underlying bill is maintain the important role of State insurance commissioners. Rates will be set by insurance commissioners at the State level. Now they are done differently.

I will repeat the point. Under existing law in the 50 States, 40 States presently allow rates on property and casualty in the commercial field to go forward, and then the commissioner can rule that the rate is too high. In 10 States, the State law prohibits any rate increase prior to approval by the State commissioner's office.

Under this bill, we do a number of things. One of the things we do here is follow what 40 States do. In other words, under this, we will allow for rate increases to occur, but we in no way undercut the historic role of State commissioners then to oppose a rate increase. So we maintain a very strong role for the insurance commissioners.

Why? Because, obviously, the expertise is there. They have the shops and the personnel to do it. To all of a sudden allow one Federal regulator, the

Department of the Treasury, to do that would be asking too much, and it would be very difficult for the apparatus to be set up.

Mr. NELSON of Florida. Will the Senator yield for a series of questions?

Mr. DODD. At some point I will, but let me get through my statement. Let me tell you some of the reporting requirements we have here and why this would be.

The Senator's amendment does set up the Secretary of the Treasury to be the regulator. There may be Members who believe that is a progressive step. I think it is dangerous.

Secondly, it would have the effect of a price control, trapping capital for many issues that do not experience a loss attributable to acts of terrorism. I don't think we want to do that. We are not trying to facilitate a clogging up of the commercial process that is ongoing.

Thirdly, with regard to the reports, the Secretary must report to Congress 9 months after date of enactment on the availability and affordability of the insurance for terrorism and a reflection on the impact on the U.S. economy.

The Secretary must report to Congress 9 months after the date of enactment on the availability of life insurance and other lines of insurance coverage. We only deal with property and casualty. There is a legitimate issue being raised about other forms of insurance that we do not cover in this bill.

Also, participating insurance companies must report their terrorism premium rates to the National Association of Insurance Commissioners every 6 months. These reports will be forwarded from the NAIC to the Treasury Department, the Commerce Department, the Federal Trade Commission, and the General Accounting Office. These agencies would submit a joint report to Congress summarizing and evaluating the data they receive from the NAIC. The GAO will report to Congress on its evaluation of the agency reports. We are trying to get as much internal information as we can coming through here so we can provide additional data when it comes to rate increases.

There is a very important point to make about insurance commissioners. Insurance commissioners not only set rates, what premiums can be charged, but in every State they bear the responsibility of seeing to it that insurance companies that do business in their States are solvent. That is a critical issue for consumers. In fact, if they hold policies under an insurance company and that company lacks solvency, then obviously those consumers are in jeopardy of not having their claims paid if some event occurs. I am not just talking about terrorism insurance here. So the dual responsibility of insurance commissioners is to not only set rates, but also to make sure that the companies themselves are solvent.

Again, this is not terribly complicated when it comes to the political questions. It doesn't take a lot to attack an insurance company. That is a safe bet politically. People don't like rate increases, and they know the difficulties they can have when claims are filed.

The problem is, if you are opposed to the idea of insurance companies, vote against the bill. I guess that is a simple answer; it is probably a safe bet if that is your concern. If you are worried at all, as you ought to be, about the fact that banks are not providing the loans to major commercial enterprises because of the absence of terrorism insurance, and you hear, as we have, from the AFL–CIO, as well as others, that there is a growing job loss over this, it is causing a problem economically, and when you already have 10 percent of the commercial mortgage markets and the secondary-market-backed securities already in the first quarter not forthcoming in the bond market, these are signals that we have a problem economically.

If you want the Federal Government to be an insurance company, you ought to vote for the amendment of the Senator from Florida. That is what we did in World War II. If you believe it makes sense in the longer term to have the private sector involved in insurance and not the Federal Government, then it seems to me you ought to vote against this amendment and vote for the underlying bill. That is a choice you have to make. In a few hours, you can make that choice.

The amendment of the Senator from Florida runs the risk of providing a program that I don't think is workable, except for the point I mentioned earlier. I don't disagree with my colleague about having an accounting process that makes it possible for us to distinguish between premiums collected for terrorism insurance and for nonterrorism insurance.

I hope that when this amendment comes up for a vote in about an hour, or less than that, my colleagues will do what I think is the responsible thing to do here, and that is reject this amendment. I have told my colleague from Florida I am happy to work with him on the provision dealing with the accounting question because I agree with him on that. I think we want to have clear accounting so we know what is going on.

With all due respect—and he is a good friend, and I have great respect for him, and I admire the work he did as insurance commissioner of the State of Florida—providing the Secretary of the Treasury the ability to become an insurance regulator goes too far, in my view. To require segregation of these accounts entirely would run the risk of insurance commissioners at the local level being able to guarantee the solvency of these companies to do business in their States, which you know, as a former insurance commissioner, is a critical part of the function of an insurance commissioner at the State level.

For those reasons, I strongly urge that my colleagues reject this amendment.

I see my friend from Massachusetts. I am wondering what is on his mind. Let me suspend for 1 minute, Mr. President.

Our colleague from Massachusetts informs me there is a markup of a bill that may require the presence of both the Senator from Connecticut and the Senator from Florida.

Mr. NELSON of Florida. I will be happy to run downstairs with the Senator from Connecticut to make a quorum if we can come back and resume and I can ask the Senator a series of questions.

Mr. DODD. I am always glad to do it. I will be happy to hear the questions. I do not know how well I can respond to them.

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. DODD. 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. DODD. Mr. President, I have completed my remarks in response to the amendment of my friend from Florida. He has a series of questions, so I will be happy to yield to my colleague for the purpose of asking some questions.

Mr. NELSON of Florida. Mr. President, I thank my colleague. Again, this was another experience where we had to temporarily suspend the debate in order to go downstairs to the Foreign Relations Committee to provide a quorum so we could vote out a very important piece of legislation.

First, I wish to ask a couple of questions about which we agree.

The Senator from Connecticut has a provision in his bill that says:

> The participating insurance company provides clear and conspicuous disclosure to the policyholder of the premium charged for insured loss covered by the program.

''Provide clear and conspicuous disclosure.'' Listen to the language in my amendment with regard to the same issue, and see if the distinguished senior Senator from Connecticut does not think that the language I have would not be something of an improvement by making it a little more specific. I am referring to page 2 of my amendment, line 18. The lead into it is:

> If a participating insurance company increases annual premium rates on covered risks under subsection (a), the company—
>
> (2) shall identify the portion of the premium insuring against terrorism risk on a separate line item on the policy . . .

The reason we put that there is it is my experience that if you do not nail down general language and be very specific, it will not end up on the policy on a separate line so that the consumer

can see how much they are being charged for the insured risk, in this case the terrorism risk.

I ask the distinguished senior Senator from Connecticut if he would consider that later on as a perfecting amendment to his language on page 12, the paragraph starting at line 7?

Mr. DODD. Mr. President, as a procedural matter, obviously we are not in a position to do that. I told my colleague in conversations we have had about his amendment that I will be happy to work with him to tighten up, if he believes it is necessary, the language in the underlying bill. Obviously, what is before us is a much larger amendment that covers a lot of other subject matters other than just the issue of separation of accounting.

I will state for the record as well, he may prevail with his amendment. If he does, then obviously all of his language gets included. If his amendment fails when voted upon, then I will be happy to work with him to see if we cannot tighten up the language to such a degree that will satisfy him and satisfy our concerns as well.

At this point, for me, in the midst of a floor action, to work on language is not the most appropriate setting for doing that, and procedurally it is awkward, obviously, with an amendment pending. We have to set that aside and take language, and I prefer we do it in the way I suggested.

If the amendment of the Senator from Florida prevails, the issue becomes moot. If he does not prevail, he has my commitment to work on language to tighten up and do what he wants to do and what we are interested in doing as well, and that is getting a very clear accounting, have a very clear understanding of the difference between premiums collected for terrorism insurance and premiums collected for nonterrorism insurance, so we can have a better understanding over the next 2 years or 3 years, depending on how long this program is going to go if other amendments are adopted.

The Senator already made note of the fact that we are dealing with a 24-month bill, and that is only the second 12 months if the Secretary of the Treasury decides to extend the program for an additional year.

As it is presently worded, this will expire, assuming it is enacted over the next week or two and signed into law, let's say, sometime around the middle of July. Twelve months from now this whole program will be over.

Our fervent hope is that by that time, the costing of this product and the other issues we talked about today will kick in and get the Federal Government out of this entirely and let the private sector deal with this issue as they have historically. But for the events on 9–11, we would not be here. The fact that there was a $50 billion event, which vastly exceeded what the reinsurance industry could calculate would be the cost, has understandably caused the industry to back up in terms of its willingness to provide insurance coverage for events they no longer can cost out, at least effectively in their minds, absent, of course, a series of other events which no one knows will be the case.

That is how costing out occurs with natural disasters. After a number of years when you have certain hurricanes, as my friend from Florida knows, it is easier for them to cost events when there are a series of events they can judge over a series of years.

Because this is such a unique event, what happened here—and we hope this is the last time it ever occurs—but in the absence of having a series of events, it is very difficult for them actuarially to determine what costs are in order to set premiums.

I will be happy to work with my colleague from Florida under the circumstances that I have described.

Mr. NELSON of Florida. Will the distinguished Senator from Connecticut yield for a further series of questions?

Mr. DODD. Absolutely.

Mr. NELSON of Florida. Does the Senator's bill require terrorism premiums to be held in a separate account?

Mr. DODD. No, it does not.

Mr. NELSON of Florida. Would the Senator want to propound why it should not be in a separate account?

Mr. DODD. If we look at the accounting and start setting up separate accounts, then in a sense capital is being trapped, and I do not think we want to do that. At least I do not want to do that; others may want to do it. That is one of the issues, solvency.

As a former insurance commissioner, the Senator from Florida knows that no company can do business in his State unless they are solvent, unless they have in reserve adequate enough resources to respond to the claims that can occur from a natural disaster or other types of insurance that may be provided. So solvency is critically important.

If we start segregating accounts, we get into the issue of capital adequacy. So I think I would be unwilling to require segregation of accounts. I think if we have an accounting of them, we would achieve the same result.

Mr. NELSON of Florida. I will merely respond before I ask my next question by saying that we have clearly a separate matter because all the other premiums with regard to all the other risks—be it wind, hail, dog bite, slip and fall, construction malfunction, whatever the risk is—is not subsidized by the Federal Government as we are doing with this bill where the Federal Government is taking a part of the risk.

It seems to me that it makes common sense that since the Federal Government is getting into the business of terrorism insurance in such a big-time way, that we ought to separate out the premiums in a separate account, purely from an accounting function, so there is no question that those terrorism premiums get commingled with all the other premiums and suddenly we do not know how much that is.

I further ask the distinguished Senator, does the Senator's bill require that premiums collected for terrorism risk be used for terrorism losses only?

Mr. DODD. Responding to my colleague, first, we are dealing with a 2-year bill. This is not in perpetuity. It is over 24 months. To all of a sudden require a whole bunch more segregation of accounts and setting up apparatuses to do it, seems to me, an overreaction. If we were talking about a permanent program, then my colleague's case may have more validity.

If we look back at the language of the bill in our accounting, it requires in the language, as he read, a very clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the terrorism insurance program. Now, clear and conspicuous seems to be about as clear and conspicuous as language could be.

For a 24-month bill, my point would be that we are overreacting by requiring the separate accounting. And not getting into the business of segregating accounts and all of the costs associated with that seems to me to satisfy and should satisfy a majority of us. I think people have looked at this and have the same kind of concerns that our colleague from Florida has raised.

Mr. NELSON of Florida. If the Senator will allow me to continue with another couple of questions, I would merely respond to the distinguished Senator's comments, that here is an example today on the front page of the Washington Post, that we are talking about rates being hiked using the terrorism risk as an excuse. Therefore, I clearly implore the Senate that it makes common sense, if rates are going to be hiked for terrorism risk, make sure it is those rate premiums that are paying the terrorism losses, and not going into the general fund and suddenly all of the premiums get jacked up. If we are going to jack rates higher than the Moon, then let us at least segregate them so they are there for what they are purported to be there for, and that is to pay for a terrorism loss. That is what I would propound to the Senator.

Mr. DODD. In response, I think the story in the Washington Post this morning, in fact, makes the case of why we are here. Those rates are going up on the National Geographic building and on the Washington Post itself. There were several other enterprises. George Washington University, for instance, is mentioned in the article. That is done in the absence of this bill.

As I described apparently not very well a few minutes ago, costing this kind of an event, 9–11, is very difficult. So the insurance industry is out there and it is going to protect itself. We believe with this bill being a backstop for a couple of years we could help put the

brakes on exactly the kind of story the Senator is reading from the Washington Post.

If my colleague is worried about premium rate increases, it seems to me that while our bill is not perfect, there is a greater likelihood we are going to be able to protect consumers more against rate increases having passed this bill, making the case that now there is a backstop so that the kind of exposure that they would be subjected to in the absence of this bill would be less.

If we do not pass this bill, if it is voted against, or a Federal regulator is created and there is a lot of other unnecessary bureaucracy, then we run the risk of not only what happened in Washington happening elsewhere—in fact, it is happening. We already know that terrorism insurance is not available in a lot of places, and where it is, it is very costly. We want to do what we can to stop the tremendous increase in that cost. That is what brings us here. That is why, as well—I made the point earlier and I make it again—we require on page 12 of our bill that there be a very clear disclosure of what premiums are being charged. We put that right in the bill, clear and conspicuous to policyholders, what the premiums are and what the distinction is between premiums collected for that and premiums collected for other forms of insurance.

We do not go as far as my colleague from Florida does by requiring segregation of accounts, but we think that provision for 24 months is a good consumer protection provision, and it will give us the kind of information we need to have.

The three reports I have mentioned are rather extensive involving the National Association of Insurance Commissioners, the GAO, the Commerce Department, the Treasury Department, the Federal Trade Commission, all requiring information be gathered so we can get, within 6 months, some clear indication of how this is working.

In conclusion, I say to my colleague from Florida, I will be the first to admit I cannot tell him that the Senator from New Jersey; the Senator from Maryland; the two Senators from New York, Mrs. CLINTON and Mr. SCHUMER; and I have written a perfect bill. If the Senator is asking me to say that, I cannot say that because we are in uncharted waters in many ways. So we are trying to respond to a problem that exists.

We know for a fact that there is a major slowdown in our economy because major projects have either been cancelled or stalled because they cannot get the financing necessary to go forward. The reason they cannot get the financing is because they cannot get the insurance. Every homeowner in America knows what I am talking about. If they cannot get insurance, then their banker is not going to lend them the money for the mortgage. That is a fact of life. That is just as true in commercial enterprises as it is in residential.

With the absence of insurance, the banks do not lend the money. The projects do not go forward and there is higher unemployment and a slowdown of the economy.

If my colleague is looking for perfection, I cannot give it to him. All I can tell him is we are trying our best to frame something for 24 months that will reduce the spike in premium costs and have as a backstop the Federal Government, but let the private sector try to solve these crises or problems in the interim, with us getting out of the business as soon as we can.

Mr. NELSON of Florida. Would the distinguished Senator from Connecticut yield for a further question?

Mr. DODD. I am happy to yield.

Mr. NELSON of Florida. The Senator has made much of the fact that this would suddenly be the Federal Government getting into ratemaking. Of course, the Senator would concede, would he not, that this is the first time the Federal Government would be getting into big time insuring an insurance risk?

Mr. DODD. I disagree. Facts will show after World War II we were the insurance company for acts of war. Acts of war occurred in World War II. The Federal Government was the party that paid the claims.

Mr. NELSON of Florida. And acts of war are exempt on every insurance policy that I know of as a covered risk. It is exempt.

I say to the distinguished——

Mr. DODD. I get nervous when he keeps calling me ''distinguished.''

Mr. NELSON of Florida. You not only are distinguished, you look distinguished.

Mr. DODD. You have a looking point, as well.

Mr. NELSON of Florida. You sound very distinguished, too, but I want you to answer my questions.

Mr. DODD. Yes.

Mr. NELSON of Florida. The question is, since we have the Federal Government involved big time under your bill, 80, 90 percent of the risk is going to be borne by the Federal Government——

Mr. DODD. My colleague has not read the bill. We are talking about $10 billion as the deductible level.

Mr. NELSON of Florida. Would the Senator concede under that complicated mathematical formula, often it is a fraction of a percentage of the total annual premium of a company that they will actually pay in an individual company in any one year?

Mr. DODD. My colleague is getting away from the amendment. That is not part of the amendment. Are we are talking the amendment or the underlying bill?

Mr. NELSON of Florida. Underlying bill.

Mr. DODD. It is a formula, a debate.

Senator GRAMM may offer an amendment on how you prefer to do it. On most cases, you have a consolidation. You do not have one insurance company covering one building.

Let me finish. You asked a question and I will respond.

Under the bill, you cannot have all of a sudden some fictitious insurance company getting set up. It is only the companies in existence as of September 11. The rate structures have to be what they were at the time. You cannot have someone taking advantage of this bill to create the phony entities allowing them to take advantage of the situation.

In the State of Florida, talking about something such as Disney World, start talking about the stadiums in Miami, for instance, there is not one insurer that covers those events. There is usually a collection that do. The idea of maintaining solvency which laws require in each State—you could have a smaller company, obviously as part of that. If you get levels where their percentage of the overall amounts are exceeded and the solvency of the company goes under, we have defeated the purpose of the legislation.

There is that distinction between industry-wide and company caps. That is why we drew that distinction.

Mr. NELSON of Florida. Maybe I can ask a question of the distinguished Senator to which he could give a yes or no.

First, I merely point out the fact with the Federal Government being so involved in assuming the terrorism risk, what will be charged for that risk is clearly a legitimate issue for the Secretary of the Treasury with the consultation of the States to determine what you ought to charge for that risk. Particularly given the fact that since this is only a 1-year bill and maybe a 2-year bill by the time you get to the end of that time, the 50 insurance commissioners of the country would not have even had a chance to determine if a rate was actuarially sound. Usually that is done only when the insurance companies file those rates, when, in fact, these rates are already in effect as indicated by this morning's newspaper.

Mr. DODD. Let me say to my colleague, we are doing here what is done in 40 States. My colleague is right; in 10 States they do it differently. We tried to set up a system that made some sense. That is, you are right, the rates go into effect but we still retain the strong involvement of your State insurance commissioners to go forward.

I ask unanimous consent a letter be printed in the RECORD that I received from the National Association of Insurance Commissioners on this amendment and their concerns about the amendment of distinguished Senator from Florida.

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

NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS,
Kansas City, MO, June 13, 2002.

Hon CHRIS DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: I am writing to respond to your request regarding the amendment offered by Senator Nelson of Florida regarding terrorism insurance rates.

While the National Association of Insurance Commissioners (NAIC) has not taken a formal position on the Nelson proposal, I do believe state regulators would have the following concerns:

To our knowledge, the Treasury Department does not have the infrastructure needed to monitor insurance rates as the amendment proposes. Putting such a monitoring mechanism in place could be cost prohibitive particularly when the underlying federal legislation is short-term in nature;

The provisions on refunds of premiums would be very difficult to enforce. Given the uncertainty of risk and the lack of pricing experience, the revised rates could be attributable to a host of other factors related to past or prospective loss cost (the cost of reinsurance, or poor return on investments in recent months), not the potential or historical acts of terrorism, but rather to past and prospective loss costs;

The separate accounting could cause reporting difficulties and added expense for insurers, insurance regulators, and presumably the Treasury Department. The marginal benefits and costs associated with collecting the information could outweigh the benefits that could be derived from the information. For instance, Section (b) requires a separate account for the ''premium increases'' and it cannot be used for anything but to pay for terrorism losses.

There is no discussion about what happens to the funds after the law sunsets.

At this time, state regulators already have the ability to address this issue, making additional federal oversight unnecessary.

I hope this responds to your concerns.

Sincerely,

TERRI VAUGHAN,
Commissioner of Insurance, Iowa,
President, NAIC.

Mr. DODD. The key paragraphs deal with the underlying issue; that is, the Treasury Department does not have the infrastructure needed to monitor insurance rates as the amendment proposes. Putting such a monitor mechanism in place could be cost prohibitive, particularly when the underlying Federal legislation is short term in nature.

These are the State commissioners. They say:

The separate accounting could cause reporting difficulties and added expenses for insurers, insurance regulators and presumably the Treasury Department. The marginal benefits and costs associated with collecting the information could outweigh the benefits that could be derived from the information.

Lastly they say:

At this time, state regulators already have the ability to address this issue, making additional Federal oversight unnecessary.

Mr. President, does my colleague have additional questions?

Mr. NELSON of Florida. Yes, I do. Is the Senator aware as a matter of practice insurance commissioners of the States basically do not set rates for commercial policies?

Mr. DODD. I understand how it works in different States. My point is, without getting into the minutiae of it, 40 States, as I understand it, allow in the commercial property and casualty area for rates to go forward if a rate request is made. They then retain the right to decide whether or not that rate is one they will accept. In 10 States, as I understand it—and my colleague is a former insurance commissioner so he may have more detail on this—and Florida could be one—do not allow the rate increase to go forward without there being permission by the insurance commissioner ahead of time. That is a general breakdown. Within some States they have ranges of rates, but the point being, the State insurance commissioner is the one that ultimately, one way or the other, decides rates. How each State does it may vary a little bit here and there, but we do nothing in this bill to undermine the ability of the State insurance commissioner to ultimately set the rates if they do it differently. We defer to the States on this issue historically, and we did so again in this bill.

Mr. NELSON of Florida. If I may respond, the NAIC, National Association of Insurance Commissioners, has formally adopted a new version of the property and casualty energy rate and policy form model law which essentially encourages the optional use and file system, which is a system where the companies file what they want without the insurance commissioner having to approve that rate ahead of time.

That is what I am trying to get across to the distinguished Senator from Connecticut. That, in fact, there is not this closely held tight reign out there in the 50 States by the insurance commissioners over what are the rates on commercial policies. When you use that as an excuse to justify not having some kind of mechanism by which we control the rate hikes on terrorism insurance under a bill that the Federal Government is basically going to support, the terrorism risk, it has the potential of taking the rates to the Moon.

Mr. DODD. I defer in some ways because my distinguished friend and colleague from Florida served as an insurance commissioner for the State of Florida. We asked the National Association of Insurance Commissioners to respond to the proposal. All I can tell you is that in this letter from the NAIC, the last line of their letter to me says:

At this time—

Again, they are working on the issue. My colleague has conceded that point—

the State regulators already have the ability to address this issue, making additional Federal oversight unnecessary.

I don't know what else you do. I do not always agree with them on every point. But it seems to me if the State insurance commissioners are satisfied that they are in a strong enough position to deal with this, whether or not they do in each State, I don't know what else you do. I know my colleague knows there may be some who are less strong than others on this point. But the choice is either relying on the existing structure to set rates or set up a new operation of the Department of the Treasury, for maybe 12 months—and we all know how long that could take—even if you wanted to defer to the Department of the Treasury. We could spend months with them putting together an apparatus to do so.

Again, if the intention here is perfection, I am not the guy. This is not the right bill. If you are asking those of us who sat down to try to work and fashion something that we think would be the right step forward, then I think we have done it here. If we have not, we are going to have to come back to this issue.

All I can say to my colleagues in good faith is we think we have done the right job. It is not all inclusive. We don't deal with workers' compensation in this bill. That is a huge issue. My colleague from Nebraska, the other Senator NELSON, has an amendment requiring some studies on life and other issues we do not cover in this bill that, frankly, are major gaps. But we just did not believe we could take on all of that under these circumstances. We tried to keep as focused as we could, knowing that the cost was, on September 11, a minimum of $50 billion. We know today that reserves could only accommodate about 20 percent of that event. That is a fact. And we know there are projects and jobs being lost every day in the absence of some kind of a backup, which is what we tried to craft.

I hope my colleagues will understand we have put together what we think is the best proposal. We urge them to be supportive of it.

I have great respect for my colleague from Florida and his passionate concern. He rightly points out the sense of people's anger, frustration, and anxiety over rate increases that go on all the time. It is terribly frustrating.

Certainly for people in Washington, DC, already we know the costs are going up. I wish I could wave a magic wand and make it go away. I think the best we can do, as I said, is to pass this bill, and then the justification for those cost increases, at least of the magnitude we may be seeing, is certainly going to be minimized by providing some backup to this issue.

For those reasons, I urge the rejection of this amendment at the time the vote occurs.

I see my colleagues from Nebraska and New Jersey. I do not know if they have any comments they want to make on this bill. If not, I can note the absence of a quorum. But if they want to be heard, I will be happy to yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank my colleague from Connecticut for putting together, with the assistance of a lot of folks, a bill that I think can help take off some of the pressure.

Mr. DODD. I made a mistake. We do deal with workers' compensation here. I am sorry. We do not deal with life.

Mr. NELSON of Nebraska. I thank my colleague for a very able job, putting together a bill with the assistance of a lot of individuals who have had a lot of experience dealing with these issues.

S. 2600 is a bill that I think can help bring some balance to the whole area that we today recognize as being imbalanced because of the events of September 11. The effects on our economy, our society, and our national psyche can never be overstated. They have adversely impacted the Nation's sense of security and stability, and our lives have been permanently changed in so many different ways that we could not have anticipated.

One cannot overstate the effects upon the families who lost their loved ones or those affected in other ways by the actions of the small number of terrorists, terrorists sworn to the destruction of the American way of life and for all that we stand.

There is not any way to return to the days before September 11, nor can we return the stability of our lives simply on the basis of economic decisions we make today. But I think we can begin the process of slowing down the impact, the adverse impact on our economy.

Congress can now act to help stimulate the weak economy and further avoid the negative consequences with this Federal backup, this ''backstop'' for catastrophic losses resulting from acts of terrorism in the future. By enacting this legislation, I think we can in fact see a turnaround in our commercial real estate market, mortgage lenders, the construction industry, and other segments of our economy.

This is a jobs bill, pure and simple, to make certain that our economy will in fact respond appropriately and positively rather than be adversely affected by the continuing lack of availability and a growing lack of availability of the property and casualty and workers' compensation coverages that are so important to the future of our economy. We must in fact respond to that.

I have learned firsthand the necessity of insurance in the commercial world. As a former insurance regulator, as someone who has been involved in the insurance business, or the field of insurance regulation, virtually all of my working life, with the exception of my public service as Governor and here in the Senate, this is not so much about——

The PRESIDING OFFICER. Under the previous order, the vote is to occur at 3:15 on the amendment, with 10 minutes equally divided prior to that vote. We are at that point now.

Mr. DODD. Mr. President, I will yield my 5 minutes to the distinguished Senator from Nebraska in opposition to the Nelson amendment. I have already spoken about it. Then Senator NELSON will have 5 minutes in support of his amendment.

I yield my time to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for an additional 5 minutes.

Mr. NELSON of Nebraska. Mr. President, what I am concerned about is if we adopt the current amendment to the underlying bill, while there is a temptation to try to control rates, it is absolutely antithetical to try to control rates at a time when we are not going to control the issuance of the coverage. We get the odd effect of not saying you must write it—and I hope we never get to the point of saying you must write this insurance, this line of coverage, that we never get to the point where that has to be required—but at the same time, if we say the rates are controlled, this market I do not think will continue to respond or have the opportunity to respond as if we passed the underlying bill without this amendment.

I respect a great deal my colleague from Florida, my namesake, who has had similar experience to mine. But my experience has been different. That is, if we try to control the rates, if we try to create a quasi-Federal rate control structure for a very short period of time, or for a long period of time, we will not enhance the availability of insurance, we will get just the opposite result.

Therefore, I hope as we look at this amendment today—and it pains me to take issue with my friend from Florida, but I must in fact say this—it will not enhance the availability of insurance, in my opinion and from my experience, but it will in fact deter the growth of the market. It will help reduce the availability of the coverage and not enhance it, as does the underlying bill as it is right now.

Whereas it may be amended by other amendments, and I intend to offer one that in fact will enhance the availability of more terrorist coverage in the commercial lines in those areas that are currently being so adversely affected and impacted by the absence of this backstop, it is about jobs, it is about the economy, less so about insurance.

Mr. President, I yield the remainder of my time to the distinguished Senator from Connecticut.

Mr. DODD. Madam President, in the interest of time, I yield my time and leave the remaining time to the proponent of the amendment.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Florida.

Mr. NELSON of Florida. Madam President, I would like to close on my amendment.

This has been a good debate. Again, although I have serious reservations about this legislation, I did not prevent it from coming to the floor, which I could have done last night.

I appreciate the distinguished Senator from Connecticut engaging in the colloquy, the series of questions and answers. I hope it is better understood. Now I would like to make a couple of points before we vote on the amendment, and I will ask for the yeas and nays.

First of all, I want to correct something the distinguished Senator from Nebraska said.

In fact, terrorism insurance under this bill is mandatory. That is the whole point of setting the system up whereby the Federal Government is coming in and backstopping insurance companies. It is mandatory for all commercial property and casualty insurance. The insurance is there. The Federal Government is picking up most of the tab. If the loss occurs, who is paying? The consumer is paying through the premiums that have already been hiked as chronicled daily over the last 6 months, including this one in today's paper talking about a 300-percent increase in the last 6 months. That, in fact, is what has happened.

What should we do about it? We have to make insurance available. That is part of the reason for the underlying bill. But we also have to make it affordable.

When rates get hiked 300 percent, you are getting to the precipice of whether it is affordable.

Don't just think it is the big real estate conglomerates that are having trouble getting this insurance. This affects small businesses as well. Whatever the size of the business, these rate hikes are going to be passed on to the consumers as a cost of doing business. The huge rate hikes are going directly to the consumers.

I reiterate that consumers and taxpayers do not like to have their Senators voting to increase their taxes. Let me tell you what they do not like even more: They do not want their Senators approving legislation that causes rate hikes to be etched into law.

I come forth humbly and respectfully with an amendment that says we are going to put a process in place—that we are going to put this process in place that says the Secretary of Treasury is going to consult with the NAIC and other Federal agencies as to what ought to be the range of a rate hike or rate decrease, whatever is warranted; and, furthermore, where there has been the huge increase already, but then the Secretary says the rate increase ought to be there or not there for the remainder of that policy, that difference has to be rebated to the policyholder.

Naturally, this is stepping on some toes because it not only puts a process of logic in the handling of rates, but it causes rebates to go back where the rates have been determined to be excessive.

Senators, hear me. This is a dangerous vote. Watch out what you are voting on as you vote on the Nelson amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. REID. Madam President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Vermont (Mr. JEFFORDS) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote ''no.''

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. CRAPO), and the Senator from Virginia (Mr. ALLEN) are necessarily absent.

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

The result was announced—yeas 70, nays 24, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—70

Allard	Edwards	Murray
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Feinstein	Reed
Breaux	Fitzgerald	Reid
Brownback	Frist	Roberts
Bunning	Gramm	Santorum
Burns	Grassley	Sarbanes
Byrd	Gregg	Schumer
Campbell	Hagel	Sessions
Cantwell	Harkin	Shelby
Carnahan	Hatch	Smith (NH)
Carper	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Kerry	Stevens
Conrad	Kyl	Thomas
Corzine	Lieberman	Thompson
Craig	Lott	Thurmond
Daschle	Lugar	Voinovich
DeWine	McCain	Warner
Dodd	McConnell	Wyden
Domenici	Miller	
Dorgan	Murkowski	

NAYS—24

Akaka	Feingold	Levin
Baucus	Graham	Lincoln
Biden	Hollings	Mikulski
Bingaman	Johnson	Nelson (FL)
Cleland	Kennedy	Rockefeller
Clinton	Kohl	Stabenow
Dayton	Landrieu	Torricelli
Durbin	Leahy	Wellstone

NOT VOTING—6

Allen	Crapo	Inouye
Boxer	Helms	Jeffords

The motion was agreed to.

Mr. DODD. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DODD. Madam President, I know my colleague from Nevada wants to be heard for a few minutes as in morning business. I will make an appeal here, as I see the leader on the floor. I only know of a couple more amendments at this point. Maybe there are more. If there are, I would like to know about them so I can have some idea and let the leader know, or give the leader an idea as to how we are going to be proceeding.

I know Senator GRAMM may have an amendment. I gather that Senator HATCH's may be withdrawn. I know there is an amendment by Senator LEAHY. There will be a colloquy between Senator COLLINS and Senator BEN NELSON. My colleague from Oregon, Senator WYDEN, has an interest in an amendment as well. Senator NELSON of Florida also has an amendment we may try to take up.

Those are the parameters at this point. There may be other amendments. If there are, let's get some sense of it so the leader can set a schedule.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, if it is possible to go to third reading tonight or tomorrow morning, I would like to entertain that. The sooner we can do that, the better. Colleagues are interested in taking up the Defense authorization bill. That is something we hope we can take up very quickly. There are other issues out there that have to be addressed. So if it is possible to go to third reading tonight, I would like to be able to do that very much. If there are additional amendments, this is the time to offer them, or we will move to third reading shortly.

I urge my colleagues to come to the floor and dispose of their amendments so we can bring this bill to closure and move on to other matters of great priority before we leave for the Fourth of July recess.

I yield the floor.

Mrs. CLINTON. Madam President, I am here to express very strong support for S. 2600, the Terrorism Risk Insurance Act of 2002. I know we have had debate and a couple of votes, but I want to underscore how important this legislation is to the State of New York and to the ongoing economic challenges we confront because of September 11.

This legislation provides a temporary Government-industry program for sharing property and casualty insurance losses; in short, what is called a Government backstop. The loss sharing program would run for just 1 year, although it could be extended for an additional year.

We are only talking about a temporary fix until the marketplace gets back on its feet and we get a reinsurance industry that is willing to backstop the insured and their losses. I hope all of my colleagues understand how significant this legislation is to so many industries and particularly in the State of New York.

Under the legislation, if there were a terrorist attack that results in more than $5 million in insured losses, insurance companies would collectively cover total losses of up to $10 billion. Companies would contribute to that $10 billion amount based upon their individual market shares.

If the losses exceeded $10 billion, but were less than $20 billion, then the Federal Government would pay 80 percent of the losses and the insurance industry would cover 20 percent. If the losses were more than $20 billion but less than $100 billion, the Federal Government would pick up 90 percent and the industry would cover 10 percent. And if there were more than $100 billion in losses, the Secretary of the Treasury would notify the Congress, and we would then determine how losses over that huge amount would be covered.

All property and casualty insurance, except crop and mortgage insurance, would be covered. The bill would also cover not just insurance companies, but also those which self-insure, which includes many businesses in New York and across the country.

I have heard so many concerns expressed by businesses in New York. I have heard it from the real estate industry, from the Association for a Better New York, which is the equivalent in many ways of the Chamber of Commerce in New York City, from New York City Partnership, which also acts to bring businesses, large and small, from all different sectors of the economy together to speak with one voice. But throughout New York City and throughout New York State, throughout certainly the larger New York area, which includes New Jersey and Connecticut, the problems associated with obtaining terrorism insurance have become a matter of great immediacy and urgency.

In fact, the department of insurance superintendent, Gregory Serio, has recently met with me to confirm that it is not just individual companies that are running into problems, it is a systemwide challenge to the fundamental concept of being able to provide insurance for our businesses.

Mr. HATCH. Will the Senator yield for a unanimous consent request?

Mrs. CLINTON. Certainly.

AMENDMENT NO. 3839 WITHDRAWN

Mr. HATCH. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from New York.

Mrs. CLINTON. I want to give one example. I could literally give so many examples in this Chamber because they have flooded into my office and come to my attention and to my counsel's attention for weeks now. Francis Greenberger of Time Equities, Inc., a real estate investment firm, has confirmed to me that the insurer they had before September 11 required their company to buy terrorism insurance for four properties: three in New York and one in Madison, WI, an apartment building.

They were required to insure the property in Madison, WI, against terrorism, despite the fact that it is clearly not near New York City. It is not an area where there have been a lot of threats, but, nevertheless, in order to get the terrorism insurance where it was needed in New York, the four properties were lumped together.

The cost of the insurance premiums for these properties rose from $191,500 pre-September 11 to $664,300, an increase of 347 percent. Even with these

exorbitant premiums, the amount of terrorism insurance coverage that the company received for these much higher premiums was actually 50 percent less than the amount of coverage it had previously received.

In addition, the new policy excluded bioterrorism and nuclear attacks and had a deductibility of more than $1 million. By any standard, that is a terrible burden to try to absorb, especially during an economic downturn in the wake of the terrorist attack on New York.

That is not by any means a unique story. I have heard many like it from not only real estate holders but construction contractors, stadium owners, sports teams, amusement park owners, banks, and not just in New York but people who do business, literally, all over the country.

The lack of insurance has affected the ability of many developers to close real estate deals, to complete old ones and to start new ones. So at least in our part of the world new offices, residential buildings, new hotels, and new entertainment centers are either on hold or being forced to expend much more money than any reasonable assessment of the risk should call for.

In addition, we know the reinsurance market ends on July 1, so there is urgency for us to act. I appreciate my colleagues on both sides of the aisle who are working to get this legislation passed. It is not only the private sector; it has also been a real challenge for hospitals. Again, the New York insurance superintendent has reported that hospitals were the first New York business to experience significant difficulties in obtaining adequate and affordable property coverage for their facilities.

We also have problems with our major philanthropic organizations. They operate hospitals. They operate museums. We have an across-the-board problem in getting the kind of insurance that is required, and, in many instances, what has been offered is far from adequate. Many, as I said, exclude certain kinds of terrorism. They tighten up the definition of occurrence. Then they jack up the prices so that it is not affordable anyway, even though it is not very good coverage. In many cases, the insured has no choice.

I do hope we are not only going to pass this and pass it as soon as possible, but that we will recognize another area of difficulty, and that is with respect to workers' compensation coverage. Under New York law, primary insurers providing workers' compensation coverage cannot exclude terrorism coverage. Therefore, many primary insurers are dropping their insureds and refusing to offer workers' compensation anymore at all.

I understand it was the intention of Senator DODD that workers' compensation insurance would be covered by this bill under the general rubric of commercial lines of insurance. I have some concern, however, because a number of types of insurance are specifically defined, but workers' comp is not. I understand, though, that Senator DODD will address this issue and will make it explicitly clear that workers' compensation coverage is also covered by this legislation. I wish to thank Senator DODD and his staff for recognizing this potential oversight and moving to remedy it.

In conclusion, I am delighted that this bill is finally being debated. Many of us have been urging that it arrive as soon as it could. We are now right in the crunch period because reinsurance in most instances disappears in just a few weeks on July 1. Workers' compensation is not even being written right now in New York in many instances, so we must move.

I have said from this floor many times in the last months that when New York was attacked, it was an attack on America. The economy of New York is absolutely crucial to the full recovery of America, and there is no more important legislation than the one we are considering now to ensure that economic activity resume at the highest possible level and that we not only put New Yorkers back to work but that, because of the dynamism of the New York economy, we send out that energy that will get our national economy moving in the right direction as well.

So I thank the sponsors. I look forward to the vote on this, and I appreciate support for this important legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, while the majority leader is on the floor, I want to certainly recognize the fact that this is an important piece of legislation. We have been told that people have wanted this for months, going back to last December. Here it is, Thursday afternoon and there is no one else on the Senate floor.

As the majority leader said and as I have tried to say in representing what the majority leader has said to me, really we have to move this legislation along. There is so much left to do without our being here doing nothing.

I would say as the leader said this morning, if there are no amendments, maybe we should move to third reading, if people do not have amendments to offer. The majority leader has been very generous saying people should have the opportunity to offer all the amendments they want. There will certainly be no rush to filing a motion for cloture.

But I just say to the majority leader, I hope everyone heard what the majority leader said earlier today, that we have to move ahead. Here it is Thursday afternoon and nothing is moving.

Mr. DASCHLE. Mr. President, if I could respond to the distinguished assistant Democratic leader.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. He is absolutely right. I have indicated to the distinguished Republican leader it was not my intention to file cloture today, even though obviously that is the prerogative of the majority leader. We have no designs to do that. But we also recognize that we have a lot of work to do. It is not my intention to file cloture today. I hope colleagues who have amendments will offer them and we can have votes on them. If there are no amendments, we will move to third reading sometime very soon.

If there are objections to moving to third reading, our colleagues are going to have to come over and physically object. We cannot waste what is valuable time on the Senate floor waiting for Senators to offer amendments if there are none. So we will make our best effort to determine the degree to which there are Senators who still wish to offer amendments. Time is running out. We will move to third reading shortly if no amendments are offered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

GRANDPA DASCHLE

Mr. BYRD. Mr. President, with great pleasure, I call attention to a new Democrat's having been brought forth in this Congressional election year. With even greater pleasure, I point out that our distinguished majority leader has become a grandfather for the first time.

This new Democrat, Henry Thomas Daschle, arrived with the angels last Friday. Being a Democrat, I always welcome a new member to our party. Being a grandfather, I know the joy and pleasure that a grandchild brings.

There is nothing so wonderful as cradling in your arms a swaddled baby. It awakens in one so many emotions. It is a one-of-a-kind experience. A newborn fairy glows with freshness and the promise of the life to come.

But a grandchild is beyond special, and the birth of one's first grandchild is an experience nearly beyond verbal description.

The birth of one's own child is tempered by a certain apprehension. With this fragile baby, there also comes the responsibility of protecting and molding a tiny, dependant creature until adult status arrives. Parenthood is truly a delicate balance of bounteous love and serious responsibility.

But to become a grandparent and to see oneself being projected on, on into the eons in the future, one has really reached his first plateau of immortality. It is a higher plateau. It is a completely different kind of experience. It is pure joy. As a grandparent,

the diapers that one changes will be because one volunteers to change them. Won't have to do it. Somebody else can do it. But one volunteers to do it.

Shameless spoiling can be the order of the day without guilt. You can spoil those grandchildren and then let the parents take them home. Elder wisdom can be meted out with the sure, certain knowledge that admonishments will follow to ''listen to Grandpa. He is wise.''

The first grandchild, so delicate, and yet so determined to join this turbulent but wonderful world, stirs the heart and vividly demonstrates man's enduring link to the eternal. A grandchild is the sweetest, most profound measure of time's passage. In innocence and promise, that tiny being links generation to generation and embodies mankind's persistent, stubborn hope for a brighter future in spite of the difficult lessons of the past. As Carl Sandburg said: ''A baby is God's opinion that life should go on.''

A grandchild is living, breathing proof that significant components of the fortunate grandparents' DNA will still be in evidence hundreds of years hence. Grandpa's dimples or Grandma's curly hair will most certainly be remarked upon by future family members as they compare their own likenesses with treasured old photos in the family album.

Grand babies and great grand babies are part of the long continuum of mankind's collective experience on this lovely sun-washed planet. They are the reason we occupants of planet earth strive to make life better and commit our resources to alleviate suffering and disease. The entire rationale for every effort to improve our world, and the millions and tens of millions of good works toward that end performed by homo sapiens across the whole panoply of history, can be understood in an instant when one hears the tenuous first cry of a newborn child. It is a wonder beyond wonders; an affirmation of God's love; and a tangible demonstration that hope is not a futile emotion. And so today, I would like to dedicate these few beautiful lines by William Wordsworth to Henry Thomas Daschle and to Grandpa DASCHLE:

Our birth is but a sleep and a forgetting:
The soul that rises with us, our life's star,
Hath had elsewhere its setting,
And cometh from afar;
Not in entire forgetfulness,
And not in utter nakedness,
But trailing clouds of glory do we come
From God, who is our home:
Heaven lies about us in our infancy!

I extend my heartiest congratulations to Senator DASCHLE on his first grandchild, and I wish the best to his son, Nathan and wife Jill, who also had an important role in last Friday's grand happening.

The PRESIDING OFFICER (Mr. REED). The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from West Virginia, the distinguished senior Senator, how much I personally appreciate these kind remarks about Senator DASCHLE being a grandfather.

On the floor is my friend from Vermont. We have spent so many pleasant months, spending hours, I am sure, talking about our own children and how we look forward to being able to visit with our grandchildren. Senator DASCHLE will be a great grandfather. It takes those who are grandparents to really tell Senator DASCHLE, it will take a little while before he really appreciates what it means to be a grandfather, to see those beautiful children. No matter how calculated you try to be, you see those children as you.

I also congratulate my friend, Senator DASCHLE, on the birth of Henry Thomas Daschle. I have seen a picture of him, and as Senator DASCHLE told me, as far as I am concerned, he looks just like him.

Mr. LEAHY. Mr. President if I might add, I saw the same picture. Actually, Henry Thomas Daschle is better looking than our distinguished majority leader.

We have so often rancorous debate, we are always so busy, it seems our dear friend, the senior Senator from West Virginia, knows best when to come to the floor and bring us back to the human side of the Senate. He, knowing the Senate better than all of us, brings us back to the human side with poetry. My late mother used to read the CONGRESSIONAL RECORD every day looking for poems by ROBERT CARLYLE BYRD.

And today to have those who are grandparents, as Senator REID, the distinguished senior Senator from Nevada said, to pass on this wisdom to our majority leader. He is going to get this wisdom from us about being grandparents whether he wants it or not, but we will pass it on. It is the most wonderful time of your life. This will be the first of two this year, and that makes it even better.

I might say to my dear friend, the majority leader, this is a very fortunate grandchild to have him as the grandfather, just as the parents are very fortunate to have Tom and Linda Daschle to love and help this child.

The Leader will find there will come a time as the child gets a little bit older and is able to come to you with unreserved love, wanting to be with grandfather, as busy and as peripatetic a life as have the busiest people, with the greatest responsibilities of anyone in this country, all of that will come to a screeching halt when that child—my dear friend from West Virginia and dear friend from Nevada know—climbs on to your lap and says, grandpa, can you read me this book or read me this story. It has probably been read a dozen times before. I don't care whether your hotline is ringing, I don't care whether 99 Senators are calling, I don't care whether the President of the United States is calling, I don't care who it is, you will find, of course, that book that you read 10 times already naturally, to get it right, you have to read it again. Your whole universe will go around that.

I congratulate you. Those who have been there know it truly is the best part of life. It goes beyond all the things you have accomplished, which are so great. And it was your children who did the accomplishment for you. It is the best of all possible worlds.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I am humbled and extraordinarily grateful for the generous words of my colleagues. Senator BYRD has honored me once several years ago when he was gracious enough to nominate me for the position of majority leader. Oftentimes his words are repeated in introductions all over the country, and I have not forgotten that special moment. I will be forever grateful to him for those words on that day.

But I must say I am equally honored this afternoon that Senator BYRD would come to the floor and honor my grandchild as he has. This is a very joyous occasion for my family. I must say, I believe that the words just spoken will probably be read and spoken and reiterated and kept and treasured longer than the words spoken about my nomination as majority leader. They will probably terminate when I pass, but the words spoken to my grandchild will go on for generations. So his willingness to come to the floor and speak as he has means so much to me.

I would also say, as much as I have learned from him as a Senator, that may pale in comparison to what I think I may learn from him as a grandfather. So I thank him for his kindness and for his willingness to make this moment in our lives even richer.

I do not have two dearer colleagues in the Senate than I do in Senator REID and Senator LEAHY. They are like family to us—to my wife and my children. For them to join Senator BYRD on this glorious day means so much to me. I am grateful to them for their generous words and for their willingness to join in this colloquy.

I had a special day today that I shared with Senator BYRD. Just this morning my daughter called very excitedly to say our second grandchild will be a daughter. She will be born sometime in late October or early November. So we will have one grandson and one granddaughter this year. I cannot be more blessed. I cannot feel more hopeful and happy than I do today—first, to have the recognition for our grandchild and, second, to know that this joyous occasion will be extended by yet another grandchild, who will be a granddaughter, later this year.

One of my friends once said that our children and grandchildren are messages to a future we will not see. I thought a lot about what that means, the kind of message we are sending. I can only imagine the message the Byrd grandchildren and the Reid grandchildren and the Leahy grandchildren

will be sending to that generation, that future we will not see. They will send a message of love, a message of stability, and hope, a message that they have taken from their grandfathers and grandmothers with such abundance.

It is a message about this country that is embraced in these three Senators and passed on to their children and grandchildren, a message that I think makes this such a special country. It is a country that for so many reasons gives hope and new faith to future generations through our children and our grandchildren.

I hope we can send a strong message to those future generations through our grandchildren—by reading them books, by loving them, by giving them the attention they deserve, by changing their diapers—when we want to, and by recognizing what a glorious miracle life is, in the eyes and faces of those tiny grandbabies who grow up to be the leaders of a wonderful nation.

I, again, thank my colleagues for their generous words and for making this such a special moment for me as a Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. May I be so bold as to close this pleasant interlude with these words to Henry Thomas Daschle:

First in thy grandfather's arms, a new-born child,
Thou didst weep while those around thee smiled;
So live that in thy lasting sleep,
Thou mayest smile, while those around thee weep.

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

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

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

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

TERRORISM RISK INSURANCE ACT OF 2002—Continued

Mr. SCHUMER. Mr. President, I ask to address the House—I mean the Senate. I am still used to the House, I am sorry. I had 18 years there. I ask to address the Senate on this issue.

The PRESIDING OFFICER. The Senator has that right.

The Senator from New York is recognized.

Mr. SCHUMER. Thank you, Mr. President.

Mr. President, I spoke briefly a bit earlier on this legislation, but now that we are getting pretty close to try to tie the final knot and get the bill done, I do want to address it once again.

First, again, I thank my colleague from Connecticut, Senator DODD, who has worked so long and hard on this legislation. I also thank the chairman of the Banking Committee, Senator SARBANES, who has been a good, careful guider, and JON CORZINE, my colleague, as well.

The four of us have been laboring on this proposal for a very long time. I hope we can actually pass legislation tonight.

This is extremely important legislation. But it is deceptive. We are not getting many calls. When you walk into your local townhall meeting—or if I go into one of my favorite places, McGillicuddy's Pub, on Quentin Road, they don't say: Hey, CHARLIE, what's doing on terrorism insurance? It is not an issue on the lips of the average citizen. But it affects the average citizen, and greatly.

The reason is very simple: Without terrorism insurance, large numbers of construction projects will not go forward. Banks will not lend unless they can have terrorism insurance. And insurance companies, while they are offering terrorism insurance in many cases, are offering that insurance at such a high rate that many projects are simply not going forward.

What does this mean for the national economy? It is a slowly bleeding cut on the arm of our economy. But every day, when a new project is not refinanced, when a new proposal to build something large and grand does not go forward, is a day our economy is hurt.

The reason is very simple. Since 9–11, we fear terrorist attacks, and we fear them on large concentrations of economic power, of economic wealth. They could be in cities—my city, of course, has many of these—but they could also be not in cities, Disney World or Disneyland in Florida and California. The Hoover Dam, every stadium, no matter where it is in the country, is suffering effects. We have heard from the owners of baseball and football about how their costs are dramatically rising. And it will continue to occur. In fact, it will spread. The dramatic increases in costs, the failure to do new projects will continue unless we do something.

I know there are some who believe: Well, the Government should not be involved. I strongly disagree.

The Government has always been involved in cases of war. We have always been under the rule that in cases of war the Federal Government will step in.

Well, since 9–11, the rules of war have been redefined. Terrorism is war. So if I had my druthers, I would have a one-page bill, something similar to what I worked out with Secretary O'Neill, that would say: Should, God forbid, the next terrorist incident occur, the Federal Government will step in.

That is what we would do in the case of war. If, during World War II, the Germans or the Japanese had hurt the American homeland, that is what would have happened; the same thing with Korea, and the same thing when we faced the cold war with Russia. I don't know why it is any different now, but some have had objections. They don't want to see the Federal Government's role expand, even though if there was ever a place that role should be needed, and make sense, it is here. They have opposed that.

So we came up with a compromise. The Senator from Connecticut, actually, the Senator from Texas, Mr. GRAMM, and myself had a compromise that was put on the floor in late December. We tried to have a balance between those of us who believed the Government should be fully involved and those of us who felt—on the other side, mainly—the Government should not be involved at all. We came up with a proposal.

Unfortunately, it did not come forward, not because of objections to the proposal but, rather, it ran up against the age-old whirlpool, if you will, of tort reform.

It ran up on the shoals of tort reform, as many other proposals have in this body in recent years, and nothing got done. I was delighted to see the McConnell amendment defeated for the main reason that had it passed, we would not have had a bill. It seems we have stepped past probably the greatest impediment to the proposal, and now we have other issues. I want to talk about one of those.

Before I do, I want to make a few points. First, I want to talk about my city of New York and give people some examples. Examples could occur in their cities as well. I have talked to my friend from Illinois, Senator DURBIN. The same thing is happening in Chicago. I have talked to real estate leaders in Dallas and Houston and San Francisco and Los Angeles. In all of our large cities, the same thing is occurring.

Let me cite some examples: 4 Times Square, one of our newest, most beautiful buildings known as the Conde Nast building, is in litigation with its lender due to the absence of terrorism insurance coverage. The lender, La Salle Bank and CIGNA, had threatened to invade the lockbox into which rents are deposited in order to buy $430 million in terrorism insurance, the amount of the mortgage. The insurer for the portfolio held by the owners of 4 Times Square has refused to write coverage for this building claiming it is high profile. Even if the $430 million of coverage was available, it wouldn't cover any of the environmental risks, nor would the owner's equity of $450 million on this $880 million be covered.

In downtown New York, a 1 million-square-foot office building could not obtain refinancing for the underlying mortgage of approximately $200 million because terrorism insurance was unavailable. Finally, a lender agreed to go forward if the owner committed to pay $1 per square foot for stand-alone terrorism insurance coverage. At the same time that the owner faced that additional $1 million drain on cashflow, he had to absorb an increase in his regular insurance from $110,000 to $550,000. That additional cost did not cover mold or biological or nuclear or chemical events whether terrorist-generated

or otherwise. The owner now has a $1,440,000 additional expense.

A major REIT with properties in central business districts from New York to California can get only $250 million of insurance for the entire portfolio. And if there is one more terrorist incident—God forbid—it is likely that even this limited terrorism coverage will be lost given its not uncommon 30-day cancellation clause.

A major residential and mixed use owner-builder renewed their all-risk insurance a few months earlier than the expiration date for that carrier and was about to lose its treaty agreement for reinsurance and could only write $5 million. The list can go on and on and on of buildings that couldn't get terrorism insurance, that had to pay so much that it virtually made them non-economic, of new projects not started.

To simply and blithely say the market will come in and cover this is not true. Just last Friday, another drain on the body economy of my city, but this is happening in other cities as well, Moody's put 12 buildings in New York City on watch for possible downgrading of their bonds, the whole cost of financing, because of terrorism insurance. These include some of the premier properties in New York, including the Exxon building, the Bankers Trust building, Celanese building, the Conde Nast building, Rockefeller Center, the Marriot Marquis Hotel—the list goes on.

So anyone who thinks this is not a problem, anyone who thinks the market is solving this problem on its own is simply not understanding what is occurring.

I am not the only one who thinks this. I ask unanimous consent to print quotes from others in the RECORD.

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

ECONOMIC DISLOCATION RESULTING FROM THE TERRORISM INSURANCE MARKET TURMOIL

President Bush Calls For Action:

''If people can't get terrorism insurance on a construction project, they're not going to build a project, and if they're not going to build a project, then someone's not working. We in Washington must deal with it and deal with it in a hurry.'' (Source: President Bush during a White House gathering on terrorism insurance 4/8/2002)

New Congressional Study Finds Lack of Terrorism Insurance Risky to Economy; among the study's principal findings:

''The market for terrorism insurance remains limited.

''Only a small number of insurers are actively providing stand-alone terrorism insurance policies.

''When available, coverage for terrorism losses is expensive, terms of coverage are restrictive and policy limits are often insufficient.

''The problems associated with terrorism insurance pose a significant threat to sustained economic growth.

''The lack of terrorism insurance is stopping some business deals, such as real estate and construction projects where terrorism insurance may be necessary to obtain financing.

''The high cost of terrorism insurance (when available) diverts resources from other more productive uses, negatively affecting investment and jobs.

''Low coverage limits in terrorism insurance policies mean that businesses are bearing a huge amount of risk themselves. In the event of another attack similar to that of September 11th, insurance payments will not be available to the same degree to rebuild.'' (Source: Joint Economic Committee, United States Congress, ''Economic Perspectives on Terrorism Insurance'' 5/23/02)

Top Officials Warn of Continued Terrorist Risk:

''I think we will see that in the future, I think it's inevitable.'' (Source: Quote from FBI Director Robert Mueller when asked of the possibility the U.S. could expect walk-in suicide bombers, Wall Street Journal Online 5/20/02)

''Terrorism is an evil, pernicious thing, and it is one of the biggest challenges we've ever faced as a nation.'' (Source: Vice President Dick Cheney as quoted in the Wall Street Journal Online 5/20/02)

''Senate Majority Whip Harry Reid (D–Nev.) said June 4 on the Senate floor that action on the legislation is needed to maintain stability of the country's economic infrastructure. 'One issue we must seek to work on quickly, expeditiously, is getting a bill out of this body to address the growing problem of a lack of insurance coverage due to the threat of terrorist attacks,' Reid said. Pointing to a similar move by Moody's Investors Service May 31, Reid urged a compromise on the legislation and called on the White House to assist in moving the legislation. 'Significant building projects, if not already on hold, could be placed on hold until the terrorism insurance issue is resolved,' Reid said.'' (Source: Banking Daily 6/6/02)

''In just facing the facts, we have to recognize that terrorist networks have relationships with terrorist states that have weapons of mass destruction, and that they inevitably are going to get their hands on them, and they would not hesitate one minute is using them,'' Rumsfeld said. ''That's the world we live in.'' (Source: Defense Secretary Donald Rumsfeld as quoted in the Washington Post 5/22/02)

''The FBI also heightened anxiety levels in New York by advising officials that landmarks there could be terrorist targets. Officials said the advisory was based on the same kind of uncorroborated information that has led to other notices to law enforcement in recent weeks about threats to banks, nuclear power plants, water systems, shopping malls, supermarkets and apartment buildings.'' (Source: The Washington Post 5/22/02)

''We believe the Congress should enact a federal terrorism risk insurance backstop in a timely fashion for four primary reasons. First, lack of coverage and high premium rates imply a drag upon our economy and a burden to the nascent recovery, including the potential for a loss of even more jobs. Second, the cost of lost and postponed investment opportunity is potentially large for future economic growth. Third. inaction paralyzes the private sector. Finally, the economic impact of another terror attack could be even greater than the September 11 attacks.''(Source: Lawrence B. Lindsay, Assistant to the President for Economic Policy in a letter to Steve Bartlett and Edward C. Sullivan—3/18/02)

Federal Officials Sound the Alarm:

''I think there is still great urgency to pass the [terrorism insurance] bill. I think there is a very important level of exposure here that needs to be addressed.'' (Source: Senate Majority Leader Tom Daschle remarking on the issue at the National Press Club 5/22/02)

''[Insurance] is a crucial aspect of a fairly large segment of the economy. In this case, it is impossible for insurance to [determine the risk for terrorism insurance] The problem is really the types of real estate activity being held up, whether delays in construction and building and that sort of thing are having a significant impact on the economy.'' (Source: Federal Reserve Chairman Alan Greenspan, to the House Financial Services Committee 2/27/2002)

''There is a real and immediate need for Congress to act on terrorism insurance legislation. The terrorist attacks on September 11 have caused many insurance companies to limit or drop terrorist risk coverage from their property and casualty coverage a move that leaves the majority of American businesses extremely vulnerable. This dynamic in turn threatens American jobs and will wreak havoc on the entire economy in the case of future attacks.'' (Source: Treasury Secretary Paul O'Neill in a statement issued on 4/8/2002)

''The disruption of terrorism coverage makes it more difficult to operate, acquire or refinance property, leading to diminished bank lending for new construction projects and lower asset values for existing projects.'' (Source: letter to Congress from Treasury Secretary Paul O'Neill, National Economic Council Director Lawrence Lindsey, Office of Management and Budget Director Mitch Daniels, and Council of Economic Advisors Director Glenn Hubbard on 6/10/02)

''A fundamental necessity for a strong economy is confidence. The lack of confidence lingers in some parts of our economy, because of a lack of terrorism insurance. [Congressional failure to pass terrorism insurance legislation is hurting the economy.] People are delaying, postponing, canceling major construction projects because they can't get terrorism insurance.'' (Source: Treasury Secretary Paul O'Neill, as quoted by Bloomberg News 2/21/2002)

Construction Industry Hemorrhaging Jobs, AFL–CIO Calls For Action:

''Employment in construction fell by 79,000, after seasonal adjustment. Much of April's job loss was in special trades (−61,000), though general building contractors and heavy construction lost 12,000 and 6,000 jobs, respectively. Following the turn of the business cycle in March 2001, construction employment was relatively flat through the end of the year. So far in 2002, however, the industry has lost 155,000 jobs.'' (Source: Bureau of Labor Statistics News Release, May 2002)

''President Bush, like all of us here today, realizes that as long as terrorism is a threat, new job-creating projects are being delayed or canceled because we do not have adequate insurance coverage or workers compensation coverage available. The unions of the building trades and our members join with him in urging the Senate to pass terrorism risk insurance legislation without delay. The unavailability of terrorism risk insurance is hurting the construction industry by making the cost and risk of undertaking new building projects prohibitive. Building projects are being delayed or canceled for fear that they may be future terrorist targets. Lenders are refusing to go forward with previously planned projects where terrorism insurance coverage is no longer available. As a result, construction workers are losing job opportunities. In addition, workers compensation premiums have increased because state laws do not allow companies to exclude terrorism risk from workers compensation insurance.'' (Source: Speech by Edward C. Sullivan, President, Building and Construction Trades Department, AFL–CIO 4/8/02)

''According to new figures compiled by the Census Bureau, compared to March 2001, non-

residential construction was off by 19 percent, while office building construction suffered a 32 percent drop over the last year.'' (Source: U.S. Census Bureau)

Difficulty Obtaining Adequate Terrorism Coverage, Moodys May Downgrade:

''Moody's Investors Service has placed the ratings of classes from 14 commercial mortgage backed transactions on watch for possible downgrade due to concerns about terrorism insurance coverage. Moody's stated that the lack of, insufficiency of, or near term expiration of terrorism insurance coverage is the cause for these reviews for downgrade.'' (Source: Moodys Investor Service Press Release 5/31/02)

''Billions of dollars in commercial mortgage-backed securities, or CMBS, may face ratings downgrades by the end of this month if terrorism insurance legislation continues to stall in the Senate. 'If Congress doesn't pass something soon we will have to start downgrading bonds by Memorial Day,' said Sally Gordon, vice-president and senior credit officer at Moody's Investors Service in New York, which monitors about $350 billion CMBS.'' (Source: Dow Jones Newswires 5/3/02)

''The National Football League and individual teams and stadiums have experienced difficulty acquiring terrorism coverage. The Miami Dolphins and New York Giants have joined the ranks of other teams around the country that have lost terrorism coverage in the wake of the Sept. 11 attacks.'' (Source: Bureau of National Affairs 4/9/2002)

''Today, terrorism insurance can be purchased; although it has a higher premium, higher deductible and lower limit of coverage. High-risk assets the ones that serve the most people face such steep cost increases and diminished coverage, that it often makes sense to purchase only a fraction of the original coverage or no coverage at all. And that's if terrorism insurance can even be purchased.

''The federal government warns another terrorist attack is possible, and insurance policies have 30-day cancellation clauses. Thus, after another major attack, availability is expected to disappear. Separately, capacity and concentration issues for insurance companies are expected to arise, even in the absence of another terrorist attack. There are only a few companies providing terrorism coverage for high-risk assets and at least one has announced it is reaching its threshold for tolerance.'' (Source: Merrill Lynch Research Report, Mortgage Backed Research, 5/17/02)

''While acknowledging the insurance market and risk of terrorism is an evolving situation, rating agencies would gain comfort from a federal terrorism insurance program or an improvement in the insurance market. We have heard that the insurance market is more likely to evolve into a capacity-constrained market than it is to satisfy insurance neene is relying on the amount and the quality of insurance to counter balance the increased risk of terrorist attacks then one must also recognize that insurance policies covering terrorist acts have exclusions for losses due to atomic, biological or chemical terrorism.'' (Source: Merrill Lynch Research Report, 6/5/02)

''Premiums on standard property and casualty insurance have jumped by as little as 10 percent and by as much to 300 percent for owners of large urban commercial properties. They are scrambling to find coverage from a single insurer for properties worth more than $25 million, bond rating service Standard & Poor's said in a recent report. The rift between lenders and owners will likely deepen, investors and analysts say, until more affordable terrorism policies are available—or the government steps in.'' (Source: Reuters 5/27/02)

Wells Fargo Forced to Place Nearly $1 Billion Worth of Construction Loans on Hold:

''Wells Fargo & Company, one of the largest real estate lenders in the country, currently has three real estate projects that are ready to be funded. The only obstacle to moving these projects forward is the unavailability of terrorism insurance. They are: A $600 million commercial real estate project in Manhattan. A $260 million retail project in Queens, NY. A $120 million commercial project in Oakland, CA. (Information supplied by Wells Fargo & Company 4/8/2002)

Bond Markets Stall on $7 billion in Commercial Loans:

''The Bond Market Association announced April 18 that according to a survey of its members who deal in commercial mortgage-backed securities, due to the high cost or unavailability of terrorism insurance for property owners, this year large lenders have placed on hold or canceled more than $7 billion in commercial mortgage loans.'' (Source: Bureau of National Affairs 4/22/2002)

Hyatt Puts 2,500 Jobs On Hold, Seeks Terrorism Insurance:

''The Hyatt Corporation has purchased a site for a new office building in downtown Chicago at a cost of roughly $400 million. The company is now trying to obtain financing for this project but is being told that nobody will make loans without insurance for terrorism, yet adequate terrorism insurance is unavailable. As a result, construction on the project has not been able to begin. The project will lead to the creation of 2,500 jobs if the Hyatt Corporation can get insurance and proceed with the project.'' (Source: Bureau of National Affairs 4/9/2002)

The Problem of the Underinsured:

''Officials in Georgia's Gwinnett County, an Atlanta suburb, have been able to find only $50 million of terrorism insurance coverage for a $300 million portfolio of properties that includes the county jail and sewage treatment facility.'' (Source: Washington Post, 4/8/2002)

''The New York Metropolitan Transit Authority has $150 million of terrorism insurance to cover its bridges and tunnels, assets worth $1.5 billion.'' (Source: Washington Post, 4/8/2002)

''Some property owners are opting to go without [terrorism insurance] coverage. In the long-term, [the] limited or complete lack of terrorism insurance coverage threatens a property owners ability to get financing for new projects or to refinance existing properties.'' (Source: summary of remarks by Tony Edwards, general counsel of the National Association of Real Estate Investment Trusts, Dow Jones 1/15/02)

Building Projects Placed on Hold:

''In downtown Chicago, Pritzker Realty Group LP cannot get financing to build an office building because the project does not have terrorism insurance.'' (Source: Washington Post, 4/8/2002)

''Casino developer Steve Wynn has halted plans to build a $2 billion development in Las Vegas that would create 16,000 new jobs because he cannot buy enough terrorism insurance to satisfy his lenders.'' (Source: Washington Post, 4/8/2002)

Many Insurers Not Willing to Write Commercial Property Insurance:

''Wells Fargo is threatening to throw a $275 million securitized mortgage into default unless terrorism insurance is arranged for the collateral property the Opryland Hotel and Convention Center in Nashville.'' (Source: Commercial Mortgage Alert 5/31/02)

''The result of 9/11 was a sizable reduction in the number of available insurers willing to write commercial property insurance.'' (Source: Christopher Ewers, vice president of March Risk & Insurance Services, the brokerage for the Golden Gate Bridge 3/23/2002)

''However, the limited capacity that Lloyd's and other commercial insurers have available to write this business will not be sufficient in the near-term to satisfy the growing coverage gap in the United states economy.'' (Source: Saxon Riley, Chairman, Lloyds of London 4/18/02)

Difficulty in Assessing Terrorist Risk:

To date, terrorists have not behaved predictably, and no study we have seen suggests they will do so. We do not believe insurers have a reasonable basis for underwriting the risk at this time. At best, they can limit the amount of capital they expose to risk. Source: Alice D. Schroeder, senior U.S. nonlife equity insurance analyst for Morgan Stanley Dean Whitter & Co., testifying before the House Financial Services Committee 2/27/2002)

''Due to the changes in insurance coverage since issuance, the risks related to potential terrorist actions have been or in the near term may be transferred to the Certificateholders. While acknowledging that these risks are very difficult to quantify, a spokesman for the rating agency said, 'we believe that ignoring the risks would be inappropriate given the events of September 11th and continued government warnings of the likelihood of future terrorist attacks. While the probability of a major downgrade or default because of a terrorist attack remains fairly remote, the overall risk in these transactions has clearly increased.''' (Source: Moodys Investor Service Press Release 5/31/02)

Lack of Terrorism Coverage Constricts Lending:

''I have to assume that nobody in their right mind is going to lend $300 million, $400 million, $500 million if there's no terrorism coverage.'' (Source: GMAC Commercial Holding Corp. Chairman and CEO David E. Creamer, as quoted in the Philadelphia Business Journal 2/27/2002)

''Last year at any point in time we had a large number of single high-profile transactions to work on, and now we don't.'' (Source: Tad Phillipp, managing director of Moodys Investors Service, referring to lenders becoming wary about financing real estate deals, as quoted in the Wall Street Journal 1/11/02)

Transportation in Crisis:

''Considering the fact that trucking moves the majority of the freight in America, a crisis like this is a real problem for the national economy.'' (Source: American Trucking Association President and CEO William J. Canary, as quoted on ATAs website)

''Amtrak was unable to obtain terrorism coverage when its $500 million property insurance policy came up for renewal on Dec. 1. Amtrak believes that only limited amounts of terrorism coverage are available today, and that limited coverage is at extremely high rates.'' (Source: Bureau of National Affairs 4/9/2002)

A Growing Chorus Calls For Action:

''The story is only half-told right now. Over the year it will grow in magnitude.'' (Source: Marty DePoy, speaking on behalf of the Coalition to Insure Against Terrorism, which includes the National Association of Real Estate Investment Trusts, the U.S. Chamber, the National Football League, the National Retail Federation, and the Association of American Railroads, among several other diverse organizations 2/13/02

''The entire market that provided workers compensation catastrophe reinsurance has dried up.'' (Source: Timothy P. Brady, managing director, Marsh, Inc., as quoted in the Wall Street Journal 1/9/02

''[Higher insurance costs, higher deductibles and fewer insurance choices are] going to affect the cost of doing business for all companies. It might take a while to hit

the bottom line, but its something that affects the total company.'' (Source: James Shelton, regional risk manager at Manpower Inc., in Glendale, WI, as quoted by CNNMoney 12/31/01

''The situation that we're in at the moment is analogous to getting into your car without seat belts or the steel frame. If you're not in an accident, nothing's going to be affected. If you're in an accident, the results are going to be disastrous because you don't have the infrastructure in place to protect you.'' (Source: David Mair, risk manager for the U.S. Olympic Committee, quoted by Dow Jones 2/7/02)

''The real damage likely will come in the secured lending market. Depending on the size of the building, it's going to be hard to get mortgage and [commercial mortgage-backed securities] done.'' (Source: Richard Kincaid, chief operating officer of Equity Office Properties Trust, quoted by Dow Jones 1/16/02)

''This is a national problem. Everybody needs shoes to walk. Suddenly, shoes are not available. Its as simple as that.'' (Source: Deborah B. Beck, executive vice president of the Real Estate Board of New York, discussing the lack of coverage for real estate owners, as quoted by the Washington Post 1/15/02)

''It's little strange. You could understand [higher insurance costs] at signature buildings like Liberty Place and Mellon Bank Center. But the new building being built in Plymouth Meeting is facing the same soaring [insurance rates as the high-rises]. Its going to have a pretty dramatic effect on tenants. I had a lender in here today who said they have had to postpone a couple of settlements because the escrow required for first-year payments are prohibitive'' (Source: Walt DAlessio, chief executive of Legg Mason Capital Markets, a national real estate finance company, as quoted in the Philadelphia Inquirer 1/14/02)

''Ultimately, [increased insurance costs for terrorism for coverage] all passes down to you and I when we go shopping. Most of those costs will be passed down to our tenants in their operating costs and then to the products, whether it is a pair of jeans or a pound of coffee.'' (Source: Steven Sachs, insurance risk manager for The Rouse Co., which has 47 shopping malls and over 100 office buildings, as quoted by Dow Jones 12/21/01)

''The issue has nothing to do with the size of the property. It could be a manufacturing plant of 20,000 square feet or an office building of 2 million square feet. Theyre all affected.'' (Source: Jerry I. Speyer, president and chief executive of Tishman Speyer Properties, a prominent New York developer, as quoted in the Washington Post 01/15/02)

''One of the lessons learned from Sept. 11 is that many insurers have concentrations of risk that they had not previously factored into their underwriting decisions. Employee groups of 1,000 or more lives are common across Corporate America and even globally. Terror attacks on large corporate sites could easily bankrupt insurers with workers' compensation claims averaging $1 million or more.'' (Source: Standard & Poors 1/9/02)

''Our inability to obtain insurance on our properties could cause us to be in default under covenants on our debt instruments or other contractual commitments we have which require us to maintain adequate insurance on our properties to protect against the risk of loss. If this were to occur, or if we were unable to obtain insurance and our properties experienced damages which otherwise have been covered by insurance, it could materially adversely affect our business and the conditions of our properties.'' (Source: Host Marriott, L.P., in an S–4 filing dated 1/10/02)

''Washington's decision to postpone any action on apportioning the burden for terrorism coverage could have long-term negative economic consequences for business and the pace of recovery.'' (Source: New York City Partnership and Chamber of Commerce 2/11/02)

''Executives at the companies that service the hundreds of billion of dollars in commercial-mortgage-backed securities have already begun to question whether they are going to have to declare property owners in technical default if they lose terrorism coverage. These mortgage-servicing companies may have little choice. If they don't declare a default and the property is attacked by terrorists, they could face a lawsuit from bondholders.'' (Source: Wall Street Journal 2/13/02)

''Sales and refinancing of high-profile office buildings and other trophy properties are slowing, as the real estate industry grapples with the lower availability and higher cost of terrorism insurance. Owners of properties that can't get terrorism insurance are reluctant to speak out for fear of scaring tenants and drawing attention to themselves.'' (Source: Wall Street Journal 1/11/02)

''Some companies may have experienced troubles already but are unwilling to talk about them, especially publicly traded companies worried about the impact on their stock prices or builders concerned about their overall market.'' (Source: Hartford Courant 1/10/02)

''One developer in the New York area is close to finishing an office building for a solid tenant. [Its a company that has been around for decades and signed a long-term lease.] That sort of tenant is precisely what real estate lenders like. But the developers bank is no longer willing to finance the building because the owner cannot get adequate terrorism coverage. If the developer has to sink its own money into the effort, it will tie up capital the firm could use to start new projects.'' (Source: Washington Post 1/15/02)

Mr. SCHUMER. I have quotes from President Bush who stated last month how important this was; from the Joint Economic Committee of the Congress, ably chaired by our Presiding Officer, from May 23; from FBI Director Robert Mueller; from Vice President CHENEY; from Secretary Donald Rumsfeld; from Larry Lindsay; from Secretary Paul O'Neill; from Reserve Chairman Greenspan. All of these people are not known as people who believe the Government ought to come in and solve the problem at the drop of a hat. In fact, philosophically most of them are of the opposite view. They all felt the need to talk about terrorism insurance.

We have to move this legislation. We have to move forward. Again, each of us could have our own idea on how to make it better, how to change it. We know things will fall apart. My guess is, if we don't solve this problem now, we are not going to solve it until a crisis is truly upon us, until this slow drain on the economy, which the lack of terrorist insurance is causing, becomes not a flow but a cascade. Then, of course, the damage will have been done, and it will be almost too late.

Finally, I want to talk a little bit about the per-company cap which I know is an issue that Senator GRAMM and I are debating. As you know, I fought hard to have this cap put in. The Senator from Connecticut, whom I mentioned while he was out of the room, has done a great job. He understood the position and put it in. It was at that point supported by the Senator from Texas in the final proposal that was made. This did not stand in the way. It was tort reform that stood in the way.

Let me explain why this is so needed and why so many people are for this on both sides of the aisle. In the bill, as you know, there is a $10 billion industry-wide benchmark for triggering individual company retentions in the first year. It goes to $15 billion in year 2, if the program is extended by the Treasury Secretary. That benchmark would result in substantial private insurer losses before the Federal backstop is triggered.

We didn't want the Federal Government in the compromise that came about—this was not to my liking—but it was intended to have the private sector step in first until they were so limited because of the extent of the damage, God forbid, that they couldn't do it anymore. Well, if we didn't have this cap for a number of companies, the larger companies, the companies that concentrated, again, on the big economic properties, the losses that they would incur before the Federal Government's involvement was triggered would equal those losses. They would be comparable to the losses incurred on September 11. And for almost every insurer, they would exceed the losses sustained in any previous natural disaster.

In order for insurers to sustain such significant losses without risking insolvency, each company must be able to determine with some degree of certainty the outer bounds of terrorism exposure in actuarial terms, its probable maximum loss. And since January, the Coalition to Insure Against Terrorism, which is a broad-based business group, has stressed the need for this kind of insurance that will bring the insurers back into high-risk property insurance. Per-company retentions are the way to do so. They are the best way to assure that the company is temporary because they will facilitate a quick transition to the private sector as insurers and reinsurers begin to develop underwriting relationships with even the highest risk policyholders.

This experience will make it easier to develop actuarial models for use after the Federal program expires because, as you know, unlike the wishes of many of us, this expires in a few years, depending on whether the Treasury Secretary does an extension.

The per-company retentions will also minimize Federal involvement since there is no need for Treasury to develop a formalized allocation procedure for determining each company's share of the aggregate industry retention or the quota share payment. Because the insurance industry comprises more than 3,000 competing firms, private insurers cannot otherwise get together

and agree on a loss-sharing formula that would bind the industry as a whole. So inclusion of the per company retention in the legislation provides some certainty as to when the backstop is triggered for each insurer, without an elaborate Federal bureaucracy to allocate the losses.

The bottom line is that we need this bill. We need the per company cap to make it work—particularly for large properties, particularly for areas of high economic risk. I urge the Senate to pass S. 2600, including these retentions. It is the right solution to an ongoing problem that threatens insurers, policyholders, and the economy at large.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I rise to speak on the pending legislation concerning terrorism reinsurance. Last December—December 13, I believe—I spoke here urging the leadership to bring up bipartisan legislation that was at the time being negotiated between the White House and the Senate Banking Committee. Unfortunately, the legislation before us today does not reflect those discussions. At that point, I thought we had a good start on a bipartisan terrorism reinsurance effort.

The availability and affordability of insurance is vital to the stability of our Nation's economy. Now that we know terrorists can and have struck in the United States, and have struck against major buildings, insurance is going to have to change because the insurance is going to have to cover risks that were never before recognized as being legitimate in this country.

We hear reports from all over that many insurance and reinsurance companies are no longer able to provide the insurance coverage that is necessary for builders of buildings, for those owning buildings, to get the kind of financing they need or to have the protection they need for the resources they put into those buildings.

At this moment, affordable terrorism risk insurance is not attainable by many businesses, both small and large—apartment and condominium buildings, shopping centers, as well as many cultural institutions. Recently, the St. Louis Art Museum was identified by the Joint Economic Committee as not being able to afford terrorism insurance. As a result, the museum is not covered. I am positive there are many entities across the country facing the same situation as the museum. I know major sports facilities, including ones in my State, are in a position where they cannot get the terrorism risk insurance they would need to add new construction, or even to continue their operations. The fact that terrorism has struck our country has a double impact now that we are in a position where insurance companies are not able to write and insure against and to ascertain the level of insurance risk that might be brought about by terrorist acts. It is unacceptable that we hold large segments of our economy hostage to the acts of terrorists.

Right now, many small business and small property owners are at disadvantages. They face the prospect of doubling and tripling insurance premiums. They are not only faced with increased property insurance costs, but they are facing workers' compensation insurance costs, health insurance costs; and without affordable insurance, many small businesses and property owners are simply forgoing insurance. That is bad business. Those that have elected to pay much higher insurance costs are finding they have to pass this cost along to their customers, renters, leaseholders, and others. This could have a tremendous impact on our economy.

We are hearing about major construction projects coming to a halt across the country as lenders and major financing institutions are seeking, but unable to get, terrorism risk insurance. The Bond Market Association has stated that more than $7 billion worth of construction projects are on hold or have been canceled due to the lack of affordable terrorism risk insurance.

Rating organizations have issued warnings in the past 2 weeks that large securitizations are in jeopardy of being downgraded. We are trying to get out of a recession. The economic recovery that we expect and that we need is in grave danger if we do not provide a means of reinsuring the risk that has now become a reality in this country with possible terrorist acts. This is an unknown at this point, and this is the time, and this is something in which the Federal Government could play a very significant role. That is why good terrorism risk reinsurance legislation must be provided.

I also agree with my colleague from Kentucky that businesses that are victimized by terrorist attacks should not be subject to punitive damages. Now, unfortunately, on a party line vote, we rejected the standard my colleague proposed. I hope we can find other means of compromise to ensure that a business owner or a business that is struck by a terrorist act is not also struck by a punitive damage action that could be economically as devastating as a terrorist act.

We cannot and should not hold our major economic engines hostage to the threat of punitive damages on top of a terrorist act. I hope we can agree on a means of avoiding this kind of risk to those who have businesses or property that might be subject to a terrorist attack. As I said back in December, this is a potential problem. I believe now it is a problem. I think our recovery from the economic downturn, the recession, has been slowed because the business community—especially small businesses from which I hear—are really in a position where they cannot go forward and, in many instances, they cannot get financing without terrorism insurance, and most insurance companies are not in a position to offer that.

So I hope we can move with a good piece of legislation that will provide the temporary reinsurance by the Federal Government to allow us to get back to the normal business of building facilities, building shopping centers, operating cultural facilities, and conducting business.

Mr. President, I look forward to working with my colleagues. I hope we can get a good product, and I hope we can do it very quickly so we can get our economy moving again.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3842

(Purpose: To implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes)

Mr. SANTORUM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes an amendment numbered 3842.

Mr. SANTORUM. 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 amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. SANTORUM. Mr. President, a clarification for Members. This is the same amendment that Senator HATCH proposed earlier today. I understand Senator HATCH engaged in some conversation with Senator LEAHY about withdrawing his amendment. I think it is vitally important for the Senate to vote on this amendment. It is an important amendment. It is an amendment that is relevant to this bill because it deals with terrorism.

We had the same agreement yesterday, I understand, to vote on this amendment. We had consent to do so, and there was an objection filed at the last minute. We are now going out of session and will not be back until next week, and I think it is important we have a record vote.

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

Mr. SANTORUM. I will be happy to yield.

Mr. REID. I have just been informed—and this may be something of

which the Senator is not aware—Senator HATCH and others have been working on this in the last few minutes, and we have something we believe can be completed in wrapup this evening that takes care of the matter.

I suggest my friend take a look at this. I do not know the subject matter very well, but I assume Senator HATCH and Senator LEAHY have worked it out.

Mr. SANTORUM. I will be happy to deal with this as a separate matter as long as we get a vote on it. I am just looking for a vote. This is an important piece of legislation that deals with terrorism, the implementation of a treaty on terrorist bombing. It is an important vote. It is the implementation act of a treaty that we passed last year. There are criminal code sections dealing with terrorist bombings, as well as people who are financing terrorism. It is important legislation. I think it is something on which we should vote.

I am not being critical of what Senator LEAHY and Senator HATCH did. I just think it is important legislation that should be voted on in the Senate.

Mr. REID. Will the Senator yield for one more question?

Mr. SANTORUM. I will be happy to yield.

Mr. REID. If the Senator wants a vote, we can and should have a vote. It is my understanding Senator HATCH and Senator LEAHY have worked out a substitute. It will be passage of S. 1770, the Terrorist Bombing Convention Implementation Act of 2001.

Mr. SANTORUM. Right.

Mr. REID. We were going to do this by unanimous consent this evening in wrapup. I assume it will be easy to work out a vote.

Mr. SANTORUM. If we can work out a vote on this legislation, that will be amenable to me. I will be happy to put us back in a quorum call and see if we can arrange that.

Mr. REID. What I suggest—and I will be happy for the Senator to continue his statement—maybe in the near future he can look at this and see that Senators HATCH and LEAHY agree to have a vote on this issue.

Mr. SANTORUM. My concern is to have a vote. I would be comfortable to have a vote on that legislation which, while I understand it is not identical to the amendment I offered, is legislation that accomplishes the same purpose.

Why don't I suggest the absence of a quorum, and we can see if we can work this out.

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

Mr. REID. Will the Senator withhold his request?

Mr. SANTORUM. I will be happy to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, while the Senator is in the Chamber, and we can certainly talk about this, there is no reason not to do this. I think the chairman and ranking member would like to do this separate and apart from this bill. This way, we can send a free-standing bill to the House so they can work on this issue, and it will not be tied up in this legislation.

Mr. SANTORUM. Again, I am fine with that. My concern is we get a vote on it. I am happy to do it that way, but my concern is we vote on this legislation.

Mr. REID. I say to my friend from Pennsylvania, we will try our very best to work with him. We have Senator LEAHY's staff here. Senator HATCH's staff is not here, but they will be here shortly. We will work on trying to do this separate and apart from this legislation.

Mr. SANTORUM. I thank the assistant majority leader.

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. DODD. 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. DODD. Mr. President, it is now after 5 p.m. We are hoping to get this done. It could go into the end of next week. I know the majority leader is trying to bring up the Defense authorization bill. I am more than happy to consider other amendments. If people have them, bring them up and see if we cannot finish this legislation. It is possible we can get it done this evening. The majority leader has indicated if we can complete this bill this evening, there will be no votes tomorrow. We will then complete the process and next week, I guess, move—I do not want to speak for the leadership—but I gather there is a strong indication we will move to the Defense authorization bill. We will move to other legislation, if not Defense authorization.

I was hoping in the next hour or so we could get some time agreements on amendments. Otherwise, my fear is we will end up into next week, and if that is the case, then people will be slow-walking this bill.

I appreciate the comments of the Senator from Missouri. He made a fine speech about the importance of this legislation. There is a consensus that we need to do something on terrorism insurance. It is causing economic problems for our country, for all the reasons I identified.

Certainly I am happy to entertain and debate relevant amendments that deal directly with this bill and move on them, either accepting them or defeating them. Let's see if we cannot get this bill done. We started it early this morning. We have already dealt with a couple major amendments. We have accepted some colloquies that have been offered as an alternative.

We are going to end up in a conference with the other body. There are substantial differences between both of these bills. It is going to require continued work and labor. Those who are concerned about getting something done, let it be known I am fully prepared to entertain amendments. I will offer time agreements to try to wrap them up early, but if this goes on much longer, I presume the leader will consider having to file cloture, and then we will have to limit amendments, at least limit them to relevant amendments.

It is now almost 5:30, and I hope we might get a couple more amendments done, particularly some of those that are outstanding that I know need to be debated and considered. The quicker that is done, the more rapidly we can conclude work on this bill and vote it either up or down, but we will have dealt with terrorism insurance.

Mr. REID. Will the Senator yield for a question?

Mr. DODD. I will be happy to yield to my colleague.

Mr. REID. The distinguished Senator from Connecticut with whom I have been on this floor when considering major pieces of legislation—we do not have a better manager in the Senate than Senator DODD. He does a wonderful, outstanding, exemplary job. He is here ready to work.

Yesterday afternoon, we finished the estate tax debate. The majority leader at that time wanted to move to this legislation, but Members who were interested in this legislation said: We have had a hard couple days; why don't you wait until tomorrow?

I say to my friend from Connecticut, it appears to me that this is an effort to slow down this legislation. We wanted to move to it last night, allow Members to make opening statements and offer amendments, but the majority leader said: No, they say they do not want to; go ahead and agree with that.

Now here we are today, not much happening all afternoon, and if the majority leader did decide to file cloture today people would yell and scream saying this is the first day.

It is not really the first day. We wanted to do it yesterday. Tomorrow is Friday. Monday is already a scheduled no-vote day, but that does not mean it is a no-amendment day. Tomorrow we may not work a full day as we normally do with votes all day, but this body will stay in as late as anyone wants to offer amendments.

So the Senator is absolutely right. We are going to finish this legislation. I say to my friend, and I think he is aware of this, all of the industry groups all over America that are interested in this have sent letters and e-mails to anyone who will pick them up, saying they support cloture on this.

Everybody is tired of this. We have danced since late last year on this legislation. We are going to complete this legislation. It is only a question of whether we do it tonight or whether we do it next week sometime. Will the Senator agree?

Mr. DODD. I agree with that.

Obviously, it helps the work of the Senate if we can complete it this evening, but tomorrow morning would make more sense. We still have a lot of work to do in conference to get this done. I know the administration is interested, as well as the Secretary of the Treasury, the President, and many others. My colleague from Nevada mentioned the various business groups that are interested. I should also note that the building trades, the AFL-CIO, have sent a strong letter in support of this legislation. It is one of those rare occasions when groups that sometimes are antagonistic to each other on a legislative effort have come together and have, for months now, asked that we respond to this. So we are hopeful to get this done.

Again, I will stay here as late as anyone wants. I will make time tomorrow. I will make time next week. We are going to get the bill done one way or the other. It serves everyone's interest to try to complete this work sooner rather than later.

I merely wanted to make those points to our colleagues who are wondering what the schedule will be. Obviously, the leadership will make up its own mind about how to proceed, but it certainly would be in our interest—we have been here a couple of hours with really no amendments. I know there are some. If people have them, come over and offer them. We will happily consider them. I do not include in that group the Presiding Officer, who offered a very strong amendment, who is now working with us and is working on another amendment trying to work things out, but it is relevant to the subject matter of the bill.

I hope those who have amendments will offer them, withdraw them, or offer some alternative we can consider as we go into the conference, if the bill is passed.

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. BROWNBACK. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. BROWNBACK. 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. BROWNBACK. Mr. President, the Senator from Virginia, Mr. ALLEN, will be here momentarily and will ask to set aside the pending amendment in order to offer an amendment on terrorism to obtain judgments from frozen assets of terrorists, terrorist organizations, and state-sponsored terrorism, and others.

I thought since we had a moment I would address this issue. As I understand it, the majority leader will be coming out shortly to make announcements, and I will be happy to yield the floor at that time.

I am hopeful we can take up this issue on the floor and that it can be considered before the body, allowing people to be able to consider this. There are a number of people who have been harmed greatly, and family members have been killed by terrorist organizations. We need to provide a means for satisfaction. This is one way that it could be taken care of.

If I may reply to those who say this particular bill is not the appropriate vehicle, we have a limited number of vehicles left in front of this body. This is the appropriate point in time for us to be able to bring this forward.

I understand the Senator from Virginia will be bringing it forward so it can be worked out, and the administration and Congress is coming forward with other ways and means of dealing with it. Yet I am still hopeful that we can get this taken care of on this particular bill.

I note there has been a lot of pressure to get this bill wrapped up.

I understand the Senator from Virginia has been caught in traffic and is trying to get here to offer his amendment. I would like to see us take up this amendment and have it considered and moved forward.

He asked me, through his staff, if I would bring up this amendment. If we could consider this important piece of legislation in front of this body, I think this would be very valuable. If we could allow this to take place, I think it would be a positive note.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ALLEN. I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

AMENDMENT NO. 3838

Mr. ALLEN. Mr. President, I call up amendment No. 3838.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. ALLEN], for himself, Mr. BURNS, Mrs. HUTCHISON, Mr. SMITH of New Hampshire and Mr. WARNER, proposes an amendment numbered 3838.

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

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

The amendment is as follows:

(Purpose: To provide for satisfaction of judgments from frozen assets of terrorists, terrorist organizations, and State sponsors of terrorism, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. SATISFACTION OF JUDGMENTS FROM FROZEN ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism or for which a terrorist party is not immune under section 1605(a)(7) of title 28, United States Code, the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to the extent of any compensatory damages for which such terrorist party has been adjudged liable.

(b) PRESIDENTIAL WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(2) EXCEPTION.—A waiver under this subsection shall not apply to—

(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used by the United States for any nondiplomatic purpose (including use as rental property), or the proceeds of such use; or

(B) the proceeds of any sale or transfer for value to a third party of any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(c) SPECIAL RULE FOR CASES AGAINST IRAN.—Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386; 114 Stat. 1542) is amended—

(1) in subsection (a)(2)(A)(ii), by inserting after ''July 27, 2000'' the following: ''or before October 28, 2000,'';

(2) in subsection (b)(2)(B), by inserting after ''the date of enactment of this Act'' the following: ''(less amounts therein as to which the United States has an interest in subrogation pursuant to subsection (c) arising prior to the date of entry of the judgment or judgments to be satisfied in whole or in part hereunder).'';

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

''(d) DISTRIBUTION OF FOREIGN MILITARY SALES FUNDS INADEQUATE TO SATISFY FULL AMOUNT OF COMPENSATORY AWARDS AGAINST IRAN.—

''(1)(A) In the event that the Secretary determines that the amounts available to be paid under subsection (b)(2) are inadequate to pay the entire amount of compensatory damages awarded in judgments issued as of the date of the enactment of this subsection in cases identified in subsection (a)(2)(A), the Secretary shall, not later than 60 days after

such date, make payment from the account specified in subsection (b)(2) to each party to which such judgment has been issued a share of the amounts in that account which are not subject to subrogation to the United States under this Act.

''(B) The amount so paid to each such person shall be calculated by the proportion that the amount of compensatory damages awarded in a judgment issued to that particular person bears to the total amount of all compensatory damages awarded to all persons to whom judgments have been issued in cases identified in subsection (a)(2)(A) as of the date referred to in subparagraph (A).

''(2) Nothing herein shall bar, or require delay in, enforcement of any judgment to which this subsection applies under any procedure or against assets otherwise available under this section or under any other provision of law.

''(3) Any person receiving less than the full amount of compensatory damages awarded to that party in judgments to which this subsection applies shall not be required to make the election set forth in subsection (a)(2)(C) in order to qualify for payment hereunder.''.

(d) DEFINITIONS.—In this section:

(1) The term ''terrorist party'' means a terrorist, a terrorist organization, or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(2) The term ''blocked asset'' means any asset seized or frozen by the United States in accordance with law, or otherwise held by the United States without claim of ownership by the United States.

(3) The term ''property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations'' and the term ''asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations'' mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

Mr. ALLEN. Mr. President, I rise to present this amendment, No. 3838, which is a measure that has to do with allowing those who are victims of terrorist acts in the past who have judgments, to collect those judgments against the assets of the terrorist states or the state-sponsored terrorist states involved in these acts. I thank the cosponsors of the basic bill that has been introduced, which is the basis for this amendment.

The cosponsors include Senator WARNER; the lead of this on the Democrat side, Senator HARKIN of Iowa, CONRAD BURNS of Montana, Senator BAYH, Senator CLELAND, Senator COLLINS, Senator FEINSTEIN, Senator JOHNSON, Senator MILLER, Senator SCHUMER, Senator TORRICELLI, Senator BAUCUS, Senator BURNS, Senator CLINTON, Senator CRAIG, Senator HOLLINGS, Senator MIKULSKI, Senator NICKLES, and Senator BOB SMITH.

I particularly want to thank Mr. HARKIN for the leadership he has shown on this issue. He has stood strong for making terrorists responsible for their actions and for justice. I'm grateful for Sen. HARKIN's tireless efforts in making this proposal a reality. Now, this amendment would permit the blocked assets of terrorists, terrorist organizations, and state sponsors of international terrorism, to be used to compensate American victims of terrorism.

A little history: In 1996, Congress passed the Antiterrorism and Effective Death Penalty Act, which, in section 221, expressly amended the Foreign Sovereign Immunities Act to allow American victims of terrorism to seek justice through the courts against foreign terrorist governments. In 1998, Congress again amended the Foreign Sovereign Immunities Act, stating explicitly that any property of a terrorist state that was frozen by the U.S. Treasury Department was subject to execution or attachment to satisfy the victim's court judgments.

However, in response to bureaucratic interference, Congress again, in 2000, as part of the Victims of Trafficking and Violence Protection Act, endorsed the policy of using blocked assets to impose a cost on terrorism and provide justice to victims.

Currently, there are at least $3.7 billion in blocked or frozen assets of seven state sponsors of terrorism. However, the executive branch bureaucracy is once again preventing these funds from being used to compensate American victims who have brought lawsuits in our Federal courts, won their cases, and secured court-ordered judgments—victims such as Edwina Hegna of Virginia.

In the 1980s, Mrs. Hegna's husband, Charles Hegna, was an employee of the U.S. Agency for International Development. In 1984, his flight from Kuwait City to Karachi, Pakistan, was hijacked by Hizbollah, an Iranian-backed organization. The terrorists demanded that all Americans reveal themselves. Mr. Hegna stepped forward. The terrorists then beat and tortured him. Upon landing, they forced him to kneel. Witnesses heard Mr. Hegna praying for his life. He was then shot in the stomach and thrown 20 feet to the tarmac below while still alive, breaking nearly every bone in his lower body. He didn't die. He laid in agony for about an hour. As an ambulance arrived, the terrorists leaned out of the airplane door and shot him repeatedly. He died in the ambulance at the age of 50, survived by his wife and their 4 children.

Mrs. Hegna currently has a multimillion dollar judgment, but is unable to receive any compensation.

In another equally brutal case in which I prefer not to mention the name of the family, but nevertheless it was a case in Kuwait. A pastor who now lives in Richmond, VA, was held captive while he and his children were forced to watch—and his children at the time were 10 and 13 years old—the terrorists sexually assault his wife. He currently holds a $1 million court judgment but is unable to satisfy that judgment.

The United States must say today to the executive bureaucracy that Mrs. Hegna and this pastor from Richmond and all the victims—and they are not all from Virginia; they are from Iowa, New York, New Hampshire; they are from States across our Nation—for all these victims who have suffered at the hands of these ruthless terrorists we ought to say they can be compensated from the blocked assets of these terrorists and their sponsors.

Indeed, this measure talks about terrorism reinsurance and who ought to be sued, the obligations of insurance companies and how should we back up those insurance companies. In these cases where someone has a judgment and where there are assets that have been seized, it is the terrorists and their state sponsors, not the American taxpayers, who should be held accountable for these heinous crimes.

This amendment will accomplish three salient principles: Responsibility, justice, and punishment and deterrence.

Responsibility: At least financial responsibility for the injuries and damages from those who are culpable for the terrorist criminal acts.

Justice: Justice for the victims and the victims' families.

Punishment and deterrence: Those who sponsor these terrorist acts should be punished and deterred.

Therefore, I ask that my colleagues stand with the victims, stand with their families, and allow them to get some satisfaction, albeit only financial satisfaction.

I request that we move forward with this terrorism reinsurance bill, but also add to it this opportunity for the Senate to take a stand and allow those folks who have had these injuries and these damages and loss of life, in some cases, to have those judgments satisfied, maybe satisfied in part, but satisfied against the assets that have been seized from primarily two countries that have been involved—Iran and Iraq.

Some say we should be worried about what Iraq and Iran might do about all this. But sitting back and worrying about what they might do is not going to help these families and is not going to help this country. I am going to stand with these families, these victims, and our judicial system. Let these victims get after these assets. Let them try to rebuild their lives in some part.

I ask for the yeas and nays on this amendment and yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GRAMM. What are we seconding?

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

Mr. ALLEN. Mr. President, I am asking for the yeas and nays.

The PRESIDING OFFICER. The Senator from Virginia is requesting the yeas and nays on his amendment. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SMITH of New Hampshire. Mr. President, I rise today to support Senator ALLEN's amendment to provide justice to American victims of international terrorism.

It is appropriate that today we are debating legislation to provide a Federal backstop to existing and future insurance policies covering terrorist acts. That legislation provides economic protection for the U.S. economy for acts of terrorism. I believe that this legislation should be amended to address the issue of Americans held hostage and tortured by terrorists to specifically hold liable nations that provide financial and other support for terrorist that target the symbols and citizens of America. I am proud to be an original cosponsor of the The Terrorism Victim's Access to Compensation Act of 2002 that Senator GEORGE ALLEN and Senator TOM HARKIN have introduced.

That bill provides redress for victims of terrorism to receive compensation from nations that sponsor terrorism. I appeared with Senators HARKIN and ALLEN at a press conference with Americans who have experienced first hand the despicable and evil use of terrorism that every American can understand as a result of the tragic events of September 11 2001.

What right does a citizen have to fight back against a terrorist nation? The only power that individual has is to sue that terrorist nation in court to gain access to seized assets from terrorist nations. Our Nation is in a war against terrorism and this amendment provides another tool in the war against nations that sponsor terrorism. This amendment requires that compensation be paid from the blocked assets of terrorist nations provided that the American victims of terrorism secure a final judgment in our Federal courts.

Victims of terrorism have many sad stories, and I want to bring to you attention the sad plight of a man who had a residence in New Hampshire during the toughest time of his life.

In November of 1989, William Van Dorp was sent by his employer from his home in Kingston, NH to Kuwait City to teach the Kuwaiti Air Force English. On August 2, 1990, Kuwait was invaded by the forces of Saddam Hussein.

Let me use William Van Dorp's own words to describe what happened:

On August 4, I heard loud rumblings coming from the road and, when I looked out my window, I saw seventeen trucks, filled with Iraqi troops, and three tanks driving toward the beach. It became apparent to me that I was still in the middle of a combat zone and in immediate danger of encountering enemy fire.

William Van Dorp attempted to escape the Iraqis who were rounding up American hostages. Mr. Van Dorp was attempting to leave the Intercontinental Hotel in Kuwait City. Mr. Van Dorp describes the event as follows:

When I reached the lobby, I saw a U.S. Embassy official yelling at an Iraqi colonel and trying to convince him not to take the Westerners away. I was being taken into custody by heavily armed Iraqi soldiers. Later that evening I was packed into a military truck with roughly 23 American citizens and transported to an army camp about an hour from Kuwait City.

William Van Dorp was held hostage by the Iraqi government for months. During the Persian Gulf war Iraqi used American hostages to be imprisoned at sites where the Iraqis thought the United States would target during the Persian Gulf war.

The nations of Iran and Iraq have committed unspeakable acts against American and against citizens of my state of New Hampshire. Those nations deserve to be punished. Recently, Iraqi President Saddam Hussien pledged increased Iraq's payments to the families of Palestinian suicide bombers from $10,000 to $25,000.

The press has reported in the past that Iran may be harboring terrorists from the Al-Qaida network and Taliban. I don't know that to be true, but it has been reported by the press that Iran and Iraq have not been allies in the war against terrorism. Our diplomatic efforts to change these countries has fallen on deaf ears and these countries are supporting terrorism throughout the globe. Iran, Iraq, and North Korea are the ''Axis of Evil.''

I am sure that every Member of this body remembers the Iran hostage crisis. Americans who worked in the U.S. Embassy of Iran were held hostage by the Iranian government more than 20 years ago. Those hostages sued the government of Iran. The Iranian Government did not make an appearance in the U.S. court to defend themselves, but as iron would have it, lawyers, not from Iran, were in the U.S. courtroom to defend the interests of government of Iran.

Does anybody in this Chamber know what lawyers were in court defending the interests of the Iranian government? It was our own Justice Department and the U.S. State Department. How do you think the U.S. hostage felt about the U.S. Government, using tax dollars from these same U.S. hostages, defending the interests of the Iran government.

The Washington Post, on October 16, 2001 reported that:

U.S. Government lawyers went to Federal court yesterday seeking to vacate a judgment against Iran in a lawsuit filed by 52 Americans have were held captive in that country more than 20 years ago. The timing of the government motion, nearly a year after the lawsuit was filed and two months after the judgment was entered, drew sharp criticism from some of the former hostages, who accused the Bush administration of trying to mute their claims because of the current conflict in Afghanistan. ''The State Department and the Justice Department are doing this only to curry favor with Iran at this juncture of history,'' said Barry M. Rosen, a former hostage who is now director of public affairs at Columbia University's Teachers College. ''I was outraged.''

Another former hostage retired Army Col. Charles W. Scott who had three teeth knocked out during brutal interrogations, said, ''In combat, you have a weapon and can fight back. Here, we were defenseless and brutalized. For the first time I understood what the people of the Holocaust went through.'' Americans who are the victims of terrorist acts sponsored by nations that are deemed by the State Department to be state sponsors of terrorism should be punished.

I urge the Senate to support the Allen amendment.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I have an amendment.

The PRESIDING OFFICER. The Chair is in error. The majority leader.

Mr. DASCHLE. Mr. President, we will work to attempt to vote on the Allen amendment tomorrow as well, but we have been working over the course of the last several hours—and I thank those of our colleagues who have been involved—to accommodate a unanimous consent request that I understand has now been cleared on both sides. In order to ensure we can inform our colleagues of the schedule for the remainder of the evening and tomorrow, I propound this unanimous consent request so that at least this can be scheduled.

I ask unanimous consent that when the Senate resumes consideration of the terrorism insurance bill on Friday, June 14, at 9:35 a.m., the Santorum amendment No. 3842 be withdrawn; that the Judiciary Committee be discharged from further consideration of H.R. 3275 and that the Senate proceed to its immediate consideration; that Senator LEAHY, or his designee, be recognized to call up the Leahy-Hatch substitute amendment at the desk; that upon reporting by the clerk, the Senate vote on the adoption of the amendment; that following adoption of the amendment, the bill, as amended, be read a third time and the Senate vote on passage of the bill, with no intervening action or debate; further, that upon the disposition of H.R. 3275, the Judiciary Committee be discharged from further consideration of S. 1770; that the Senate proceed to its consideration; that the Senate consider the Leahy-Hatch amendment at the desk; and that upon reporting the amendment, the Senate vote on the adoption of the amendment; that following the vote, the bill, as amended, be read three times and passed, and the motion to reconsider be laid upon the table, all without intervening action or debate; further, that any statements relating to these items be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I have an amendment I would like to have considered at some point. I would like to see it considered. It is a very narrow issue, and I would like to see if we can get this in the queue of items. It is not under consideration. If my colleague, the majority leader, can consider it, I would like to be able to put it forward. If not, I believe I will need to object to proceeding under this unanimous consent request.

Mr. DASCHLE. I ask unanimous consent that the Senator from Kansas be recognized to offer his amendment following the disposition of the amendment offered by the Senator from Virginia.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, may I inquire of the substance of the amendment of the Senator from Kansas?

Mr. BROWNBACK. It is an issue on patenting, and it is an issue that I think is a very important one for us to consider. I want to bring it up and press it. It is a narrow one. I think we ought to consider it. I would like to offer it.

Mr. DODD. Further reserving the right to object, is this the cloning amendment?

Mr. BROWNBACK. It is patenting of human beings. It is the issue of patenting of humans which I would like to put forward at this time.

Mr. DODD. Mr. President, with all due respect, as someone trying to manage a bill, I regretfully object to consideration of that amendment at this point. I am trying to deal with the subject matter at hand. It is going to be impossible——

Mr. BROWNBACK. I must object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, while the majority leader is in the Chamber, we have worked now for several hours to get a vote for Senator SANTORUM. I cannot understand why the Senator from Kansas would prevent us from having this vote. He has an opportunity on this legislation at a subsequent time to offer an amendment. No one can stop him from offering an amendment.

I think the majority leader will announce shortly that there will be ample opportunity tomorrow and Monday to offer amendments. So I do not know why the Senator from Kansas would hold up a vote that the Senator from Pennsylvania has been trying to get for several hours.

I also say to the leader that while he was proffering his unanimous consent request, the Senator from Virginia said he would have no problem voting on his amendment tomorrow morning. That will give anyone who has any objection to the amendment of the Senator from Virginia the chance to speak tonight for as long as they want. We can set this up following the vote on the Santorum amendment, whatever we want to call it, the one on which we asked unanimous consent.

I ask the Senator from Kansas to kindly reconsider allowing us to vote on the Santorum amendment and, following that, vote on the amendment of the Senator from Virginia, and then the floor is open and anybody can offer an amendment. The Senator from Kansas or the Senator from Pennsylvania can offer another amendment, or the Senator from anyplace can offer any amendment they want.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I will renew my request in a moment. I do not know that any Senator can be denied the right to offer an amendment as long as cloture has not been filed and achieved. It is not my desire now to file cloture. At some point, if we cannot bring this debate to a conclusion, I will be forced to do so. Until that time, of course, the Senator has every right to come to the floor to offer an amendment.

We are going to be in session tomorrow and on Monday, even though there are no votes on Monday. So I hope Senators will use that time to come to the floor to offer what I would hope will be relevant amendments.

We certainly cannot prohibit the Senator from offering other legislation. So I would renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I would like to make sure I do get an opportunity to bring this issue forward, so I ask unanimous consent that before the conclusion of this bill I have the opportunity to put forward and have this amendment considered.

The PRESIDING OFFICER. Will the majority leader so modify his request?

The Senator from Nevada.

Mr. REID. Could the Senator do this tomorrow morning or Monday?

Mr. BROWNBACK. All I am doing is asking unanimous consent that I be allowed to offer this amendment sometime during the pendency of this bill.

Mr. REID. Reclaiming my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. That seems somewhat unfair. We have all day Friday, all day Monday. Anytime before the end of the bill could be a long time from now.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DASCHLE. Mr. President, the Senator does not need that consent. He can offer that amendment, as the Senator from Nevada has noted, tomorrow, Monday, or any day. That does not require a unanimous consent. I have no objection to his request, but it does not take a unanimous consent. He is entitled to that until cloture is obtained. If cloture were invoked, he would probably be denied the right. We are not anticipating a cloture vote, at least in the foreseeable future. So the Senator is certainly entitled to his right to offer this amendment whenever he chooses.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I have had difficulty at times being able to get the floor, as people maybe would say, well, we do not want to consider this at this particular time. I want to make sure we can.

Unfortunately for me, I will not be present tomorrow. As many of my colleagues know, we have had in the Philippines the death of a Kansan who is being buried tomorrow, Mr. Burnham, and I will be at that funeral tomorrow morning. But I want to make sure this issue can come up and can be heard before the end of this bill. I do not think that is an inappropriate request.

I renew the request that I be allowed to bring up this amendment sometime during the pendency of this bill. I ask unanimous consent that I be allowed to do so.

The PRESIDING OFFICER. Does the majority leader so modify his request?

Mr. DASCHLE. I did not understand the request. I have not modified my request.

The PRESIDING OFFICER. The majority leader made a unanimous consent request to which the objection was heard from the Senator from Kansas. So the question is, Will the majority leader modify his unanimous consent request to include the unanimous consent request of the Senator from Kansas?

Mr. DASCHLE. Mr. President, as I said, that does not require a unanimous consent request, but I would not object to the request made by the Senator from Kansas.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. My concern is we are providing the Senator from Kansas something that has been provided to no one else. We could have every Member demand a unanimous consent on totally irrelevant amendments to this bill. If we go down that road and if the Senator wants to kill this bill, that is fine, filibuster the bill, but to bring up totally extraneous amendments, it seems to me, is unwarranted.

I have talked a number of our colleagues out of offering amendments that had nothing to do with this bill, no matter how meritorious their proposals. Certainly, the majority leader has indicated the Senator has the right precloture to bring up an amendment. Cloture has not been invoked. If we can move this bill along, there is no reason for it to be invoked, but to cut out one exception for one Member to make a unanimous consent request, after I have talked other people out of it, I do not think is terribly fair.

I urge my colleague from Kansas to withdraw the request. If we can agree to move this bill along, we are dealing, then, with the Santorum amendment tomorrow. We have tomorrow, next Monday, next Tuesday. We can spend all next week on this bill if Members are so inclined.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, let me reiterate something I think everybody understands. Obviously, the consideration of an amendment does not mean the disposal or the resolution of the issue. The Senator is only asking for consideration of the amendment. It could be second-degreed. It could be debated. I do not know that he has asked that it be brought to some final conclusion.

I will say this: If cloture is invoked, if the amendment has not been disposed of and it is not a germane amendment, then it would fall, but that certainly would not disallow the consideration of an amendment. So, again, I would pursue my request.

Mr. DODD. Will the majority leader yield for 1 minute?

Mr. BROWNBACK. If the Senator will yield, I think I have perhaps a solution.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I ask the amendment I have be considered after the Allen amendment tonight. I am prepared to put it forward this evening, if it would be acceptable to the leader to do that.

Mr. GRAMM. Will the distinguished majority leader yield?

Mr. DASCHLE. I would be happy to yield.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I am hopeful that at some point we are going to work out a compromise and move this bill forward. It seems to me the position we are in is we want to set this vote up for tomorrow. The Senator has the right to object to doing that, pending getting the opportunity guaranteed that he can offer his amendment. If he is here—and he has this problem with this funeral apparently—no one can prevent him from doing it. I am hopeful if we work out a compromise that we might talk him out of offering the amendment. So I think we should accept the amended unanimous consent request of the majority leader. I do not see that we are giving him anything that he would not have if we were not here. It seems to me, pending trying to work out a compromise, that we would be better off not having it offered tonight. He could offer it as a second-degree amendment tonight—it is perfectly within the rules—by objecting to setting up the vote for tomorrow. So I think the logical thing to do is to take the majority leader's proposal.

Mr. DODD. Will the majority leader yield for one question?

Mr. DASCHLE. Yes.

Mr. DODD. I would make a parliamentary inquiry. If there is a unanimous consent request which is agreed to, for the consideration of an amendment that would otherwise fail in a postcloture environment, does that amendment still prevail if cloture is invoked? Or at least will that amendment be considered without being violative of the rules of cloture?

The PRESIDING OFFICER. If that is the intent of the unanimous consent request, then it would be in order.

The Senator from Virginia.

Mr. ALLEN. Mr. President, if I may ask the distinguished majority leader a question, so I understand the procedure as he originally outlined it. May I inquire as to when the vote on my amendment would occur? As far as I am concerned, the amendment having to do with getting after terrorist assets for those who obtain judgments in this country has broad bipartisan support. Is there any reason why we could not vote on that tonight or, in accommodation to a lot of people who will be gone, vote on it on Tuesday?

Mr. DASCHLE. Mr. President, I was entertaining the possibility of voting on the Allen amendment, as well as on the Santorum amendment, tomorrow morning. If the discussion of the amendment has been completed, we could lay it aside temporarily to allow the Brownback amendment to be laid down and then return to the Allen amendment tomorrow morning. That would be fine with me. I will say that this will generate other amendments. The Brownback amendment will not be the only amendment offered.

Mr. ALLEN. All right.

Mr. BROWNBACK. We will then be able to dispose of the Allen amendment tomorrow morning. So I have no reservations or objections to doing that if our colleagues would be interested in taking that approach.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. A further inquiry of our leader. The point is, as I understand it, at some point tomorrow morning the earliest vote would be a vote on the Santorum amendment. Let us assume the vote on the Santorum amendment is at 9 or 9:30. Thereafter, say 10 minutes later, there would be a vote on my amendment tomorrow morning?

Mr. DASCHLE. Mr. President, we have not propounded the request, but it would be my intention to vote on it immediately after the disposition of the Santorum amendment.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. If there is no disagreement, I would then again amend my request in the following manner: In addition to the request as it was originally propounded, I ask that we vote on the Allen amendment immediately following the disposition of the Santorum amendment tomorrow morning. I would further ask that the Allen amendment be set aside to accommodate the amendment to be offered by the Senator from Kansas, and that amendment be the pending business this evening; that we return to the Santorum amendment tomorrow morning, to be followed then by the Allen amendment, after its disposition.

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

Mr. DASCHLE. Mr. President, just for clarification, when I refer to the Santorum amendment, I refer to the legislation as it was referred to in the unanimous consent request. It is more than an amendment. It is now a free-standing bill under the request. I think all of my colleagues understood that, but I want to ensure that people know that would be the order of business tomorrow morning.

With this request, there will be no further rollcall votes tonight.

Mr. President, I ask further unanimous consent that no amendments be in order to the Allen amendment prior to the vote on the Allen amendment tomorrow morning.

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

Mr. DASCHLE. Mr. President, if there are no Senators wishing to be recognized, I have a statement to make, for which I will use leader time, with regard to the Middle East.

The PRESIDING OFFICER. The Senator is recognized.

THE MIDDLE EAST

Mr. DASCHLE. Mr. President, too often, the crush of daily business here in the Senate leaves us little time to discuss important issues that are not directly and immediately before us.

Among the many issues that deserve greater attention, none is more important than the need for peace in the Middle East, and the security of our friend and ally, Israel. The urgency and importance of this issue couldn't be more stark. In this past week alone, a suicide bomber—the 68th in the last 21 months—blew up a fast food restaurant in Israel, killing a 15-year-old girl. Another bomb, placed near a road near Hebron, injured three Israeli teenagers. A third bomb, detonated next to a bus outside Tel Aviv, killed 17 Israelis. A fourth attack—this one with guns, not bombs—killed a pregnant mother. Less than a week: three bombs; several attacks. The targets in each—civilians: fathers, mothers, teenagers, young children.

Given the steady stream of terrorist acts, the historic enmity between the parties, and the stakes involved, the situation could hardly be more difficult. But we cannot turn our backs or allow the specter of violence to diminish our commitment. Our unique relationship with Israel, and the strategic importance of the Middle East, demand that the United States play a leading role in helping to end the current crisis.

The President recognizes this dynamic, and has spoken out forcefully on the importance of the leaders in the region taking steps to end the violence. There can be no mistaking the indignation he feels about what is happening in Israel or his appreciation for the strategic importance of the entire region to our national security. In fact, he and his team have undertaken an effort to sound out leaders in the region in order to fashion a new way forward. I understand that as early as next week

he will outline the results of those efforts. Like all Americans, I am eager to hear the President's plan.

If there is one message in our success so far in the global war on terrorism it is this: When we stand together, terrorism cannot win. Right now, at this very moment, Afghanistan's new leaders are meeting in Kabul to choose a new government, a government that will represent Afghans of all ethnic backgrounds. They are sending a message of hope that the Taliban and al-Qaida never could: Terrorists can only destroy, democracies build. We want the Palestinian people to know that if their leaders will take the necessary steps to end the violence in their region, we are ready to build in the West Bank and Gaza too.

This afternoon I want to talk briefly about three principles that I believe should guide our efforts to help bring security, stability, and, ultimately, peace to this troubled region.

First, after 68 homicide bombings, the debate over whether Chairman Arafat is unable or unwilling to stop terrorism is unproductive and irrelevant. It is no longer important. What matters is that Chairman Arafat has clearly and consistently failed the test of leadership. If Chairman Arafat would take consistent, decisive actions against terrorist violence, circumstances would be different. But he has been unwilling to exercise this basic authority that is required of his office and required by the agreements he has signed and the commitments he has made on behalf of the Palestinian people. He has undermined his own credibility as the leader of the Palestinian people.

The second principle that should guide our efforts is this: Words alone are not enough. Reform demands results. Saudi Arabia, Egypt, and Jordan are all pushing for reforms of the Palestinian Authority. Their efforts are commendable. Unfortunately, their demands—and the demands of the Palestinian people—seem to be falling on deaf ears. Chairman Arafat has put a figurehead in control of the security services, leaving the power in his own hands. He signed the Basic Law but has done nothing to implement it. He added five new faces to his Cabinet, none of whom has the power to affect real change. And he announced new elections but set no date for them.

It is time to demand results, beginning with a democratic Palestinian leadership that confronts corruption and provides security for the Palestinian people and their neighbors. We want the Palestinian people to know: Such changes will garner support—in this country and in this Congress. America's people and political institutions will help rebuild the West Bank and repair the infrastructure of Palestinian society when the Palestinian leadership rejects violence and moves toward real, democratic reform. Such leadership, I am convinced, will also find a willing partner in Israel, which has time and again taken risks for peace. Rabin did it at Oslo, Netanyahu at Wye, and Barak at Camp David. And earlier this week, in this very building, Prime Minister Sharon made it clear he would be willing to make the sacrifices necessary to add his name to this distinguished list of warriors who fought for peace, if he is convinced there is a committed partner on the other side of the peace table.

The third and final principle is this: America's commitment to peace in the Middle East must be clear and consistent. It must never wane. President Harry Truman recognized Israel as a valued ally 6 minutes after Israel was created. Every American President since Harry Truman has known that the best hope for peace and positive reform in the region lies in sustained and decisive American engagement.

Every President since Harry Truman has made such engagement a cornerstone of American foreign policy. The current violence in the Middle East does not diminish the importance of U.S. engagement, it increases it. If there is to be any lasting peace, any chance for regional stability, Israel must be secure enough to make peace and strong enough to enforce it. That is a commitment the United States has made—and will keep. But there is another commitment we must honor as well, and that is our commitment to stand by Israel when she takes risks for peace, and stand with all parties who embrace peace as their goal—Israelis and Palestinians.

The United States is, and will remain, Israel's best friend. We are also the best hope for bringing all of the parties in the region together at the peace table. No other country in the world is in a better position to facilitate a dialog. We must remain actively and consistently engaged in the search for peace. We do not, for one minute, underestimate the difficulty of this task. The challenges, and the risks, are enormous. But the probable cost of doing nothing or vacillating from our historic course is far greater. It is too great a price to even consider.

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

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

TERRORISM RISK INSURANCE ACT OF 2002—Continued

Mr. BROWNBACK. Mr. President, I ask unanimous consent the pending amendment be set aside.

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

AMENDMENT NO. 3843

(Purpose: To prohibit the patentability of human organisms, and for other purposes)

Mr. BROWNBACK. Under the previous unanimous consent agreement, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 3843:

At the appropriate place add the following:

SEC. ___. UNPATENTABILITY OF HUMAN ORGANISMS.

Section 101 of title 35, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Whoever''; and

(2) by adding at the end the following:

''(b) UNPATENTABILITY OF HUMAN ORGANISMS.—

''(1) DEFINITION.—In this subsection, the term 'human cloning' means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism (at any stage of development) that is genetically virtually identical to an existing or previously existing human organism.

''(2) UNPATENTABILITY.—A patent may not be obtained for—

''(A) an organism of the human species at any stage of development produced by any method, whether in vitro or in vivo, including the zygote, embryo, fetus, child or adult;

''(B) a living organism made by human cloning; or

''(C) a process of human cloning.''.

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

Mr. BROWNBACK. Madam President, we are going to open a debate in the U.S. Senate on the future of humanity. I asked the clerk to read the entirety of the amendment because I wanted people to know what is pending now. The issue is a very narrow and a very clear one. It is about whether or not we allow the patenting of people.

This is an issue that is pending. There are at least three different patents in front of the Patent Office. The issue of whether you can patent human life or the process of creating human life is a question that is a live one in front of our Government, in front of our people. As I mentioned, there are three pending today. There are likely to be many more.

This is a narrow subsection of the overall issue on human cloning. This is not the issue about a moratorium on cloning. It is not the issue about a ban on human cloning. It is not the issue about therapeutic cloning. This is about whether or not we as a government will allow a person, a human in any stage or age of its development and growth, to be patented.

Currently, the Patent Office is rejecting these patents, saying they have that authority under the 13th amendment to the Constitution. That is the amendment that bans slavery. I happen to think the Patent Office is on good ground to be able to say that they cannot allow these patents because this would be slavery.

There are others who are contending that the young human at various stages—an embryo—is not a person, therefore is patentable; that a person can be patented because it is a piece of property. It is, in essence, livestock.

It is alive, we know that. But they would contend or say that it is not a person, so therefore we are putting this forward to make it clear to the Patent Office, for the people of America, the people around the world, that you can't patent a person at any stage or age of its development and growth. That is the entirety of the amendment. The clerk read the entire amendment.

Ultimately, the question that will be put before this Senate and this country, indeed the world, will be this: Shall we use human life for research purposes? Shall we use human life for commercial purposes? We are taking this as a narrow issue now on the issue of patentability.

In this debate we will have to answer whether or not the young human at his or her earliest moments of life is a person or is a piece of property. That is the narrow and the focused issue that is in front of us.

Cloning proponents will argue that the young human is a piece of property that can be created or destroyed at the whims of society for the benefit of others. I will argue that the young human is a person; that it is wrong to treat another person as a piece of property that can be bought and sold, created and destroyed, all at the will of those in power.

I think we all understand that human cloning is an issue of vast importance to our society and for humanity. This issue, unlike others, reveals the value we hold and the worth we place on human life. It is a decision that one generation of mankind will be making for all future generations of mankind.

I would also argue it is an issue that will determine what kind of future we will give to our children and grandchildren and their children and their children's children. The essential question is whether or not we will allow human beings to produce, to preordained specifications for eventual implantation or destruction, dependent upon the intentions of the technicians who create them; whether or not we will allow life to be created just to be destroyed and researched upon.

The question and its corollary must be addressed before the technology overtakes our public discourse. Indeed, today we have many of these capacities to do this to us now. We are doing it to animals and mammals. We can do this in humans. The question is, Should we do this? Is it right for us to do this? Is it the point in time that we want to make this decision to do this? Do we want to make this decision for all future mankind or do we want to pause? Do we want to stop here for just a moment and say, Wait? We should really think about such a monumental step and such a monumental move.

I would like to begin by making a few observations.

First, as we debate the issue, we need to debate the science along with the biological reality of the human embryo from his or her earliest moments of life. We all know that the human embryo is a life. But some question whether it is a life or a person.

Clearly, the human embryo—whether brought into being in a woman, whether artificially created in a test tube by fertilization, or by cloning—is seen by observation to be a new being of human genetic constitution and a unified life principle that in all normal circumstances of implementation and development will grow into an adult who will one day die. Because we call the adult a human person and because there is an essential, unified, biological continuity between him or her—by that I mean once you are alive you grow along that continuum until you die—and the initial one-celled embryo, it is clear that the one-celled embryo is an inviolable human person.

If you allow it to survive and to grow, it becomes a full-scale human being under anybody's definition. As some have attempted to discount this clear understanding of the biological continuity of the human person in order to justify some human experimentation in some circumstances, I note that the people who support this are supporting it for reasons that are very good, true, altruistic, to try to find cures for others' debilitating, terrible diseases, for which I want to find a cure. But I don't want to find that cure at the cost of somebody else's life. I don't want to find that cure at the cost of my life or Senator SPECTER's life or Senator REID's life or at the cost of anybody else—or young people yet to come and to be born. That is why I believe we should start with some basic definitions.

Human cloning is human asexual reproduction. It is accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a human living being—at any stage of development—that is genetically virtually identical to an existing or previously existing human being—the human being from whom the nuclear material was taken.

In essence, if we take nuclear material from the Presiding Officer or from myself and put it inside an egg and start the egg growing, there is a human of identical genetic material to me, to the Presiding Officer, and to anybody else in this room.

Roughly, the debate over human cloning has fallen into two categories, misleading as those categories may be: reproductive cloning and so-called research or therapeutic cloning.

Two-thirds of the American public, the President of the United States, a large majority of the House of Representatives, Senator LANDRIEU, and myself hold the position that all human cloning should be banned. It is a position based in large part on the principle that you should not create human life as a means of something else, especially purposely to destroy it, the point being—and the President put it very well—we should not be creating life just to destroy it or do research on it.

Some in the Senate don't want a full ban. They want a limited ban—what they refer to as ''preproductive cloning,'' but not on so-called research or therapeutic cloning.

All cloning is, of course, reproductive; that is, all human cloning produces new human life. That is the very nature of it. If you produce a human clone, it is a young human something. It is a human person; it is a human life. If you allow it to grow, it is not going to grow into an elephant or a tomato. It is going to grow into a human, if you allow it to grow.

I think the notion that human cloning can be therapeutic is both misleading and disingenuous. ''Therapeutic'' cloning, as some proponents of cloning refer to it, is really the process by which an embryo is specially created for the directly intended purpose of subsequently killing it for its parts. Some proponents of human cloning claim an embryo created in this manner will have cells for a genetic match to the patient being cloned and thus would not be subjected to the patient's immune system. I will address this issue of transplantation rejection later. Let me say that this particular claim is not scientifically true.

To describe the process of destructive human cloning as ''therapeutic'' when the intent is to create a new human life destined to its virtual destruction is misleading. However, one would like to describe the process of destructive cloning, it is certainly not therapeutic for the clone that has been created and them disemboweled for the purported benefit of its twin.

All human cloning is reproductive, regardless of the intention of the researchers and the technicians who have created that life or copied it.

I do not believe we should create human life to be used by others and, in the process, destroy it. Yet that is exactly what is being proposed by those who support cloning in limited circumstances. And however they might name the procedure—whether they call it nuclear transplantation, therapeutic cloning, therapeutic cellular transfer, DNA regenerative therapy, or some other euphemism—it is simply destruction.

The cloning of a human embryo is wrong in all circumstances, whatever it is called. Human cloning is wrong. Yet proponents of so-called therapeutic cloning claim that with the use of this controversial technique we will be able to cure a whole host of dread diseases that plague humanity—diseases that I want to cure, diseases that I helped double the funding for at the National Institutes. I am cochairman of the cancer caucus in the Senate. I want to see these cured. Cancer runs in my family. I want to see these things cured, but not at the cost of other people's lives.

I wish to take a minute to explain why some of the claims of those who support cloning are overhyped.

First, the argument that so-called therapeutic cloning will solve the immuno-response rejection problem is questionable.

Second, the reliance on this type of cloning as a treatment for those who are suffering will ultimately only be realized by heavily relying on the exploitation of women.

We should also not forget that this practice would be available only to the rich.

First, the myth of therapeutic cloning: It is becoming increasingly obvious that the so-called therapeutic purposes lack the evidence to back up their claims for the purpose of their technique of supposedly a ''regenerative'' type of medicine.

The promise that some have held out that the use of cloning technologies produce rejection-proof cells is starting to crumble under closer scrutiny.

This is the argument. If we just clone a person, they will have cells that are genetic matches and you will be able to put those back into your body and the body itself will not reject them because it is saying these are my cells. It would get around this immune-repressive problem we have with heart transfers or other organs or tissue transfers that have immuno-repressive problems. The problem is that under closer scrutiny, cloning does not work that well.

We know that cells derived from clonal embryos created for the purpose of stem cell transplantation contain mitochondrial DNA—that DNA passed through the maternal contribution to the zygote.

In other words, this is from outside the genetic material. To say the Presiding Officer provided it encased in mitochondrial material that is from a different person, it is a different person. Therefore, it is not genetically identical to the donor/recipient. This nonidentity can trigger an immune-response rejection.

If you take an outside egg, take your genetic material, put it in this egg and grow the cells up to a certain age, and kill this embryo for those cells, then you put it back in you, the problem is the egg isn't your matching genetic material. Some of that carries over to the characteristic of this genetic material of test cells that you are putting into your body. It still triggers the immune-response problem. That is one problem.

Further, there is not one animal model that shows this is not the case. In other words, we don't have an animal model that says if you just clone a person you can inject it right back into the person. We don't have a single animal model that says we get around this problem—none. Yet we are going to move forward on this theory that this works when we don't even have a single model that that works?

In fact, Dr. Rudolph Jaenisch, one of the leading vocal proponents of cloning admits that his study into the therapeutic value of cloning in animal models ''raise[s] the provocative possibility that even genetically matched cells derived by therapeutic cloning may still face barriers to effective transplantation.''

This is one of the leading advocates who is saying, early on, we don't get around immuno-suppressant problems, one of the leading claims of the cloning advocates.

In addition, it is now known that there are problems with gene expression and gene imprinting that can cause cell deterioration as well as other abnormalities in the clonal embryos.

Also, there are practical considerations, considerations that have led many of the advocates of cloning to concede the impracticality of efforts to custom make stem cells. That is what cloning is really about: Custom making stem cells for me, the Senator from Nevada, the Senator from Washington, and others. It is saying: OK, we are going to make some cells just for me. These are going to be custom made to fit what I need.

In an article by Peter Aldhous, entitled ''Can They Rebuild Us?'', published in Nature Magazine, the author notes that:

> [I]t may come as a surprise that many experts do not now expect therapeutic cloning to have a large clinical impact—many researchers have come to doubt whether therapeutic cloning will ever be efficient enough to be commercially viable. It would be astronomically expensive, says James Thomson of the University of Wisconsin in Madison, who led the team that first isolated E[mbryonic] S[tem] cells from human blastocysts.

For the advantage of my colleagues, I yield the floor so that colleagues can take advantage of some of their time.

I yield to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3844

Mr. ENSIGN. Madam President, I rise to speak on behalf of the amendment of the Senator from Kansas.

We deal with issues around this body often. We deal with issues that, frankly, sometimes don't seem very important. But this issue is an issue of critical importance. This issue is really what the human species is all about.

I am a veterinarian by profession. I have studied embryology, as all veterinary students do, as all medical students do. We study it in detail. As a matter of fact, we study it in species after species.

I have studied the cloning of the famous Dolly clone that we are all familiar with, Dolly the sheep. When that first happened, there was something very disturbing that went off in my brain. It was not because of the cloning of an animal, it was because cloning put people in the future.

When Dolly was first announced, everybody said: No, we cannot clone people. We will never go there.

Last year, during the whole issue dealing with embryos that people were talking about, they were saying: No. You know what. We will not have cloning. We will ban cloning.

Everybody agreed, at that time, it seemed, that we were going to ban cloning. But now, as some of the research has gone forward, people are starting to say: You know what. Now we are just going to do therapeutic cloning. We are not going to do reproductive cloning.

Well, as the Senator from Kansas has pointed out, we are not dealing with just therapeutic cloning. It is all reproductive cloning. Dolly was produced by the same technology that therapeutic cloning will be produced from. It is the same, exact technology. It is cloning.

You can call it by any name you want to call it, but it is cloning.

I know there are other Senators who want to talk tonight, so I will not talk too much more on this.

But, Madam President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 3844 to amendment No. 3843.

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

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

The amendment is as follows:

(Purpose: To prohibit the patentability of human organisms, and for other purposes)

Strike all after the first word and insert the following:

UNPATENTABILITY OF HUMAN ORGANISMS.

Section 101 of title 35, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Whoever''; and

(2) by adding at the end the following:

''(b) UNPATENTABILITY OF HUMAN ORGANISMS.—

''(1) DEFINITION.—In this subsection, the term 'human cloning' means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism (at any stage of development) that is genetically virtually identical to an existing or previously existing human organism.

''(2) UNPATENTABILITY.—A patent may not be obtained for—

''(A) an organism of the human species at any stage of development produced by any method, whether in vitro or in vivo, including the zygote, embryo, fetus, child or adult;

''(B) a living organism made by human cloning; or

''(C) a process of human cloning.''.

''(3) EFFECTIVE DATE.—This section shall become effective 30 days after the date of enactment.''

Mr. ENSIGN. Madam President, the issue of human patenting in this whole issue of cloning. And the whole cloning debate is really an egregious one because the idea of being able to patent a human being or the making of a human being is probably one of the most egregious parts of this whole issue.

This really is a time when we are confronting a brave new world. The prospect of people in corporate America owning people and trading and buying and selling people as if they were

property is something that should give us all a chill.

So, Madam President, I think all of us should support the Senator's amendment, and the second-degree amendment as well.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 3843

Mr. BROWNBACK. Madam President, I want to proceed to the discussion of this issue on the overall patenting because that is the narrow issue on which we are focused and it ties in, very closely, with this issue of cloning.

I was mentioning the Nature Magazine article about whether this will work because the issue of patents will be that people are seeking to create these humans, and then own them through the patenting process; that people will research and invest commercially in them. It should really send a chill through all of us.

I think the question one should be asking, even ahead of that, is: Will this even work? If we are going to allow this to take place, one might advocate, well, OK, this is going to work and create all these cures for diseases; therefore, maybe we ought to risk this to humanity.

I say, even on the science of this, the very basic science of this, the science says this isn't going to work either, so that we would be subjecting humanity to the notion that you can patent people, when it does not even work. And it is not going to proceed.

Here is the quote I was talking about by Peter Aldhous, entitled ''Can They Rebuild Us?'' in Nature Magazine, dated April 5, 2001:

It may come as a surprise that many experts do not now expect therapeutic cloning to have a large clinical impact—many researchers have come to doubt whether therapeutic cloning will ever be efficient enough to be commercially viable. It would be astronomically expensive, says James Thomson of the University of Wisconsin in Madison, who led the team that first isolated E[mbryonic] S[tem] cells from human blastocysts.

The article continues:

[M]ammalian cloning is inefficient, even in the hands of the most skilled scientists. Of the 277 cells from Dolly's mother that were fused with donor egg cells—

This is 277 eggs. And then because you had to make 277 of these, 277 eggs—

less than 30 developed to the blastocyst stage.

That is the early stages of development.

At the time experts believed efficiency would improve. But despite feverish efforts by groups worldwide, progress has been disappointing. We don't at the moment have any real handle on how to greatly increase the efficiency, admits Alan Coleman of PPL Therapeutics near Edinburgh, the company involved in the Dolly experiments.

So 277 eggs, to get to 30 developed to the blastocyst stage, to eventually get to one Dolly. So 277 to one, that is how many eggs we are going to have to have from women to be able to start these, to be able to get some sort of development moving along. You are talking about a very inefficient process, and one where you have to have a lot of women superovulating, collecting these eggs so we can get more of these clones going. At what price to women? At what price to humanity?

Also, in a recent LA Times interview—this is from May 10, 2002, about a month ago—Thomas Okarma of Geron Corporation said that cloning for customized stem cell treatments would take, ''thousands of [human] eggs on an assembly line'' to produce a custom therapy for a single person. He says, ''This proceeds as a non-starter commercially.'' The odds favoring success ''are vanishingly small.'' He said this. He is one of the lead researchers from Geron Corporation. The possibilities of success ''are vanishingly small.'' Yet we want to take this step for humanity on the science where the science says the opportunities, the possibilities ''are vanishingly small''? We want to go ahead and step forward and say: Yes, we should do research, we should patent people on an opportunity that is ''vanishingly small''?

That is not a wise step to take on the science of it, let alone how you view the human person, whether or not you should allow patenting of people on the science of it. It argues we should not.

This leads me to my second point which is, in order to be effective, therapeutic cloning must rely on the exploitation of women and the practice will be available only to the rich. This practice will have to rely upon the exploitation of women and will be available only to the rich. Aside from being highly impractical, the claim that therapeutic cloning will lead to cures is one that can ultimately only be realized with the blatant exploitation of women.

In order to conduct so-called therapeutic or research cloning on a scale that would yield just a portion of the benefits cloning advocates promise, one would need to harvest a vast number of human eggs. The only place you get those is from women.

As noted by Dr. David Prentice, a stem cell researcher at the University of Indiana:

More than 100 million people in the United States suffer from medical conditions for which embryonic stem cell therapies are being promoted as promising—Parkinson's disease, stroke, multiple sclerosis, spinal cord injuries, juvenile diabetes, ALS, and more. If 20 percent of cloning attempts succeeded in reaching the blastocyst stage of development—the success rate in animal cloning—and stem cells are derived from 10 percent of these clon[al] embryos—a rate consistent with such success rates in deriving embryonic stem cell lines from non-cloned embryos—how many eggs will we need?

Based on these assumptions, just his assumptions, saying OK, let's take our animal models on cloning, that we are going to say we can be just as successful with human cloning as we can in our animal models, and we will try to derive stem cells for just 10 percent of the people who suffer from one of these diseases, based on these assumptions it would take 800 million human eggs to treat just 16 percent of the Americans who suffer from conditions for which these therapies involving embryonic stem cells have been promised, to be able to address the treatments needed for just 16 percent of Americans suffering.

I am just saying, only the rich can afford this. It is going to be very expensive. Let's just say the top 16 percent of those who suffer can afford to do this. We will be able to treat those. With current knowledge and our ability, and even including a factor of favorability, saying we will be able to get this done efficiently from being a human egg to being a clone, because you to have make that transition, you will need 800 million eggs from women. Where are you going to get those? If 10 eggs are harvested per woman, then 80 million women of child-bearing age would have to submit to the risk of drugs and hyperovulation and surgical extraction procedures, providing the eggs that would be needed to develop therapies for just a fraction, 16 percent of those who are suffering from these conditions.

The egg dearth is a mathematical certainty and is one reason researchers say therapeutic cloning will not be generally available for medical treatment.

For example, a year ago biotech researchers Jon Odorico, Dan Kaufman, and James Thompson admitted the following in the research journal Stem Cells. They said: The poor availability of human eggs, the low efficiency of the nuclear cell procedure, and the long population-doubling time of human embryonic stem cells make it difficult to envision this, therapeutic cloning to obtain stem cells, becoming a routine clinical procedure, even if ethical considerations were not a significant point of contention.

James Thompson is the person who developed the embryonic stem cell, first found those in humans. He is saying that even if you didn't have ethical considerations, you will not be able to do this on a regular basis. That is aside from the overall issue. That is just the science of it. That is not questioning whether a human person should be patented or not. That is the question of whether you could do it, whether you have sound science based upon being able to do it.

Concerns such as these as well as others have led a group of progressive scientists, virtually all of whom support abortion rights, to state in their letter of support for a ban on all human cloning that:

Although we may differ in our views regarding reproductive issues, we agree that a human embryo should not be cloned for the specific intention of using it as a resource for medical experimentation or for producing a baby. Moreover, we believe that the market for women's eggs that would be created by this research will provide unethical incentives for women to undergo health-

threatening hormone treatment and surgery. We are also concerned about the increased bio-industrialization of life by the scientific community and life science companies, and shocked and dismayed that clonal human embryos have been patented and declared to be human ''inventions.''

This is a very real concern. As I am sure many of you are aware, the typical in vitro fertilization procedure involves a collection of eggs from women who seek to become pregnant in this manner. The superovulatory drugs typically used in this procedure will result in anywhere from 10 to 40 eggs. The use of superovulatory drugs has already been linked to ovarian cancer and other health risks. Some people choose to go ahead with that risk because of other concerns and desires they have.

The market for women's eggs is not just a fiction. In fact, the market for women's eggs has already developed. For example, the company Advanced Cell Technology of Massachusetts paid women up to $4,000 per egg donation. This is the group that claimed already to have cloned human beings in the United States. They paid women up to $4,000 per egg donation. There is another issue we should consider: Whether or not we are going to allow companies to pay for women's eggs, to create this marketplace, to allow this marketplace to take place.

Such a market for women's eggs will be a true threat to the health of many women. Women undergoing the health risks associated with egg donation for the purpose of having children is certainly one thing in that they choose and the life comes forward. That they would be induced by some to undergo these health risks for money is another issue.

It is striking, as I watch this debate unfold, that corporate interests in the biotech community want us to countenance the idea that society will be able to solve the health care problems of the world on the backs of poor women. Asking us to do so is an assault not only on the dignity of the human embryo created and destroyed in this process but also on the dignity of the woman who sells her body parts to accomplish it.

The commodification of women and their eggs is a very real concern that we all share and is yet another reason on a long list for why we must outlaw all human cloning and why we must do so now.

That is not the issue in front of us today. The issue today is whether we should allow patenting of human embryos, patenting of people. There are alternatives, however, that do not use controversial and unproven techniques to improve health. Many of you who follow this issue already know the advances being made, and the adult nonembryonic stem cell research continues to show great promise. Not only are we beginning to treat the myriad diseases which plague humanity, but we are continuing to find we can do so without the use of controversial techniques or research which relies on the death of another human being.

As to the adult stem cell area, I want to spend some time on this because I want to solve these diseases as well. I think we have an avenue that is being proven in science today that we should pursue aggressively, fund aggressively, fund at the Federal level, and get these cures to the people.

In fact, to date there is no clinical application of embryonic stem cells in people, much less those derived from cloned embryos, that are used with humans, whereas there are many diseases already being treated in humans with adult nonembryonic stem cells. We already have human clinical trials with adult stem cells.

I would like to list just a few of these recent advances. I am comparing clones, cloned embryonic stem cells, no human trials or applications. It is fully legal today to clone humans in the United States, fully legal. It has been going on; companies are claiming to have done it. There are no human applications, none. Adult stem cells are these repair cells in each of our bodies—Senator SPECTER's body, my body, right now. We have them in all parts of our body, these repair cells that go to a particular area and help it build back up and build more cells where they are needed. It is the maintenance crew in the body. These adult stem cells go places and help where there are needs.

What we are finding is that we can pull those out, grow them outside the body, put them back in with amazing results in cures in some of these terrible, debilitating areas.

There was one reported in the paper just today about liver stem cells being converted into pancreatic stem cells that were insulin secreting to be able to cure diabetes. That was just reported in the paper today.

Adult bone marrow stem cells: These are in us now, grow extensively, transformed into functional liver cells.

Dr. Catherine Verfaillie's group in Minnesota continues to show more and more uses for the multi-potent adult progenitor cells from bone marrow. These are adult bone marrow stem cells. The team has now shown that these can transform into functional liver cells. The adult stem cells also were grown in culture for over 100 generations of the cells, twice the length of time previously thought possible with adult cells.

This was in a recent journal, May 2002—adult liver stem cells from pancreatic cells.

Researchers at the University of Florida have transformed highly purified adult liver stem cells into pancreatic stem cells. Now they are taking liver stem cells and making them into pancreatic cells. The cells self-assemble in a culture and form three-dimensional islet structures—that is where you get the secretion of insulin—express pancreatic genes, produce pancreatic hormones and, best of all, secrete insulin—to be able to cure diabetes. When you implant it into diabetic mice, the transformed cells reverse their hyperglycemia in 10 days.

Ammon Peck, one of the team leaders, said:

> Adult stem cells appear to offer great promise for the production of an almost unlimited supply of insulin-producing cells and islets of Langerhans . . .

A particular type of cell that produces insulin.

> The ability to grow insulin-producing cells from liver stem cells shows the remarkable potential of adult stem cells into for future cell therapy.

This was in a June 4, 2002, online edition of Proceedings of the National Academy of Sciences.

Adult stem cells successfully treat Parkinson's. Think about that—successful treatment for Parkinson's. Has the Chair even heard of this? On April 8, Dr. Mike Levesque at the Cedars-Sinai Medical Center in Los Angeles reported a total reversal of symptoms in the first patient treated, a 57-year-old former fighter pilot. The patient is still without symptoms 3 years after adult neural stem cells were removed from his brain, coaxed into becoming dopamine-producing cells, and then reimplanted. So here they took this 57-year-old former fighter pilot, took these adult neural stem cells, nerve stem cells, removed them from his brain, coaxed them into becoming dopamine-producing cells, and reimplanted them. This was in a human trial, not animal.

''I think transplantation of the patient's own neural stem cells and differentiated dopaminergic neurons is more biologically and physiologically compatible—more efficacious and more elegant,'' said Levesque. The results show that adult stem cells from a patient's own brain can aid in treatment of Parkinson's. This was all accomplished without the requirement for immuno-suppression since the patient's own adult stem cells were used. Again, it is your own stem cells. There is no immuno-suppression problem since the patient's own adult stem cells were used. In addition to its use for Parkinson's, the technique is under study for juvenile diabetes, stroke, brain tumors, spinal cord injury, and other conditions. The results were presented at the meeting of the American Association of Neurological Surgeons.

Think about that. Three years after these were taken, were coaxed into becoming dopamine-producing cells and were reimplanted, they are showing a total reversal of symptoms in the patient. Incredible.

Adult stem cells can form potentially all tissues. Injection of a single adult bone marrow stem cell can reform the entire bone marrow of a mouse, forming functional marrow and blood cells and saving the life of the mouse. The transplanted bone marrow also could form functional cells of liver, lung, gastrointestinal tract—esophagus, stomach, intestine, colon—and skin, as well as other cells in heart and skeletal

muscle. The experiments also provided evidence that adult stem cells ''home in'' to sites of tissue damage. This was from Dr. D.S. Krause on May 4, 2001, in the publication ''Cell.''

Fifth, adult stem cells repair heart damage. I am talking, again, about human clinical trials. Heart damage. Listen to this:

> Researchers at NIH and the New York Medical College-Valhalla used mice to show that injecting adult bone marrow stem cells into damaged hearts could rebuild heart tissue and help restore heart function. Newly formed heart tissue occupied over two-thirds of the damaged portion of the heart 9 days after the transplant. In other experiments, significant repair of heart damage was achieved by simply stimulating the production and release of stem cells from bone marrow, with the cells migrating to the heart and repairing damage. The studies indicate that adult stem cells can generate new heart tissue, decreasing the damage of coronary artery disease.

That was in a magazine called Nature on April 5, 2001. This was a mouse trial, not human.

The notion that we have to kill one person in order to find cures for others is a false trade-off that has been presented to the American public in what seems to be a total disregard of the advances made in the promising fields of alternative nonembryonic sources of stem cells. If we want to talk about regenerative medicine, this is where we should focus; this is the area of regenerative medicine. We are doing it today in human clinical trials.

Mr. SPECTER. Will the Senator yield for a question?

Mr. BROWNBACK. If I may complete this point, then I will yield for a question. Why would we contemplate going to the point of creating a human life and patenting this human life in an area where we are showing no results taking place, and it has all these ethical questions, and you have one generation of humanity saying, okay, we think there are some possibilities here to research in this cloning area? Therefore, we are going to allow the creation of human clones, which we allow freely in the United States to take place today; it is going on right now. We are going to allow them to be patented so that you can own this creation of a human being. We don't have to go there. I would say, at a minimum, we ought to contemplate at least pausing on this until we see how all of this would grow and develop before we contemplate creating humans just to research them. We have a better alternative that is working today.

I am happy to yield for a question.

Mr. SPECTER. Madam President, the Senator from Kansas, in his introductory comments, announced what his amendment was not about, and then he proceeded to talk extensively about nuclear transplantation, otherwise referred to as therapeutic cloning, and about embryonic stem cells, and about adult stem cells.

But coming back to the core issue on what the Senator from Kansas is offering on nonpatentability, my question is whether the Senator from Kansas is aware of a release by the Patent Office on April 1, 1998, which reads, in pertinent part:

> The Patent and Trademark Office is required by law to keep all patent applications in confidence until such time as a patent may be granted. However, the existence of a patent application directed to human/nonhuman chimera has recently been discussed in the news media. It is the position of the PTO that inventions directed to human/nonhuman chimera could, under certain circumstances, not be patentable because, among other things, they would fail to meet the public policy and morality aspects of the utility requirement.

Now, this position by the Patent Office obviously, on its face, renders totally unnecessary the amendment that is being offered. My question to the Senator from Kansas is, Was he aware of this position taken by the Patent Office?

Mr. BROWNBACK. Yes, I am very familiar with that. The Patent Office has continued to articulate that position. That is why I stated that there is a question on this, because the Patent Office is stating that issue based upon the 13th amendment of the Constitution, which is against slavery. But they are being challenged by attorneys, and they have been challenged in the court often about whether they can deny a patent.

What I am providing by this amendment is clarity by the legislative body acting and saying that we will not allow the patentability of this issue. I ask my colleague if he agrees with that and maybe with my amendment and would agree to support this amendment. It is just a clarification of what the Patent Office has currently stated.

Mr. SPECTER. I would be glad to expound, Madam President. The amendment which the Senator from Kansas has offered was offered without any notice to this Senator, which came as a surprise, since the Senator from Kansas and I have been debating this subject very broadly for the past year or two.

Having seen this amendment for the first time this evening, I was surprised that when I walked out for a telephone call, that opportunity was used by the Senator from Nevada to offer a second-degree amendment to foreclose this Senator from offering a second-degree amendment, although that may still be possible under certain procedural approaches.

The arguments which I have heard the Senator from Kansas offer tonight, almost his entire presentation has not been about the patent issue but has been about therapeutic cloning, and embryonic stem cells. The Appropriations Subcommittee on Labor, Health and Human Services had some 14 hearings on the issues relating to stem cells and nuclear transplantation. There has been no hearing at all on this subject.

Again, it is a little surprising to find it come up on a very important bill regarding Federal guarantees on insurance. The commercial world has been waiting for action on this bill and, to find this amendment here, again I say, is surprising.

The core question which is raised by the Senator from Kansas has been answered by the Patent Office. I took from his comment that he had mentioned that I did not hear him refer to that at all, but I think his amendment is totally unnecessary in light of what the Patent Office has had to say.

If the Senator from Kansas wanted to have hearings on his amendment in the regular course of business, he is a member of the Judiciary Committee—the Senator from Kansas is a member of the Judiciary Committee, as is this Senator—that would be an appropriate place to hear it.

When the Senator from Kansas talks about the future of humanity, I agree with him about that. Nuclear transplantation offers an opportunity to save lives, to find a cure for Parkinson's, Alzheimer's, and heart disease, so that we really are on the threshold of some remarkable scientific achievements.

Mr. BROWNBACK. Madam President, if I may reclaim my time, if we are going to go into the speech of the Senator from Pennsylvania, I would like to answer his comments and finish up my comments, unless he has another question to ask. Again, I would like to go ahead and finish my statement.

Mr. SPECTER. I had not finished answering the question of the Senator from Kansas. I have been sitting here patiently listening to him at some length and again express a little surprise at having the Senator from Nevada take the floor when I step out for a minute and then ask unanimous consent not to have the amendment read, which is customary, but then the Senator always explains it.

While I was up at the desk getting a copy of the amendment, the Senator from Kansas took the floor again. I do not think there has been any shortage of time for the Senator from Kansas.

Mr. BROWNBACK. I do have the floor, I say to the Senator from Pennsylvania, and I am willing to yield for a question on this issue.

Mr. SPECTER. Madam President, the Senator from Kansas has asked me a question, and I am in the process of responding to the question.

The last comment I will make and will give the floor back—

The PRESIDING OFFICER. The Senator from Kansas does have the floor and can reclaim the floor when he wishes.

Mr. BROWNBACK. I am happy to have the Senator from Pennsylvania respond, but if it is his speech, I would like to finish up my comments and then yield the floor.

Mr. SPECTER. The last part of my response, Madam President, would be to take strenuous issue with the statement by the Senator from Kansas that those who have talked about therapeutic cloning, really nuclear transplantation, are misleading and disingenuous. There has never been any

challenge by this Senator to the Senator from Kansas about his being misleading or disingenuous.

As strenuously as I may disagree with what he has had to say, there has never been any challenge to his being forthright and his integrity on the point which is strongly suggested by the characterization of ''misleading and disingenuous.''

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, reclaiming the floor, I would like to put forward a couple of issues in response to the Senator from Pennsylvania. No. 1, this issue on the patenting of humans has been out there about a month now since a group discovered several applications of patents for the patenting of a process to create a human embryo. It has been out there, and a number of us stated we wanted to ban this procedure of patenting.

No. 2, as we were going forward in this negotiation process to get the competing cloning bills forward, we were required to exchange a bill, and in our base bill was the issue of banning the patenting of people. That was exchanged this week. It has been out in the hands of Senator SPECTER's staff or others during this week. We have had this issue of patenting banned. Whether the Senator knew about it or not, it was in the base bill we put forward.

On the issue of questioning his integrity, I did not, and I do not here. I stated earlier in my comments that those who are putting this forward do so, when they put forward the issue of cloning people, under laudable purposes: to cure debilitating diseases, the same diseases that I seek to cure. What I call disingenuous is the term ''therapeutic cloning.'' It is certainly not therapeutic to the clone, and as I have been going through the science, it is not going to work for the people who are trying to do it. If it did work for the people who were trying to do this, they are going to have to harvest a lot of eggs from women. It is not going to be therapeutic to the women from whom the eggs are harvested, and as far as I know, it is not going to be therapeutic to the clone, and, I might also add, it is not therapeutic to mankind to do this, to start at some point in the life chain, in the life cycle, creating life as livestock and be able to do research on them.

Moving forward with this, and the reason this patent is a central issue, as I noted at the very outset, the whole issue in front of the Patent Office—they are claiming one way and others are claiming another—is the status of the clone. Is the clone a person, thus subject to protections under the 13th amendment against slavery or is it property, is it livestock to be owned and dealt with as its master chooses? That is the central question that is involved at the Patent Office.

That is what I was saying at the outset of the speech, and that is why the issue is in front of us, because we need to resolve the issue: Is this a person protected under the 13th amendment against slavery? Is it livestock; go ahead and patent it, a new type of livestock.

I am saying that what we should do is move forward with clarity for the Patent Office. They are claiming this is a person. It is subject to protection under the 13th amendment against slavery, and I am saying we should clarify that.

I hope many of the Senators in this body will join me and say: Yes, that is right, we should clarify that. Even if it is a questionable issue, we should weigh on the side of, yes, this is probably life and we should not enslave it to a patent. I hope most of the Members of this body will agree and say: Yes, we are going to deny these patents. These are not going to be allowed to go forward.

The notion that we have to kill one person in order to find cures for others is a false tradeoff. It has been presented to the American public in what seems to be disregard for the advances being made in this promising field of alternative nonembryonic stem cells. This is true regenerative medicine.

As our national bioethics debate progresses, we must continue to closely monitor the advances being made in the field of adult stem cell research, and we need to fund it and fund it aggressively.

It is important to remember that we do not have unlimited resources in our battle to prolong and improve the quality of life. Throwing money at unproven, controversial, and novel treatment regimes is foolhardly. It is better to invest where progress is being shown and progress charted.

I wish to address a final point, and that is on the issue of people saying this is about your view of religion, your view of science. The point I wish to make is some have charged religion is attempting to, once again, block important scientific discoveries. This is not true.

What I have argued in the past, and I will argue today, as well as what I will continue to argue in the future, is based directly on biological data, statements by those in the field of biology, the data of common observations, an objective, logical, reflective thinking about the data available. I have not once mentioned an argument based upon religion.

Certainly many traditional religions, dependent on their respective positions, coincide with many of the points that have been made in the past. The Christian tradition, in particular the Catholic and much of the Evangelical, says everything relevant to this debate depends on the humanly accessible data and the logical conclusions that can be drawn from it, not on theology. Authentic religion hands this over to authentic science.

The difference of view, in my judgment, depends on knowing the biological and human truth or not knowing it. It is not about a difference of religious view or the difference between religion and science. Every argument I have put forward has been based upon science, biology, and reason. To me, the present debate is about good or bad science and good or bad reasoning. Many, however, seem to be wanting to make this a debate about religion when it is not.

What makes this argument so strange is that I cannot think of one Senator who does not believe in God. Indeed, we have printed above the main door when we come in, ''In God We Trust.''

The question for my colleagues to ponder may be put the other way: Does God trust us? Does he love us? And if so, when did his love start for us? I would suggest it starts very early.

In closing, I think it is important that as we continue to engage this national dialogue, we strive to do so in a way that shows the profound mystery and inviolable worth of every human being from the moment of conception until natural death. It is a debate well worth having, and as a brave new world draws ever near, it becomes clearer that our own humanity in fact may depend upon it.

As a final thought, I think it is unlikely that Senators today will ultimately be remembered by history for their votes on tax bills or even on bills that are pending right now—budget, trade—all of which will be important. They are important, but I think when we look back 50 years to this period of time, that may not be what history remembers.

There is something truly unique about the debate on this issue, on whether you treat a person as patentable or not. The action we take today, tomorrow, and next week on this issue will have far-reaching implications and will be of great historical consequence. It is what history will ultimately remember us for during this time. I think that is why we clearly have to address this issue. That is why we have narrowly addressed the point that is in front of us.

I hope that in the end we get unanimous consent in this body that we should not allow patenting of human life in any stage of its development, whether it is asexual reproduction or human reproduction.

Today, yes, indeed, we in the Senate open a debate on the future of humanity and whether we shall use human life for research purposes. Let us pause and do something most of us agree on and not allow human life, whether created by a clone, in a clone, by a biotechnician or in the womb, to be patented.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Utah.

Mr. HATCH. Madam President, I have a lot of respect for the distinguished Senator from Kansas. He is a good man. He is very sincere, and he believes in what he is doing. He fights for what he believes in. I have a lot of

respect for him, and I have a lot of respect for his attitude.

Up until this point, the debate on cloning has been considered in an orderly and responsible fashion. I am greatly concerned that in filing this particular amendment, our opponents in this debate are resorting to tactics that will not result in the careful consideration that this important issue merits. We all know that the great issue in this debate is whether an unfertilized blastocyst, or an unfertilized egg that is used in the somatic cell nuclear transfer process and becomes a blastocyst in 5 or 6 days, is a person? We will have that debate in this body, I presume. I think it would be a worthwhile debate.

The amendment being offered tonight is something of a red herring. True, there are issues that should be examined in addition with patents which may be issued on living cells. In fact, Chairman LEAHY and I are pursuing that matter in the Judiciary Committee with the Patent and Trademark Office and other interested parties. We are trying to learn more about patent No. 6,211,429, issued to University of Missouri researcher, Dr. Randall Prather. We are trying to learn if the issuance of this patent is consistent with the 1987 PTO policy statement with respect to the non-patentability of human beings.

However, let's be fair, the crux of the issue in this debate has little to do with patents. It has to do with whether or not we will allow important research to proceed, research that holds the promise of improving upwards of 100 million-plus lives in our society in America alone. That does not even mention the millions of others throughout the world who might benefit from what I refer to as regenerative medicine.

This body can look at issues around the margin—and trust me, there are literally hundreds of them that we could consider—and patenting is certainly a concern but it does not go to the heart of the issue.

The Patent and Trademark Office, the PTO, has already made abundantly clear in its 1987 policy statement that human beings are not patentable, as the distinguished Senator from Pennsylvania has aptly pointed out. This policy states, in part, ''A claim directed to or including within its scope a human being will not be considered to be patentable subject matter.''

It seems to me that it might prove beneficial for PTO to reexamine the claims of the University of Missouri patent in light of prior art.

In any event, human beings are not patentble. That has been the law of the land, as it should be. To get into a somewhat arcane, complicated debate about intellectual property on a totally unrelated bill merely sidesteps the real debate and confuses the issue. The patent issue is an issue that most appropriately should be examined, but I believe should be examined by the Judiciary Committee, of which Senator BROWNBACK is a member. So the distinguished Senator from Kansas will have every right to have his thoughts considered.

We need to know how far the Brownback Amendment reaches. Does it extend to cell lines derives from unfertilized blastocysts? Does the amendment destroy the patentability of any process that could be used in nuclear transplantation involving human cells? We need to know what, if any, tensions, exist between the Brownback Amendment and the Supreme Court's holding in the famous Chakrabarty decision?

The 1987 PTO policy cited Chakrabarty ''as controlling authority that Congress intended statutory subject matter to 'include anything under the sun that is made by man.''' The PTO went on to say that it ''now considers nonnaturally occurring nonhuman multicelluar living organisms, including animals, to be patentable subject matter within the scope of 35 U.S.C. 101.''

We need to think how the Brownback Amendment squares with the position taken in the memo written by then-HHS General Counsel Harriet Raab with respect to the relationship embryos and pluripotent cell lines.

But I want to emphasize that what we really have to resolve in this debate is the legal and moral status of an unfertilized blastocyst that will not be implanted into a mother's womb and can never develop into a human baby. That is a key issue. Let's be honest, there is little interest in patenting a unfertilized blastocyst because the promise is not in the unfertilized blasotcyst but in the stem cell lines that may be derived from this artificially created cells.

I have been following the recent debate on the patenting of human life very closely. My interest is twofold. As a policy matter and of course as ranking member of the Judiciary Committee, I have a special responsibility for considering any policy issues that touch on intellectual property laws. In addition, my longstanding interest in biomedical research and ethics compels me to understand ramifications of intellectual property policy which have such far-ranging public health consequences. So I am very concerned about both of those issues. They are important issues and should not be helter-skelter considered on the floor without hearings, without appropriate consideration. These are complex and difficult issues.

Throughout my career, I have always taken a strong pro-family and pro-life stance, especially on issues relating to biomedical research. I have also spent considerable efforts to see that the United States remains the world's leader in biomedical research so that our citizens may continue to benefit from revolutionary breakthroughs in science.

Patenting human life involves novel and difficult issues. I believe there is widespread agreement that patenting human life, per se, is undesirable. Moreover, it may have serious constitutional implications under the 13th and 14th amendments as well. However, in approaching these issues, we must take care not to rush to judgment and unnecessarily make unwise policy decisions that would hinder, and perhaps halt, important biomedical research.

Having said that, I jotted down a few notes put forth by the accomplished patent attorney, Al Engelberg. I agree with Al and other experts who do not believe that changing the patent law is the appropriate vehicle for exercising governmental control over the multitude of issues relating to cloning. Patents do not create an affirmative right to make, use, or sell the patented subject matter. They only give the owner the right to exclude others from doing so. For example, a patent on a new drug does not create any right to manufacture, use, or sell. An approval from the FDA is an absolute prerequisite.

Similarly, a patent on a slot machine does not give the owner the right to use or sell it in a State where gambling is illegal. It would be a big mistake to leave the important broad societal moral, ethical, and public health issues to PTO experts applying technical patent laws. That would be a terrific mistake to make, and I believe that the ambiguities in the Senator's amendment will thrust PTO into an improper role.

Do we really want to get involved in parsing patent claims in order to decide what is ethically permissible in the real world of cutting edge biomedical research? I think not. Let us settle the policy issue through a direct, frontal debate rather than approaching the matter through the back door of patentability.

I do not think springing, unannounced, this type of amendment on this bill in this fashion is the most constructive manner in which to hold an informed debate.

But on the substance of the amendment, we should take the view that the existence of the patent is not determinative of what is legal or illegal to make, use, sell, or permit within commerce. The value of the patent should rise or fall on the basis of independent legislative determinations regarding the legality or illegality of certain activities.

That is what Senators SPECTER, FEINSTEIN, KENNEDY and I have done in our legislation by making the independent legislative determination that clearly outlaws the cloning of human babies by criminalizing the implantation of unfertilized blastocysts.

The right to engage in such activities should be divorced from the issuance of patents.

Now, as Mr. Engelberg argues, one advantage of proceeding in that fashion is that it maximizes the incentives for those who make new and potentially new discoveries to disclose them in the

hope that over the 20-year life of the patent, the definition of ''legally permissible'' activities may be altered, thereby breathing economic value into a discovery that cannot be commercially exploited at the time of the recovery. If research in a particular area is eliminated, no patent applications can be filed without effectively admitting to a crime. Therefore, legislation regarding the scope of patents is not a good way to get at the underlying questions that are being debated.

I hope the Senator would withdraw his amendment. I believe it is grossly premature. It is very dangerous for us to adopt such a measure without appropriate hearings and a complete review of this matter.

In the end, it does not help us decide, what seems to me the central issue of the debate: whether or not we should go forward with this very important research?

In the weeks ahead, the Senate is going to debate these issues of extreme importance to many Utahans and many Americans. There are upwards of 128 million people in our society who are suffering from various difficulties and diseases that may benefit from regenerative medicine research. I am talking about heart disease, cancer, ALS, diabetes and many others.

I, personally, believe we ought to do everything in our power to help consistent with sound ethics. I, personally, believe—because experts tell me this is the case—that regenerative medicine holds great promise of curing many diseases.

I acknowledge the distinguished Senator has quoted some scientists, but I am going to stand with the 40 Nobel laureates who have said this research should go forward because it holds great promise in expanding biomedical research to find treatments or cures. This science may also be used to examine disease so we can get to the bottom of the causes of disease and hopefully find treatments and cures for the millions and millions of Americans and people all over the world who need our help.

Regenerative medicine has the great potential to save lives and to alleviate pain and suffering. I have come to this position after many months of study, contemplation, talking with all kinds of scientists and others on both sides of this issue, including some of the leading authorities in science, religion, and ethics. I have spent a lot of time on biomedical research issues during my entire Senate career. I have analyzed this from a pro-life, pro-family perspective, with the view that being pro-life means helping the living.

A 4-year-old boy, Cody Anderson, from West Jordan, UT, came to visit me this last June. Cody Anderson's mother almost fell apart when she discovered at the age of 2 Cody Anderson got the very same diabetes that his grandfather had. His grandfather lived until he was 47 years of age but lived through 28 different operations, the loss of his left leg below the knee, the loss of his right toes, a colonoscopy, all kinds of other travails, difficulties and problems, and ultimately was on dialysis for the loss of his kidneys for the last 10 years of his life before he died, in a miserable, painful condition, at 47 years of age.

When Cody's mother discovered that her son, at the age of 2, had exactly the same disease that killed her father at age 47, after all that miserable, wretched existence, she almost fell apart. She came to me and said: You have to do something about it.

Not only did the grandfather go blind, he had pressure behind one of the eyes, and it had to be removed.

Now, why wouldn't we do everything in our power to help Cody and others suffering from life-debilitating diseases? It seems to me we should.

Let me state my total agreement with my dear friend and colleague from Kansas that we should ban absolutely reproductive cloning of human beings. There is no question that ban would pass 100 to 0 in this body, and I think 435 to 0 in the House. There are only a few people in our society today who believe we ought to follow through and try to experiment with and reach a position of cloning human beings. Those people would be shut off automatically. They basically would be outcasts if they tried to do something like that. By banning that totally, we would solve most every problem with which most people are concerned.

It does not solve the problem that my dear colleague is concerned with because he considers the unfertilized egg, once a nuclear transfer takes out the 23 mother's chromosomes, and insert the DNA of a skin cell or other somatic cell through the nuclear transplantation process. This process inserts the 46 chromosomes into the unfertilized egg that will remain unfertilized.

Some believe that the product of nuclear transplantation is a human being. I don't agree with that. It is a living, human cell, but it certainly is not a human being, nor does it have a chance in the world of becoming a human being unless it is implanted in a human womb, and even then probably will not become a human being because it is theoretically possible but nobody is absolutely sure if that can happen.

During this period of time, the unfertilized egg can be grown to a blastocyst stage in a lab and develop to the point where special cells, called embryonic stem cells, can be extracted and replicate themselves. The stem cells are undifferentiated but, scientists believe, they can be differentiated into as many as 200 different forms of human tissue which might save lives, which might treat disease, which might bring cures, which certainly will help study disease and the origins of disease.

I don't mean to go into all of the details this evening. But I am very concerned in the end that if we do not continue this research, the rest of the world is going to leave us behind. They will do so under moral and ethical standards that will not be good—at least in some parts of the world. If we help set the moral and ethical standards, it seems to me, we can benefit everybody around the world, first and foremost U.S. citizens. It will mean they will conduct this research on a highly ethical and morally upright manner.

If we do not do that, this research is going to go on through the rest of the world, and it will not be with our influence.

Second, it seems to me, if we do not go ahead with this research under very stringent moral and ethical standards, it will be gone ahead with no matter what happens because many of our leading scientists today may leave our country and go where they can pursue this research. And I say again—according to at least 40 Nobel laureates and almost everyone else I know, except a few—this is very promising research.

This is important. I am totally in favor of adult stem cell research, and almost every scientist I have talked to is also supportive of this line of research. But almost every scientist I have talked to, and I have talked to a lot of them, will tell me that it is very difficult to get enough adult stem cells, and when you do they are not as able to maintain and differentiate into the various forms of human tissue as embryonic stem cells are. That is why many in the scientific world, except for a few, believe this research, this positive, very important research, should go forward.

I understand the sincerity of those who believe that somatic cell nuclear transfer results in the creation of a human being but I do not see it that way. If you have an unfertilized egg that is never implanted into a mother's womb, I do not think we have a human life. It is a living human cell. It is something that should be given respect, certainly, but we should give it respect by studying, learning, and helping alleviate human pain and suffering if we can. At least that is my viewpoint.

I respect those with viewpoints that are different from mine but I think they are in the minority and as this debate unfolds I think that more and more Americans will agree with us that this important research should go forward. But I do not agree with it.

There are a lot of very fine people who feel the same way the distinguished Senator from Kansas feels. But there are a lot of fine people, who are very religious and very decent, and who are pro-life, who believe that regenerative medicine is moral and that we ought to do all we can to help the living, too.

From where are these eggs going to come? First, that egg is unfertilized. It remains unfertilized right up through this blastocyst stage. Those eggs are probably going to come from in vitro clinics themselves, in many cases.

Under our proposal they are going to be voluntarily given. Nobody is going to profiteer on these eggs. There will be eggs that you cannot freeze readily because they are not fertilized. So they will have to be used in a relatively short-term fashion, to create these embryonic stem cells, generally in 4 to 6 days or so.

The fact is, they are going to be eggs that are voluntarily given.

Some of my friends on the right and left of me say every one of those eggs ought to be used and implanted in a woman so they can have babies. That is not reality. It can be, to a limited number of people who choose to do that, but some will volunteer eggs for this research.

During the Olympics I had a woman come up to me and she said: Senator, I appreciate your stand on stem cell research. She said: My husband and I have twins from in vitro fertilization. We are so grateful for that process.

I remember when that process came forward, many of the arguments that are being used today were used against that process.

And she said: Senator, we are grateful for those twins. But I don't want any more children and I don't want my eggs implanted in somebody else. I want them used for research.

She ought to have the right to do that, and women like her. If you are a mother and your child has just gotten a very virulent form of diabetes, or your parents are drifting into Alzheimer's or Parkinson's, what woman, who is really concerned about her parents, would not be willing to do what she could to help them, if in fact this research can prove efficacious? And if adult stem cell research has a chance of being efficacious, can you imagine what the undifferentiated state of stem cells, which can be so easily differentiated, in the eyes at least of these scientists, can you imagine what good that will do?

I believe these 41 Nobel laureates, the leading scientists in our society, ought to be listened to in this debate. To a person, they do not believe this is a human being at this stage. There is good reason for that.

I ask unanimous consent the letter from these Nobel laureates, with their names, be printed in the RECORD.

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

THE AMERICAN SOCIETY
FOR CELL BIOLOGY,
Bethesda, MD.

Two National Academy of Sciences expert committees, as well as noted national and international organizations, have evaluated current scientific and medical information and have concluded that cloning a human being using the method of nuclear transplantation cannot be achieved safely. Such attempts in other mammals often have catastrophic outcomes. Furthermore, virtually nothing is known about the potential safety of such procedures in humans. Consequently, there is widespread and strong agreement that an attempt to clone a human being would constitute unwarranted experimentation on human subjects and should be prohibited by legislation that imposes criminal and civil penalties on those who would implant the product of nuclear transplantation into a woman's uterus.

Unfortunately, some legislation, such as that introduced by Senator Brownback (R–KS) would foreclose the legitimate use of nuclear transplantation technology for research and therapeutic purposes. This would impede progress against some of the most debilitating diseases known to man. For example, it may be possible to use nuclear transplantation technology to produce patient-specific embryonic stem cells that could overcome the rejection normally associated with tissue and organ transplantation. Nuclear transplantation technology might also permit the creation of embryonic stem cells with defined genetic constitution, permitting a new and powerful approach to understanding how inherited predispositions lead to a variety of cancers and neurological diseases such as Parkinson's and Alzheimer's diseases.

A critical element of the Brownback bill would prevent the importation into the United States of medical treatments developed in other parts of the world using nuclear transplantation. It seems unbelievable that the United States Senate would deny advanced medical treatment to hundreds of millions of suffering Americans because of an aversion to a technology that was used in its development.

By declaring scientifically valuable biomedical research illegal, Senator Brownback's legislation, if it becomes law, would have a chilling effect on all scientific research in the United States. Such legal restrictions on scientific investigation would also send a strong signal to the next generation of researchers that unfettered and irresponsible scientific investigation is not welcome in the United States.

We, the undersigned, urge that legislation to impose criminal and civil sanctions against attempts to create a cloned human being be enacted. We also oppose strongly any legislation that would prohibit or impede the scientifically legitimate, responsible use of nuclear transplantation technology for research and therapeutic purposes. Similarly, any attempt to prohibit the use of therapies in the United States that were developed with the aid of nuclear transplantation technology overseas denies hope for those seeking new therapies for the most debilitating dieases known to man.

Sidney Altman, Sterling Professor of Biology, Yale University, Nobel Prize in Chemistry, 1989.

Kenneth J. Arrow, Professor of Economics and Professor of Operations Research, Emeritus, Stanford University, Nobel Prize in Economics, 1972.

Julius Axelrod, Scientist Emeritus, National Institutes of Health, Nobel Prize in Physiology or Medicine, 1970.

David Baltimore, President and Professor of Biology, California Institute of Technology, Nobel Prize in Physiology or Medicine, 1975.

Paul Berg, Cahill Professor of Cancer Research and Biochemistry, Emeritus, Director, Beckman Center for Molecular & Genetic Medicine, Emeritus, Stanford University School of Medicine, Nobel Prize in Chemistry, 1980.

J. Michael Bishop, University Professor and Chancellor, University of California, San Francisco, Nobel Prize in Physiology or Medicine, 1989.

Thomas R. Cech, Distinguished Professor, University of Colorado, Boulder, Nobel Prize in Chemistry, 1989.

Stanley Cohen, Distinguished Professor of Biochemistry, Emeritus, Vanderbilt University, Nobel Prize in Physiology or Medicine, 1986.

Elias James Corey, Sheldon Emery Research Professor of Chemistry, Harvard University, Nobel Prize in Chemistry, 1990.

Johann Deisenhofer, Virginia and Edward Linthicum Distinguished Chair in Biomolecular Science, Regental Professor, University of Texas Southwestern Medical Center at Dallas, Nobel Prize in Chemistry, 1988.

Renato Dulbecco, Distinguished Research Professor, President Emeritus, The Salk Institute, Nobel Prize in Physiology or Medicine, 1975.

Edmond H. Fischer, Professor Emeritus of Biochemistry, University of Washington, Nobel Prize in Physiology or Medicine, 1992.

Jerome I. Friedman, Institute Professor, Massachusetts Institute of Technology, Nobel Prize in Physics, 1990.

Walter Gilbert, Carl M. Loeb University Professor, The Biological Laboratories, Harvard University, Nobel Prize in Chemistry, 1980.

Alfred G. Gilman, Regental Professor and Chairman, Raymond and Ellen Willie Distinguished Chair in Molecular Neuropharmacology, Director, Alliance for Cellular Signaling, Chairman, Department of Pharmacology, University of Texas Southwestern Medical Center, Nobel Prize in Physiology or Medicine, 1994.

Donald A. Glaser, Professor of Physics and Neurobiology, University of California, Berkeley, Nobel Prize in Physics, 1960.

Joseph L. Goldstein, Regental Professor, Department of Molecular Genetics, University of Texas Southwestern Medical Center, Nobel Prize in Physiology or Medicine, 1985.

Paul Greengard, Vincent Astor Professor, Laboratory of Molecular and Cellular Neuroscience, The Rockefeller University, Nobel Prize in Physiology or Medicine, 2000.

Lee Hartwell, President and Director, Fred Hutchinson Cancer Research Center, Professor, Department of Genome Sciences, University of Washington School of Medicine, Nobel Prize in Physiology or Medicine, 2001.

Dudley Herschbach, Baird Professor of Science, Department of Chemistry and Chemical Biology, Harvard University, Nobel Prize in Chemistry, 1986.

Tim Hunt, Principal Scientist, Cancer Research UK, Nobel Prize in Physiology or Medicine, 2001.

Jerome Karle, Chief Scientist, Laboratory for the Structure of Matter, Naval Research Laboratory, Nobel Prize in Chemistry, 1985.

Arthur Kornberg, Emma Pfeiffer Merner Professor, Emeritus Professor of Biochemistry, Stanford University School of Medicine, Nobel Prize in Physiology or Medicine, 1959.

Edwin G. Krebs, Professor Emeritus, Senior Investigator Emeritus, Department of Pharmacology, Howard Hughes Medical Institute, University of Washington School of Medicine, Nobel Prize in Physiology or Medicine, 1992.

Leon M. Lederman, Pritzker Professor of Science, Illinois Institute of Technology, Nobel Prize in Physics, 1988.

Edward B. Lewis, Thomas Hunt Morgan Professor of Biology, Emeritus, California Institute of Technology, Nobel Prize in Physiology or Medicine, 1995.

William N. Lipscomb, Abbot and James Lawrence Professor, Emeritus, Department of Chemistry and Chemical Biology, Harvard University, Nobel Prize in Chemistry, 1976.

Ferid Murad, Professor and Chairman, Department of Integrative Biology, Pharmacology and Physiology, University of Texas at Houston, Nobel Prize in Physiology or Medicine, 1998.

Marshall Nirenberg, Chief, Laboratory of Biochemical Genetics, National Heart, Lung & Blood Institute, National Institutes of

Health, Nobel Prize in Physiology or Medicine, 1968.

Sir Paul Nurse, Director-General (Science), Cancer Research UK, Nobel Prize in Physiology or Medicine, 2001.

Burton Richter, Paul Piggot Professor in the Physical Sciences, Director, Stanford Linear Accelerator Center, Emeritus, Nobel Prize in Physics, 1976.

Richard J. Roberts, Research Director, New England Biolabs, Nobel Prize in Physiology or Medicine, 1993.

Phillip A. Sharp, Institute Professor, Director, McGovern Institute, Massachusetts Institute of Technology, Nobel Prize in Physiology or Medicine, 1993.

Hamilton O. Smith, Senior Director of DNA Resources, Celera Genomics, Nobel Prize in Physiology or Medicine, 1978.

Robert M. Solow, Institute Professor Emeritus, Massachusetts Institute of Technology, Nobel Prize in Economics, 1987.

E. Donnall Thomas, Professor of Medicine, Emeritus, University of Washington, Member, Fred Hutchinson Cancer Research Center, Nobel Prize in Physiology or Medicine, 1990.

Harold Varmus, President, Memorial Sloan Kettering Cancer Center, Former Director, National Institutes of Health, Nobel Prize in Physiology or Medicine, 1989.

James D. Watson, President, Cold Spring Harbor Laboratory, Director, National Center for Human Genome Research, NIH, 1989–1992, Nobel Prize in Physiology or Medicine, 1962.

Torsten Nils Wiesel, The Rockefeller University, President Emeritus Nobel Prize in Physiology of Medicine, 1981.

Robert W. Wilson, Senior Scientist, Harvard-Smithsonian Center for Astrophysics, Nobel Prize in Physics, 1978.

Mr. HATCH. There is so much more to be said about this. We can debate all night about it. I am sure there will come a time for this debate, where we can discuss all these matters.

But, you know, I am concerned that we not lose this opportunity to help mankind. I remember in the early 1970s, mid-1970s, when recombinant DNA was so heavily lobbied against, the research, and it was another type of cloning research. It was not the same as this, it is not cloning a living mother's egg, but nevertheless, it involved cloning. Similar arguments were made against recombinant DNA research.

I have to tell you that we went ahead anyway, the research was done, and today we have over 60 mainline drugs that came from recombinant DNA—cloning—research, not the least of which is human insulin which is saving millions of lives today in this world.

In fact, virtually every major scientific breakthrough through history has had those who have argued against it. And there have been some which have not proven efficacious, such as fetal tissue research.

I made the arguments on the floor against fetal tissue research at the time. So far, I believe that science has not been able to derive the projected benefits from fetal tissue research. I am not saying I was right; I am just saying the fact is, it did not prove as efficacious as originally thought.

But the scientists, one of the latest ones I chatted with at the University of Utah, Mario Capecchi, one of the leading experts in the world on mice stem cell research—it was an absolutely fascinating hour and a half I spent with him. You can't believe how very deeply he believes that embryonic stem cell research, of the type I have been talking about, is absolutely crucial for the well-being and care of humankind and that, really, this research has to go forward.

We have already lost one of the truly great scientists in this country, Dr. Peterson, I believe, who just threw his hands in the air and gave up because he believes this research is going to be ultimately hurt in this country—although I do not think he is right. He has already left and gone to England. Can you imagine how many more would leave if we, the most free country in the world, the most scientifically oriented country in the world, the country where most biomedical research progress has been made, the country that has the best Food and Drug Administration in the world, the country that has a caring nature about living human beings—not meaning to demean other countries, but I think this country cannot be beat in biomedical research. Can you imagine what a demoralizing thing it would be if we banned this highly promising research that can help alleviate the pains of mankind?

I have talked enough about it. I am just saying I hope my dear colleague will withdraw his amendment because it is premature. We will be happy to debate tomorrow, if he is unwilling to withdraw it, or whenever—but it is premature. I think it is dangerous to do it this way. We should study this because it is a complex, very difficult area. There are so many things about this whole debate that are very complex and very difficult.

I am sure I cannot convince my colleague of my point of view, and I do not believe he is going to convince me of his. But the fact is, I believe we ought to do everything in our power, within moral and ethical constraints and standards, to try to come up with treatments and cures that might alleviate the pain, suffering, and yes, even premature death of our fellow human beings on this planet.

I hope before this year is out that we will be able to resolve this issue because I think it needs to be resolved. I will certainly work with my dear colleague to try to find ways we can resolve this. But I believe it has to be resolved, and I hope we can have that full-time debate at a later date and that we will be able, at that time, to let the Senate vote and let the Senate make the determination, as well as the House, and go from there.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I would like to respond to a few issues raised by my friend and colleague from Utah. I have great admiration and respect for him. He is a senior Member of this body. He has done excellent work over the years. We have a disagreement on this one, although I don't know that we actually have a disagreement on the bill that is pending.

I continue to note the bill that is pending is about a patenting issue. It is about banning patents, and it is not about banning patents on unfertilized eggs. The bill is on the zygote, embryo, fetus, child or adult; a living organism made by human cloning or a process of human cloning. That is the operative part.

The zygote is the very young, fertilized egg. I agree that the unfertilized egg is not a person, to maybe clarify that in the debate. I don't think the unfertilized egg is a person and it is not protected under what we are proposing on this issue about patenting. The issue in front of us is patenting.

I also respond to my dear colleague from Utah that what we are proposing does not ban research on human cloning, that he would like to proceed. I disagree with that, but the pending issue is not about banning human cloning. It says that what we should do is not allow patenting of human clones or of young people. It is a narrow issue.

I want to make sure that it is clear to the body overall that the pending issue before this body is not about banning human cloning, it is not about a moratorium on human cloning; it is an issue that we should not patent the young human at any stage in the life continuum, when it is a young human.

That is when you have an entity. Whether it is a clone or a natural human, if you nurture it and it grows into a person, you should not be allowing patenting of this person. That is the pending issue.

I don't believe a number of scientists and Nobel laureates speak to the issue of patenting. They speak to the issue of human cloning, which is going on in America and which continues to go on this day in America. I don't think it should. That is not the pending issue, and that is not the issue the scientists address.

The issue that we are bringing up is about patenting. The good Senator from Utah knows this is the time and the right place. I brought these issues up in the past year. If not now, when? This is the time. These issues are pending. Some say it is not a real issue because the Patent Office has already declared that you can't patent a person.

I want to draw the attention of the Members of the body to when this debate broke open. Here is a May 17, 2002, piece in the New York Times, ''Debate on Human Cloning Turns to Patents''—just this past month.

The University of Missouri has received a patent that some lawyers say could cover human cloning, potentially violating a long-standing taboo against patenting of humans.

The patent covers a way of turning unfertilized eggs into embryos.

That is covered by the amendment we have put forward.

. . . the production of cloned mammals using that technique.

And it could be used on humans. That is the issue.

I ask unanimous consent that this article from the New York Times, and a similar one covering it from the Washington Post, and the Washington Times, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, May 17, 2002]

DEBATE ON HUMAN CLONING TURNS TO PATENTS

(By Andrew Pollack)

The University of Missouri has received a patent that some lawyers say could cover human cloning, potentially violating a long-standing taboo against the patenting of humans.

The patent covers a way of turning unfertilized eggs into embryos, and the production of cloned mammals using that technique. But unlike some other patents on animal cloning, this one does not specifically exclude human from the definition of mammals; indeed, it specifically mentions the use of human eggs.

Those opposed to cloning and to patenting of living things say the patent is a further sign that human life is being turned into a commodity.

''It is horrendous that we would define all of human life as biological machines that can be cloned, manufactured and patented,'' said Andrew Kimbrell, executive director of the International Center for Technology Assessment, a Washington group that has long opposed patenting of living things and also wants to ban all human cloning.

The patent was issued in April 2001, but attracted no attention until Mr. Kimbrell's group ran across it recently.

Senator Sam Brownback, the Kansas Republican who has been a leading opponent of human cloning, said he intended to introduce a bill to prohibit patents on human beings and human embryos, which he said were ''akin to slavery.''

''I think the patent office will appreciate having that clarity, given the applications that are coming into the patent office,'' Mr. Brownback said.

That bill would be separate from a bill the senator is already sponsoring that would prohibit all human cloning. The Senate is debating how extensively to ban human cloning, but none of the bills it is considering deal with the patent issues.

The patent also illustrates the tricky legal and ethical issues the United States Patent and Trademark Office is confronting as scientists race to develop cloning and to grow human tissues to treat disease. Mr. Kimbrell said he had found a few other patents that had been applied for but not granted that might cover human cloning.

The United States has been more liberal than most other countries in granting patents on living things, ever since a Supreme Court decision in 1980 that allowed the patenting of a microbe genetically engineered to consume oil spills. There are patents on complete animals, like a mouse genetically engineered to be prone to cancer. There are patents on human genes and human cells. The University of Wisconsin has a patent on human embryonic stem cells, which are cells taken from human embryos that have the ability to turn into any other type of tissue.

But the patent office has drawn the line on patenting of humans or human embryos themselves, saying it would not be constitutional. Many experts say this is because such patents would violate the 13th Amendment ban on slavery. Brigid Quinn, a spokeswoman for the patent office, said the agency was not using the 13th Amendment argument anymore but was not granting patents on humans because it had not received any guidance from Congress or the courts saying it should do so.

The result has been that many patents that conceivably could cover humans—like on cloning animals or on genetically engineering animals to produce drugs in their milk—specifically exclude humans.

A spokesman for the University of Missouri, Christian Basi, said that it believed its patent covered human cloning because it applied to all mammals. The university has licensed the patent to BioTransplant, a Massachusetts biotechnology company that is working on creating pigs that can be used as human organ donors. But the license, Mr. Basi said, covers only the use in pigs.

''We have absolutely no interest in using this to research humans and we will not license this technology to anyone for use in humans,'' Mr. Basi said, suggesting that the patent could actually help stop human cloning. ''This gives us control of this particular technology so we will know that this technology will not be used in humans.''

Ms. Quinn said the patent office did not comment on individual patents but had not changed its policy of not issuing patents ''drawn to humans.''

Randall S. Prather, a professor of reproductive technology at Missouri whose work was the basis for the patent, said the mention of human eggs ''was put there by the attorneys and they wanted to cover all mammals.''

Charles Cohen, who wrote the patent when he was a lawyer at a St. Louis law firm, declined to comment.

Some lawyers who have looked at the patent, No. 6,211,429, say it is not clear that it covers human cloning and that interpreting patents requires careful analysis of the patent's history, that the patent office did not appear to have problems with it could be a sign that the agency believes that the patent does not cover humans.

''You'd have to go through line by line, word by word,'' said Gerald P. Dodson, a lawyer with Morrison & Foerster in Palo Alto, Calif., who read the patent and said he could not reach an immediate conclusion.

Mr. Dodson and others noted that the specifications and examples of how the patent could be used dealt with pigs and cows.

Even if the patent does cover human cloning, some lawyers say, it would be a stretch to say it covers humans themselves, although the abstract of the patent says it covers the ''cloned products.''

But even a patent on the process of cloning humans could give the patent holder some rights over people, some lawyers said. Conceivably, for instance, the university could bar people created overseas by its cloning process from entering the country.

''It definitely is a patent for cloning a human, and under the laws we have right now, it might actually cover the human,'' said Richard Warburg, a patent lawyer at Foley & Lardner in San Diego who represents Infigen, an animal cloning company.

Dr. Rochelle Seide, a New York patent lawyer who heads the biotechnology practice at the law firm of Baker & Botts, said the lack of the nonhuman disclaimer in the Missouri patent was surprising.

''Looking at it,'' Ms. Seide said, ''I can see where people who are against cloning would have a big problem with it.''

Advanced Cell Technology, a company that wants to clone human embryos to obtain stem cells for disease treatments, licensed a patent from the University of Massachusetts on its method of cloning. But the patent is on only nonhuman embryos produced by the process, though it does seem to cover human cells.

It might be difficult to draw the line on what constitutes a human. George J. Annas, professor of health law at Boston University School of Public Health, said it was unclear whether the anti-slavery amendment would be a basis for denying patents on human embryos, because courts, in cases like those involving custody of frozen embryos, have said an embryo is not a person.

[From the Washington Times, May 21, 2002]

UNIVERSITY'S CLONING PATENT RAISES A ''MAMMAL'' ISSUE

(By Amy Fagan)

Adding another layer to the contentious debate over cloning in Congress, a patent watchdog group said last week that the University of Missouri at Columbia has received a patent for technology that can be used to clone human beings.

The patent covers laboratory procedures for creating cloned mammals, but it extends to the direct products of those cloning processes, including humans, said Peter DiMauro, director of Patent Watch.

''It says 'mammals' and it doesn't have a disclaimer for humans,'' said Mr. DiMauro, whose project tracks patents for the International Center for Technology Assessment.

University officials said the patent, issued last year, was never intended to apply to human beings. It was issued to a university researcher and applied to technology that allows the cloning of swine.

''The intent of the patent was to allow for research on swine,'' said Missouri spokeswoman Mary Joe Banken, who said school officials are meeting today to discuss narrowing the patent's language to exclude humans. ''It was never the intent of the university to use the technology on humans.''

Mr. DiMauro said he respects that, ''but the flaw is in the law.''

The Senate is awaiting a debate on the human-cloning issue. Sen. Sam Brownback, Kansas Republican, has a bill to outlaw the cloning of human embryos for any purpose, including for medical research. The House has passed an identical bill and the president is pushing for it.

Mr. DiMauro said his group has found three pending patents similar to that in Missouri. He called on Congress to clarify in law that patents cannot apply to human beings—including human embryos or fetuses.

Mr. Brownback said he will introduce legislation this week to do so.

''The central point in the debate over human cloning revolves around our view of the human embryo and whether or not the human embryo is a person or a piece of property,'' Mr. Brownback said. ''If we allow the patenting of human embryos, we will be sending the message that humans are property and that they can be exploited and destroyed for profit.''

A bill competing with Mr. Brownback's cloning ban, by Sens. Arlen Specter, Pennsylvania Republican, Dianne Feinstein, California Democrat, and others, would outlaw the implantation of a cloned human embryo in a uterus but would allow the human-cloning procedure to be done for medical research, including the extraction of stem cells. Advocates of this approach say the cloning procedure does not produce a human embryo, since no sperm is involved.

Patent Watch's DiMauro said the Specter-Feinstein cloning bill contains ''nothing to address the large scale commercialization of human embryos created through cloning.''

He said it ''seems to permit the status quo of the law, which is to allow the patenting of human embryos.''

When asked whether scientists would be able to obtain patents on their human-cloning research under her bill, Mrs. Feinstein said she did not know because her bill does not deal with the patent issue.

''I do not know, I cannot answer that,'' she said.

[From the Washington Post]

A NEW CALL FOR CLONING POLICY

(By Justin Gillis)

An advocacy group said yesterday it had uncovered a year-old patent that it interprets as applying to cloned human beings, and the group called on Congress to clarify the law to specify that no patents can be issued on human life.

The patent holder, the University of Missouri at Columbia, said it is still studying issues raised by the group but had no intention of asserting ownership of human beings or of cloned human embryos. The patent was obtained by a Missouri researcher working to develop pigs whose organs could be transplanted to save human patients. Cloning might be a way of creating many such pigs.

What the patent, No. 6,211,429, actually covers is somewhat unclear. It is mostly a description of specific laboratory techniques for making cloned mammals, but a subordinate clause in a section of the patent also lays claim to ''the cloned products produced by these methods.''

Other recent patents of this type have included explicit language saying the mammals in question do not include human beings, but this patent, issued April 3, 2001, to Missouri researcher Randall S. Prather and an associate, includes no such language.

Read in conjunction with relevant law, that means Prather has staked a claim on cloned humans whether he meant to or not, said Andrew Kimbrell, executive director of the International Center for Technology Assessment, the Washington activist group whose ''PatentWatch'' project raised the issue.

Some details of the patent appeared yesterday in the Wall Street Journal.

No one has ever made a cloned person, but many scientists believe it has become possible, raising profound ethical questions, including what rights of ownership the creators of a clone might have in their creation.

''I would say that the patent office should rescind this patent as grossly unethical and contrary to any kind of public policy,'' Kimbrell said. ''I also feel that in order to clarify this, Congress needs to come in.''

His group also raised concerns about three pending patents that it said could also be read as covering human life.

The University of Missouri disclaimed any pernicious intent. Prather ''has absolutely no interest in doing research on humans,'' said Mary Jo Banken, a spokeswoman for the school. ''I would say it would be impossible that we would attempt human reproductive cloning. It would never be approved'' by the university.

Brigid Quinn, a spokeswoman for the U.S. Patent and Trademark Office, said she could not discuss any individual patent and could not comment on Kimbrell's interpretation of the Missouri patent. But she said the patent office had made no change in its long-standing policy that human life cannot be patented.

''Our policy has not changed,'' Quinn said. ''It is not changing. We do not patent claims drawn to humans.''

However the Missouri patent is ultimately interpreted, the case does point up what some experts see as a gap in U.S. law. The policy to which Quinn referred is just that—a statement of intent issued by the patent office 15 years ago. It is subject to change, to court challenge and to simple oversight by patent examiners.

There is no specific law that excludes clones or other genetically modified human beings from being covered by patents. Some legal experts feel that constitutional law, particularly the 13th Amendment's prohibition of slavery, would rule out human patents. But others are doubtful and they argue that Congress should make the prohibition explicit.

Sen. Sam Brownback (R–Kan.), who has led a contested effort in Congress to ban all types of human cloning, said yesterday he would introduce separate legislation to clarify the patent laws. ''If we allow for the patenting of human embryos we will be sending the message that humans are property and that they can be exploited and destroyed for profit,'' Brownback said.

Mr. BROWNBACK. Madam President, I wanted to note to the Members of this body that this is the current issue. Indeed, one group that is looking and studying this issue believes that there are three patents either pending or already granted that could or are being used by the patent people or the process to create a human clone already.

Madam President, my point is that it is a live issue, and what we are doing here does not ban human cloning. It simply says you can't patent the human clone because there is a person; that if you allow this person to grow it is going to become a full-scale human being. It appears as if we are not going to be able to take this up in front of this body—the overall issue of cloning. Negotiations on that have broken down. Yet here is one to which I was hopeful we could get actually 100 percent of the Members of the body to agree.

I want to point to a couple of other issues that the Senator from Utah mentioned.

One is the unfertilized egg. We continue to speak about the unfertilized egg, which I believe is not a person. I want to state that clearly. The unfertilized egg he spoke about is not covered by the amendment. We do not cover the unfertilized egg.

He notes the position of a number of scientists on the issue of cloning. I would agree that there are differences in the scientific community on the issue of cloning. I also note that there are differences in the public. Two-thirds of the American public is opposed to human cloning.

I want to give you some examples of people who are opposed to human cloning and some of the reasons they are opposed to human cloning, and show you some pictures.

Two-thirds of the American public is uncomfortable about the issue of cloning. It kind of makes their skin crawl. It is that natural law within us that causes us to bristle when we think about creating life just for the purpose of destruction.

Here is a gentleman who wrote to me. He is from Granbury, TX. His name is James Kelly. He is in a wheelchair.

He said:

For the past five years I've lived in a self-imposed cocoon that includes a computer, a phone, and the world of medical research. In 1997 I fell asleep while driving interstate and a resulting spinal cord injury left me paralyzed below the chest. Because of what I've learned through reading medical journals and speaking to leading scientists, and because my life's focus is to support the safe, efficient development of cures for many medical conditions (including my own), I recently left my cocoon and journeyed to Washington to support your proposed ban on all forms of human cloning.

My reasons for supporting this ban are simple. Huge obstacles stand in the way of cloned embryonic stem cells ever leading to cures for any condition. To overcome these obstacles crucial funds, resources, and research careers will need to be diverted from more promising avenues for many years to come. These obstacles include tumor formation, short and long-term genetic mutations, tissue rejection, prohibitive costs, and the need for eggs from literally hundreds of millions of women to treat a single major condition (such as stroke, heart disease, or diabetes). However, every condition that cloned embryonic stem cells someday may address is already being addressed in animals or humans more safely, effectively, and cheaply by adult stem cells and other avenues. And since money spent on impressive-sounding, but hugely problematic research such as cloning cannot also be spent on research that really offers cures, I'm in favor of a total ban on human cloning.

I knew all this before I went to Washington. That's why I went there. Please allow me to share with you what I learned while I was there.

He goes ahead and talks about his discussion.

I want to show another person who has written to me who has studied and looked into this issue.

This is Julie Durler from Wright, KS. That is a nice-sounding community name.

I am writing this letter in support of legislation that would ban the creation of all cloned embryos. I understand the cloning of human embryos is being proposed for research purposed to help in finding a cure for different diseases including diabetes.

I am an insulin-dependent diabetic having been diagnosed with type I diabetes 17 years ago. I know personally the financial costs of having diabetes and also the health risks involved. As I have worked hard to keep my diabetes under control, I have been blessed in that I do not currently have any major complications as a result of having diabetes. However, I am also aware that in the future such complications may very well develop. Along with many others in our nation, I, too, would like to see a cure found for diabetes and know that research is necessary to accomplish that goal. However, the proposed use of cloning of human embryos for research or other purposes concerns me, especially since this creation of the cloned embryos for research purpose would result in their deaths.

I do not believe it is necessary to destroy life at any stage of development for research purposes. I believe their are other avenues of research that should be explored, most specifically the use of adult stem cells which has already produced some promising developments.

These are a few of many letters that we received from people who are suffering from some of these diseases who say there is a better way to go, as I have noted earlier.

I want to make another point on this RECORD.

The Senator from Utah, who has worked with me on many issues, says these are just a few cells. They are just a few cells. They are just a few cells.

I want to show you Hannah when she was just a few cells. This is Hannah. She is age 28 months, on April 1.

This is Hannah earlier. This is Hannah in the womb at 21 weeks. It is a fairly good picture of her. This is Hannah transferred to mom on April 11, 1998. Hannah was conceived. She was frozen. She was adopted as a frozen embryo.

That is interesting.

On March 5, 1998, she arrived at a clinic. On April 10, Hannah was thawed. Here she grows outside the womb. And, on April 11, she is transferred to mom. And then she goes on down the process.

If you destroy Hannah here, you have destroyed Hannah there. It is the same person. Looks different. When she gets older, she is going to look different.

Madam President, myself, I was once one of these. You were one of these. The Senator from Nevada was one of these. If we had been destroyed at this stage, we would never have gotten to this stage.

It is a life continuum that exists. If you destroy me here, I never get there. That is a biological fact. There is no theory involved. There is no theology involved. This is a biological fact.

Hannah was a few cells. We all were a few cells at some point in time. If you destroy us here, you destroy us there. If you destroy a caterpillar, you never get the butterfly, as much as we may want it.

My point in continuing this description for people is because this is just a few cells, it is true—it is just a few cells—but if you destroy those few cells, Hannah is destroyed.

At what point in time do you put any value to this life? Do we put value to Hannah when she is 28 months? I would say everybody in this body would agree. What do you put as Hannah's worth on December 31, 1998, when she came out of the womb? Everybody in this body agrees you put value to her at that point. Do you put value to her at 21 weeks in the womb? Some people in this body would question that, whether you would put worth to her at that point. How about April 11, when she is outside the womb? Some people would raise questions about that.

My point is, if you value her here, you have destroyed her here in the process that we are talking about.

That is not the issue in front of us. What I am talking about is the patenting. What I am saying here is, what is this? Is it a person or a piece of property at this point in time? Patentwise, what is this? Is it a person or a piece of property? The argument that is being presented to the Patent Office by some lawyers is that it is property and can be patented. But others are saying, it is life; it cannot be patented. That is the position of the Patent Office.

This body needs to decide that issue. And we are going to have to decide, then, if it is property at this point, at what point in time does it become a person that it cannot be patented?

My submission to you is, you should start at the moment of inception or that creation of the clone and say, you cannot patent the person. It is against the 13th amendment abolishing slavery. That is the only clean spot you can go in here and declare this is the spot we should start.

This should be a relatively easy and straightforward issue. It does not stop cloning research from taking place. It does not stop the funding of cloning research from taking place. It does not stop our scientists from working on the issue. It simply says, you cannot patent a person. It clarifies that issue for people who desire and seek to do that.

For those reasons, I think we should be able to vote on this, bring it up. And I am hopeful all my colleagues will join me in voting for the amendment.

Madam President, I yield the floor.

Mr. WARNER. Madam President, following the tragic events of September 11, 2001, the insurance industry faced an unprecedented situation. The final costs and impact on the insurance industry and its consumers have yet to be determined.

Although secondary insurers will help to cover some of the expenses associated with the September 11 attacks, it is critical for the Senate to consider and pass legislation to address the risks of future terrorists attacks.

The administration, the insurance industry, and policy holders throughout the various and diverse sectors of the economy, state the critical importance of passing legislation in a timely manner.

The attacks in September dealt a detrimental blow to an already sluggish economy leaving the health and stability of the economy very uncertain. Although the economic outlook is improving, further delay in passage of a terrorism insurance measure will adversely affect economic progress and growth.

Since September we have passed the September 11 Victims Compensation Fund, the Air Transportation Safety and Stabilization Act, and the Bioterrorism Preparedness Act.

The insurance industry is also facing a potential crisis. It is now June 13, 2002, and we still have not passed a bill. Every day that we fail to do so, the growing uncertainty in the market threatens the ability of businesses to obtain adequate and affordable insurance.

NEED TO ADDRESS GROUP LIFE INSURANCE

Ms. COLLINS. Madam President, the bill that we are debating today takes critical steps to address the problems arising from the September 11 tragedy that are being experienced by the commercial property and casualty insurance industry. I understand however, that the group life business has also been impacted by the tragic events of September 11. Group life insurance covers nearly 160 million Americans and represents 40 percent of all life insurance in force in the United States, or, $6 trillion of protection to Americans—most of whom are average working Americans. Group life insurance is a highly efficient and inexpensive way to deliver much needed security to people who might otherwise have little or no coverage. This product is inexpensive because it is sold as a single contract between an insurance company and a corporate buyer, the employer, and covering a great number of lives. This greatly simplifies and reduces costs of marketing and administering of the product. It is typically a staple of the employee benefits package provided by employers to their employees.

While I support the terrorism insurance bill that we consider today, I am concerned that it fails to address issues that threaten the continued vitality of group life insurance providers. And so I am pleased to have the opportunity to engage in a colloquy on this issue with the Senator from Nebraska, a true expert on insurance matters, the senior Senator from Maine, and three key members of the Senate Banking Committee.

I understand that the primary problem, both for the property and casualty insurers, as well as the group life insurers, is the difficulty in obtaining reinsurance after the disaster. Am I correct?

Mr. DODD. The Senator's understanding is correct. Reinsurance is important to the property and casualty insurers as well as to the group life insurance industry.

Mr. NELSON of Nebraska. I thank the Senator from Connecticut, who has played such a key role in bringing this important bill to the floor. I also thank the Senator from Maine for raising the profile of this issue in the Senate.

It is my understanding as well that the group life industry is experiencing difficulties in obtaining reinsurance. I understand, for example, that one group life insurer covered four corporate groups in the World Trade Center, with over $150 million in losses. All but $6 million was paid by reinsurance. Had that insurer not had reinsurance, its financial security would have been severely compromised. It is not unusual for group life insurance losses to be 96 percent covered by reinsurers. Now, however, the catastrophic reinsurance market has changed. For those companies that use reinsurance, I understand that premiums have skyrocketed with 10- to 13-fold increases and, in many instances, reinsurance may not be available at all. Much of the reinsurance that is being written excludes acts of terrorism and biological, nuclear and chemical claims. And, while reinsurers are either declining to pay for certain claims or simply not offering reinsurance for certain occurrences, the group life insurers are not allowed by their State insurance commissioners to have the same exclusions. And so I ask the distinguished ranking member of the Senate Banking

Committee, does the bill that we are currently debating address the problems being faced by group life insurers?

Mr. GRAMM. I thank the Senator from Nebraska for raising this important question. I believe that this bill does not speak individually to the issues now confronting the group life insurance industry. I would note that the bill does contain a provision that requires the Secretary of the Treasury, after consultation with the Nation of Association of Insurance Commissioners and representatives of the insurance industry and other experts, to study the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage.

Ms. SNOWE. I thank the senior Senator from Texas for his remarks. I am concerned that the study may not be completed in sufficient time to help the group life insurers avail themselves of the help that the property and casualty companies are getting in this bill. I would therefore ask the Senator from South Dakota, a senior member of the Senate Banking Committee, if he believes the needs of group life insurers are adequately addressed in this bill or its companion measure, passed by the House last November?

Mr. JOHNSON. I thank the senior Senator from Maine for her question. I believe that the needs of group life insurers are not adequately met by this bill. I find this problematic because of the role that group life insurance plays for the majority of American families. I am particularly concerned about the families of firefighters and other first responders. We ask firefighters and other first responders to risk their lives for us in the event of a terrorist attack. We have to make sure that basic group life insurance is there for them. I am also concerned about families whose wage earners are at the lower end of the pay scale. These families often find that they are able to secure more life insurance than they could otherwise afford because their employer is subsidizing it.

Finally, I am concerned about those families with a spouse who has had a serious medical problem. These families often find that the only life insurance they can afford or even find is group life.

We need to make sure that this industry remains highly competitive and able to pay all of the claims that might be made in the event of a future terrorist attack.

Ms. COLLINS. I thank my colleagues for participating in this colloquy, which has added measurably to the debate on the underlying bill. I thank particularly the distinguished senior Senators from Texas and Connecticut, without whom this bill would not be before us today, and I would like to ask them if they would commit to doing all they could to ensure that the legitimate needs of group life insurers are addressed in the conference on this legislation.

Mr. GRAMM. I would say to the gentlelady from Maine that this is an important issue that was brought to our attention only after the basic legislation was drafted. For that reason, I have every intention of making sure that, in conference, we give full consideration to the problems faced by the group life industry.

Mr. DODD. I concur with the senior Senator from Texas and will do all I can to address the legitimate needs of group life insurers in conference. To that end, I would invite the group life industry to continue to work with us so that we can better understand the problems that it now faces.

Mr. GREGG. I share the concerns of my colleagues regarding this issue and would add that we should facilitate insurance coverage for buildings subject to terrorist attacks, as well as for the people who work inside them. I look forward to addressing these issues in conference.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators allowed to speak therein for not to exceed 5 minutes each.

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

YUCCA MOUNTAIN LEGISLATION

Mr. ENSIGN. Madam President, I rise today to respond to remarks by the senior Senator from Idaho on the Senate floor procedures outlined in the Nuclear Waste Policy Act regarding Yucca Mountain. And I come to the floor today out of great respect for the traditions of the U.S. Senate. I am a freshman Senator. I have only been here a year. But one of the first things I did when I arrived was to seek the advice of the senior Senator from West Virginia, Senator BYRD, our very own Senate historian. I asked him for a copy of his history of the Senate which I have turned to often. I haven't had the opportunity to speak to him directly on this matter, but I turned to his books for guidance.

Madam President, when you have the chance, turn to Volume II page 191, and see what Senator BYRD says about the powers of the majority leader. He says the majority leader . . . ''determines what matters or measures will be scheduled for floor action and when.'' The Senator from Idaho is planning to change that by asserting that it would be alright for any member to determine when the Yucca Mountain resolution comes to floor. he said that, ''the Nuclear Waste Policy Act provides a special statutory authority to make exception to contemporary practice.'' That is not the case. I have the act right here.

The Nuclear Waste Policy Act of 1982 does state that it shall be in order ''for any Member of the Senate to move to proceed to the consideration of such resolution.'' But the act also states that the procedures outlined in the Nuclear Waste Policy Act ''supersede other rules of the Senate only to the extent that they are inconsistent with such other rules.''

The Nuclear Waste Policy Act provision permitting any Member to move to proceed to the consideration of the Yucca Mountain resolution is consistent with Senate rules, therefore it does not supersede the rules of the Senate. In the modern history of the Senate, no Member, other than the majority leader (or a designee), has successfully made a motion to proceed to a matter or measure.

Here are the facts:

CRS indicates there are six statutory expedited procedures in current law which explicitly state that ''any Member of the Senate'' may offer the motion to proceed: Executive Reorganization Act; Atomic Energy Act; Defense Base Closure and Realignment Act of 1990; Balanced Budget and Emergency Deficit Control Act; Balanced Budget Emergency Deficit Control Act; Nuclear Waste Policy Act of 1982.

According to a March 28, 2002 CRS memorandum, the language in these six statutes which states that ''any Member of the Senate'' may offer the motion to proceed is ''consistent with the Standing Rules of the Senate, which permit any Senator to make a motion to proceed, but also with the general Senate practice under which Senators routinely concede to the majority leader the function of taking actions to determine the floor agenda.

So the Nuclear Waste Policy Act is not, as the senior Senator from Idaho stated, ''a special procedure.''

Next, a June 11 CRS memorandum indicates that since the 100th Congress, consideration of five measures was governed by some statutory procedure explicitly permitting any Senator to offer a motion to proceed to consider. In three of these cases, action to call up the measure for consideration was taken by the Senate majority leader. However, in two of those cases, no Senator took action to call up the other two measures. The majority leader secured their indefinite postponement. That means no Senators offered a motion to proceed, even when explicitly permitted to do so by statute. The majority leader kept control of the Senate.

The Senate is a body which, quite rightly, reveres tradition. We must, as we have so few rules. As a new Member, I relied on the guidance from the Parliamentarian, the Congressional Research Service, and my senior colleagues. I am certain that if anyone,

other than the majority leader, successfully offers a motion to proceed to the Yucca Mountain resolution, it will break with Senate tradition, undermine the goal of the majority leader, and allow other Senators to control the floor. I hope the Members of this body will think before they move forward on the resolution.

In closing, I thank the majority leader. He is keeping his word that he gave to the people of the State of Nevada, and the people of the State of Nevada say thank you to the majority leader.

RECOGNIZING MRS. KATHY IRELAND

Mr. LOTT. Madam President, since age 17 Mrs. Kathy Ireland has been blessed to have assembled an illustrious career as an actress, supermodel, and vocalist. Her numerous talents have afforded her the opportunity to be regularly featured on the covers of such prestigious magazines as Cosmopolitan, People, Glamour, McCalls, and Redbook. Likewise, her inherent capabilities have provided her with the good fortune to appear as a special guest on nationally renowned television programs such as The Tonight Show with Jay Leno, The Today Show, Oprah, Entertainment Tonight, and Access Hollywood. This abundance of accolades has established Mrs. Ireland as a public figure of world-wide fame and recognition.

My purpose here today is not to recognize Mrs. Ireland for her extreme number of personal achievements, impressive as they are, but rather to expand on the manner in which she uses the fame and recognition gained from such accomplishments as a medium by which to make charitable contributions to our local and national communities. As I will bring to your attention in the next few minutes, Mrs. Ireland's personal accomplishments pale in comparison to the number of ways in which she gives back to our communities, both local and Nation wide.

I was made aware of Mrs. Ireland's benevolent character just recently, as it was brought to my attention that she was responsible for sending an eighteen wheeler filled with enough food to feed 1600 needy families for two weeks to Monroe County in my home State of Mississippi. This is the second consecutive year Mrs. Ireland has sent the Holiday Food Truck to aid Mississippians in need. In 2000, the truck was dispersed to the northwest region of Mississippi, also known as the Mississippi Delta. A philanthropic concert entitled ''Stars Over Mississippi'' is held biannually for the purpose of raising funds to be allocated towards increasing the educational opportunities available to the children of Mississippi. Mrs. Ireland has further benefitted my State by selflessly devoting her time to perform in many of these concerts. Mrs. Ireland has also asserted herself as a benevolent benefactress of the state of Mississippi, by donating many thousands of dollars worth of children's furniture, on behalf of Mary and Sam Haskell, to Sela Ward's Hope Village Orphanage located in Meridian, MS.

It should be duly noted that Mrs. Ireland's generosity, patronage, and charity is not limited to benefitting communities located in my home State of Mississippi. Examples of Mrs. Ireland's commitment to community service on a national scale include currently serving as Ambassador of both Women's Health Issues and the National Women's Cancer Research Alliance on behalf of the Entertainment Industry Foundation. Mrs. Ireland also holds the title of National Chair of Family Services and Parenting for the Athletes and Entertainers For Kids non-profit organization. As chairperson she personally sees to it that AEFK's mission of empowering our youth through mentoring partnerships and positive experiences is achieved. Mrs. Ireland also joins with an organization called Feed The Children each holiday season, in supervising the dissemination of over 170,000 pounds of clothing, food, and toys to needy children nationwide. Mrs. Ireland is a long-standing supporter of the Special Olympics, and has played an integral role in the establishment and continued development and success of the Dream Foundation, which provides terminally ill adults with the resources necessary to fulfill a special dream or be granted a final wish.

Despite her responsibilities associated with being a loving wife, devoted mother of two, Sunday school teacher, clothes designer, supermodel, actress, and vocalist, Mrs. Ireland expresses and executes an unequivocal desire to champion the causes of others. I take great personal pride and gain tremendous fulfillment in recognizing Mrs. Kathy Ireland before you on the Senate floor this day, and encourage all Americans possessing the will, desire, and resources to do so, to live according to her example.

TRIBUTE TO STEVEN NALLEY

Mr. LOTT. Madam President, today I rise to salute Stephen Matthew Nalley from Starkville, MS, for his outstanding achievement in this year's national spelling bee. Stephen finished in second place after spelling words such as ''altricial,'' ''muliebral'' and ''sericeous.'' He endured ten rounds, defeating 248 other spellers between the ages of 9 through 15.

The Louisville Courier-Journal started the national spelling bee in 1925 with only 9 contestants. Scripps Howard News Service assumed sponsorship in 1941. This year Steven and 249 other participants helped celebrate the 75th Annual Scripps Howard National Spelling Bee held here in Washington, D.C.

Steven was born with a particular type of autism that impairs social interaction and contributes to repetitive behavior patterns. Fortunately, he has been able to work with his disability and use it to his advantage. Quoting his mother, Barbara Nalley, ''He's mildly autistic, but he's channeled that into his spelling.''

Steven's accomplishment serves as a reminder to us all that we can accomplish astonishing things when we are willing to put in great time and effort for them. Steven's approach to adversity is to not back down, but rather to fight until he has conquered all obstacles and achieved his objective. I find this attribute of his remarkably inspiring.

Not only am I highly impressed with Steven's workmanship as an outstanding speller, but he also is a straight A student and a member of his school's honor society. He exemplifies a hard working young man and is a great asset for Mississippi.

I know my colleagues will join me in congratulating Steven on his tremendous accomplishment and wishing him the best in all of his future endeavors. Congratulations, Steven.

FLAG DAY

Mr. LEAHY. Madam President, as we approach Flag Day tomorrow, I thought it worthwhile to reflect on the innate patriotism of so many Americans. Justice Brennan wrote, ''We can imagine no more appropriate response to burning a flag than waving one's own.'' That is exactly how the American people respond.

Immediately following September 11, Americans all around the country began to fly flags outside their homes and businesses, to wear flag pins on their lapels, and to place flag stickers on their automobiles. This surge in patriotism over the past 9 months has made American flags such a hot commodity that several major flag manufacturers cannot keep flags stocked on store shelves. Within one week of the attacks, demand for American flags was 20 times higher than is typical for that time of year, according to the National Flag Foundation in Pittsburgh, Pennsylvania. During that same week, Wal-Mart sold 450,000 flags. Within days of the bombing, K-mart sold 200,000 flags.

This expression of national pride was spontaneous, and consisted of individual Americans taking conscious acts of patriotism. No one in the government decreed that Americans must purchase and fly flags. There was no official direction stating that Americans should wear clothing and accessories with flag designs, but these have been wildly popular as well.

Supporters of S.J. Res. 7, a constitutional amendment to prohibit flag desecration, believe that Americans need a lesson in how to respect the flag. I disagree, and I believe that the American people have proven these Senators wrong.

At the height of World War II, in the case of West Virginia State Board of Education v. Barnette, Justice Jackson wrote, ''To believe that patriotism will not flourish if patriotic ceremonies are

voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds.'' Patriotism is flourishing in ways that no one could have predicted. Americans are rallying around the flag in a voluntary show of strength that demonstrates America's commitment to freedom and liberty.

Respect cannot be coerced or compelled. It can only be given voluntarily. Some may find it more comfortable to silence dissenting voices, but coerced silence can only create resentment, disrespect, and disunity. You don't stamp out a bad idea by repressing it; you stamp it out with a better idea.

My better idea is to fly the flag, not because the law tells me to; not because there is something that says this is what I have to do to show respect; I do it because, as an American, I want to. That is why the American flag has always flown at the Leahy home. The extraordinary display of patriotism we have witnessed over the past 9 months is evidence that the American public agrees.

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 December 6, 2000 in Placer County, CA. A 37-year-old African American woman was attacked at a roadside rest stop. The perpetrators, two men, were hiding in a restroom stall when they attacked, bound and gagged the victim with duct tape, sexually assaulted her, and wrote racial slurs all over her body. Police investigated the assault as a hate crime.

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

MISSED OPPORTUNITIES IN BURMA?

Mr. MCCONNELL. Madam President, leave it to the repressive generals in Rangoon to miss an opportunity to secure peace and reconciliation in Burma. I am referring to today's BBC article entitled ''Burma Renews Suu Kyi Isolation.''

I want to be very clear to the repressive State Peace and Development Council (SPDC), the Administration, and the international community—particularly Japan—that the level of engagement with the hard liners in Rangoon should be conditioned on concrete, political progress following Daw Aung San Suu Kyi's release. Intimidating and punishing any Burmese who meets with democracy leader Suu Kyi—as has already occurred—or continuing to restrict her movements is wholly unacceptable and must not be tolerated.

The State Department made a grave mistake in allowing a Burmese colonel to visit Washington last month. The regime exploited this mistake when it touted in a press statement: ''This was our first conversation at this level with American authorities since 1988.'' We should not allow an illegal military junta to spin our intentions—or our policy.

It is my expectation that the junta will allow Suu Kyi and the National League for Democracy to conclude its assessment of Burma's humanitarian needs before moving forward on any new programs or initiatives. Restricting Suu Kyi's access to U.N. offices in Rangoon serves no logical purpose.

Those of us who have long championed freedom and democracy for the people of Burma must be vigilant in the days, weeks, and months ahead. It is premature for the Washington—or any other foreign capital—to be considering ''rewards'' for the SPDC: 1,500 political prisoners have yet to be released; forced labor continues unabated; ethnic nationalities suffer horrific human rights abuses; and, dialogue between the NLD and the regime has not resumed.

The State Department would be wise to withhold requests to Congress for expanding narcotics cooperation with the Burmese—including the use of training facilities in Thailand—lest they be guilty of premature jubilation in Burma.

As I wrote to President Bush last month, the SPDC should be judged not by what they say, but rather by what they do. It does not look like the tiger in Burma has changed its stripes.

THE DEATH OF S.SGT. ANISSA A. SHERO IN AFGHANISTAN

Mr. ROCKEFELLER. Madam President, for many generations, the people of West Virginia have distinguished themselves by their willingness to serve their country in the armed forces. West Virginians understand the cost of freedom and have always been willing to pay it when called. Today, we are reminded again just how great that cost can be, as we mourn the loss of Air Force Staff Sgt. Anissa A. Shero, of Grafton, WV, who died in a tragic airplane crash near the town of Gardez, Afghanistan.

Sgt. Shero was a volunteer, who chose to serve her country in the face of grave danger. When terrorists struck, she left behind the mountains of West Virginia for the mountains of Afghanistan, to risk her life so that we might live ours in freedom and safety. She was part of an extraordinarily successful effort to crush the Taliban, disrupt and demoralize al-Qaida, and free the people of Afghanistan from two decades of war and despotism. Men and women in both nations are safer now because of her work, and all of us who value freedom owe Sgt. Shero a profound debt of gratitude and honor. I know that the thoughts and prayers of many people are, like mine, with her family and her friends tonight.

Like the two service members who died with her, and the 37 others killed in Afghanistan during this war, including West Virginian Sgt. Gene Vance, Jr., Sgt. Shero bravely did her duty as an American. Now, let us pledge to do ours in her honor. Let us remember always, including on the floor of this Senate Chamber, that wars are about people, and freedom, and lives. Let us make certain that our armed forces have the tools they need to meet any foe, any where, any time. And let us treasure the freedoms we enjoy as Americans and give thanks for the service members who fight to protect them.

Sgt. Shero represented the best of West Virginia and the best of America. She was strong, courageous, and dedicated. She will forever serve as a role model for West Virginians, men and women alike, who loved their country and who, like her, know our ideals are worth fighting for.

THE ABM TREATY

Mr. REED. Madam President, I rise to acknowledge the fact that today, 6 months after President Bush announced the U.S. intention to withdraw from the ABM Treaty, the Treaty lapses. The 30-year old treaty, which most consider to be the cornerstone of arms control, now no longer exists.

The significance of today has gone largely unnoticed. Press coverage has been minimal so most American will likely not realize what happens today. The objections of Russia and China to the withdrawal have been muted. Our European allies have reluctantly accepted the withdrawal. Some would say that this lack of fanfare proves that the ABM Treaty was a relic of the cold war and needed to be renounced. I would argue that while today's withdrawal seems insignificant at this moment, it has profound implications for the future.

When President Bush announced his intention to withdraw from the treaty, he stated: ''I have conclude the ABM Treaty hinders our government's ability to develop ways to protect our people from future terrorist or rogue-state missile attacks.'' I would argue that this statement is incorrect. First, the greatest threat from terrorists is not from a long range missile but from methods we have witnessed and watched for since September 11 conventional transportation like planes and cargo ships, used as weapons.

Secondly, any testing of missile defenses that could be planned for the

next several years would not violate the ABM Treaty. We simply do not have the technology yet to test a system in violation of the treaty. An article in today's New York Times states that on Saturday, ground will be broken for a missile test site in Fort Greely Alaska. The article states that this test site would violate the treaty. That is not correct. Under Article IV of the ABM treaty and paragraph 5 of a 1978 agreed statement, the U.S. simply has to notify Russia of U.S. intent to build another test range. As a matter fact, the fiscal year 2002 Defense authorization act authorized the funding for the Alaska test bed prior to the President's announcement to withdraw from the treaty. As a supporter of the ABM Treaty and a member of the Senate Armed Services Committee, I can assure you that Congress clearly had no intent to authorize an action that would violate the treaty. The technologies which would indeed violate the ABM Treaty, sea-based and space-based systems, are mere concepts that are years away from constituting an action that would violate the treaty. In sum, despite the claims of the President, there was no compelling reason to withdraw at this time.

In addition, today, the United States becomes the first nation since World War II to withdraw from a major international security agreement. In the past 50 years only one other nation has attempted such an action. In 1993 North Korea announced its intention to withdraw from the Nuclear Nonproliferation Treaty which caused an international crisis until North Korea reconsidered. The U.S. withdrawal has not caused an international crisis, but it does send a subtle signal. If the U.S. can withdraw from a treaty at any time without compelling reasons, what is to stop Russia or China from withdrawing from an agreement? Furthermore, what basis would the U.S. have for objecting to such a withdrawal since our nation began the trend? This administration must keep in mind that other nations can also take unilateral actions, but we might not be as comfortable with those decisions. Indeed, as we seek to eliminate the threat of weapons of mass destruction, this withdrawal sends the opposite signal.

As I mentioned before, the ABM treaty was the cornerstone of arms control. With the cornerstone gone, there are worries about an increase in nuclear proliferation. As Joseph Cirincione said, ''No matter what some people may tell you, each side's nuclear force is based primarily on the calculation of the other side's force.'' If China believes its force could be defeated by a U.S. missile shield, China may decide it is in its best interest to increase the number of weapons in its arsenal to overwhelm the shield. If China increases its nuclear missile production, neighboring rival India may find it necessary to recalculate the size of its force. Of course, Pakistan would then increase its inventory to match India. So, while there seems to be little consequence to cessation of the ABM Treaty today, if we are not careful it could be the spark of a new arms race.

As of today, the ABM Treaty no longer exists. But our work has just begun. Withdrawing from this treaty dictates that we redouble our efforts on other nonproliferation and arms control agreements. Since September 11, every American has become acutely aware of the need to eliminate and secure nuclear materials so that they do not become the weapon of a terrorist. The only way we will not regret today's action is to prove by future actions that the U.S. is truly committed to arms control and nonproliferation. The United States should robustly fund Cooperative Threat Reduction programs. The United States should pursue further negotiations with the Russians and agree to actually dismantle some weapons rather simply place them in storage. The United States should also ratify the Comprehensive Test Ban Treaty.

In his withdrawal announcement last December 13, President Bush said, ''This is not a day for looking back, but a day for looking forward . . . '' I agree. We cannot look back to a treaty that no longer exists, but we must work diligently from this day forward to ensure that the United States is taking the steps necessary to maintain the peace and security once sustained by the ABM Treaty.

ADDITIONAL STATEMENTS

APPRECIATION FOR LENEICE WU

● Mr. BIDEN. Madam President, I would like to take this opportunity to extend the appreciation of the Senate to a devoted public servant at the Congressional Research Service. Leneice Wu is retiring from CRS after 34 years of service to the United States Congress, a period spanning 17 Congresses and the tenures of eight Presidents. Only five sitting members of the Senate and three Members of the House of Representatives have longer terms of service to the Nation. This length of service is not only a credit to Ms. Wu, but also a demonstration of the dedication that the staff of the Congressional Research Service bring in their support of our work in Congress.

After graduating from Mary Washington College in 1968, Ms. Wu began her career with the Library of Congress as a research assistant, and is now concluding it as the CRS Deputy Assistant Director of the Foreign Affairs, Defense and Trade Division. During her decades of service, Ms. Wu has provided research and analytical support to Members of Congress on a broad range of international relations issues, with a particular focus upon the difficult challenges of arms control. The Strategic Arms Limitation Talks, START, the Nuclear Test Ban Treaty, nuclear non-proliferation, and chemical-biological arms control are but a few of the areas in which she has assisted Congress. A list of her reports and analytical memoranda to Congress would run several pages, but a brief survey finds: Congress and the Termination of the Vietnam War, Nuclear Proliferation: Future U.S. Foreign Policy Implications, Congress and Arms Control Policy, and U.S. Foreign Military Sales Legislation. Ms. Wu also coordinated and contributed to the eight-part Fundamentals of Nuclear Arms Control, issued as a Committee Print by the House Committee on Foreign Affairs. On two occasions, Ms. Wu was detailed to the Arms Control and Disarmament Agency to advise in the preparation of Arms Control Impact Statements, ensuring attention to congressional intent and interests.

In addition to her research responsibilities, Ms. Wu has undertaken numerous administrative responsibilities. Prior to her present position, within the Foreign Affairs Division she has served as head of the Central Research Unit, the International Organizations, Development, and Security Section, and the Defense Policy and Arms Control Section. Following these assignments she moved on to become the Foreign Affairs Division's Program Coordinator and later Research Coordinator. Ms. Wu has also overseen a unique and vital resource to the Congress, CRS's Language Services, which provides foreign language translations for both Members and Committees. For the Liberty of Congress as whole, Ms. Wu has served as a member of the Women's Program Advisory Committee, and as both Equal Employment Opportunity Counselor and Officer.

Ms. Wu is a fine example of those many staff in this institution who work in virtual anonymity to support the important work of the Congress. On behalf of my colleagues, I extend our deep appreciation to Ms. Wu for her service, and wish her the very best in her future endeavors.●

WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION 2002 NATIONAL COMPETITION

● Mr. LUGAR. Madam President, I am pleased to rise today to recognize the signal accomplishments of students from Castle High School, of Newburgh, IN, who were the Central States Regional Award winners in the 2002 ''We the People: The Citizen and the Constitution'' national competition.

The ''We the People: The Citizen and the Constitution'' program, administered by the Center for Civic Education, promotes an understanding of the rights and responsibilities of United States citizens. Students in the elementary, middle, and high school levels learn about the values and principles embodied in the Bill of Rights and the United States Constitution. The Castle High School team competed against fifty classes from throughout the country and testified before a mock

Congressional hearing as experts on Constitutional law. This kind of practical application of constitutional principles helps students in addressing modern public policy concerns.

These award-winning students demonstrated an extensive understanding of the ideology of our governmental framework. Their commitment to excellence and thorough preparation is reflected in their achievement. They have truly brought pride to the State of Indiana.

The names of these young Hoosiers are: Carrie Baum, Michael Carter, Marc Chapman, Allison Craney, Robert Dagit, Kelly Daniels, Karen De Neve, Phillip Exline, George Ferguson, Jr., Bryan Hart, Kimberly Hedge, Melanie Hiatt, Rachel Hopper, Brett Howard, Eric Jenkins, Andy Jobe, Yvonne Laaper, Christine Lowe, Maureen Martin, Steven Melfi, Amanda Merold, Peter Murphy, Allan Patterson, Lynn Perry, Mina Pirkle, Sarah Relyea, Rachel Roper, Michael Schmidt, Kellen Scott, Jeffrey Seibert, Kelly Smith, Matthew Suter, Prashant Tatineni, Stephanie Wurmnest.

I would also like to commend their teacher, Stan Harris, who did a remarkable job preparing the team for this achievement. He is a talented educator who has provided tremendous leadership for students in the Newburgh area.

Again, congratulations to Castle High School on a remarkable performance in the ''We the People: The Citizen and the Constitution'' national competition.●

88TH BIRTHDAY OF MILWAUKEE NATIVE LARRY LEDERMAN

● Mr. KOHL. Madam President, I rise here today to congratulate Milwaukee native Larry Lederman, who National Racquetball Magazine calls the ''founding father of modern racquetball'' and who recently celebrated his 88th birthday last month.

Larry is a prominent figure not only in Wisconsin sports history, but in American sports history. In 1939 he was the best wrestler in America in his weight class and arguably the best wrestler in the world. Larry was named to six Hall or Wall of Fames, including the Wisconsin AAU Hall of Fame in 1995, and most recently was elected to the International Wrestling Hall of Fame in Stillwater, Oklahoma.

Five years ago, the AAU selected Larry to give back the medals to the world's greatest athlete, Jim Thorpe, taken from him in 1918, at a special ceremony in Wisconsin.

For 88 years Larry Lederman has provided us with many great memories and touched many lives, and it is my honor here today to celebrate his many achievements.●

TRIBUTE TO NANZ AND KRAFT FLORISTS

● Mr. BUNNING. Madam President, I rise today to pay a proper tribute to Nanz & Kraft Florists of Louisville, KY. For over 150 years, Nanz & Kraft has served Kentuckians, providing them with beautiful and memorable floral arrangements for birthdays, anniversaries, funerals, hospital visits and various other occasions. Nanz & Kraft is the single largest florist shop in the Commonwealth of Kentucky, and one of the biggest in the entire United States.

In 1850, the year Zachary Taylor died and Millard Fillmore became president of the United States, Henry Nanz decided to open a quaint little flower shop on Fourth Street in downtown Louisville. He cultivated his flowers on a one-acre suburban plot and in a 12′ x 20′ green house. In 1870, with business thriving, Henry Nanz packed his bags and moved the company to 30 acres of land in the St. Matthews area owned by a Mr. Charles Neuner. In 1872, Mr. Neuner made the decision to join the profitable company. For the next 82 years, the business was known as Nanz & Neuner.

When in 1900 Nanz & Neuner celebrated their 50th anniversary, the St. Matthews site contained an astounding 60 greenhouses, a 15-acre nursery, and ten acres devoted to roses and other flowers, including Field Grown Roses, the company's specialty. In 1954, Nanz & Neuner officially became Nanz & Kraft, changing names but retaining the same formula for success. Today, Nanz & Kraft's main store is a 20,000 square foot building. There are three branch stores, and the business has about 125 employees, half full-time and the rest part-time. They are open every day of the year except Christmas and make more than 200 deliveries a day. Whether it be a birthday or a first date, Kentuckians can count on Nanz & Neuner to brighten up the occasion.

I ask that my fellow colleagues join me in thanking all the men and women who have worked so hard over the last 152 years to make Nanz & Kraft one of the most profitable and well-respected floral businesses in the United States. Nanz & Kraft truly is a tribute to the American capitalist spirit. They have served the Commonwealth in three different centuries now, through a Civil and two World Wars, and through 21 different presidents, and I would just like to pass along my thanks and admiration.●

THE 2002 NATIONAL MEDAL OF TECHNOLOGY TO PROFESSOR JERRY M. WOODALL OF YALE UNIVERSITY

● Mr. LIEBERMAN. Madam President, I rise today to express my heartfelt congratulations to a Connecticut resident, Professor Jerry M. Woodall of Yale University, for being awarded the 2002 National Medal of Technology, our country's highest honor celebrating America's leading innovators. This represents the first time that a professor from Yale has ever achieved this extraordinary recognition, and it serves to underscore Yale's deep and renewed commitment to establishing itself as one of the world's premier engineering institutions.

I cannot imagine another person for whom this prestigious award is more richly deserved. Professor Woodall, who holds the position of C. Baldwin Sawyer Professor of Electrical Engineering at Yale, has conducted pioneering research in compound semiconductor materials and devices over a career spanning four decades. Fully half of the entire world's annual sales of compound semiconductor components are made possible by his research legacy. He invented electronic and optoelectronic devices seen ubiquitously in modern life, including the red LEDs used in indicators and stoplights, the infrared LED used in CD players, TV remote controls and computer networks, the high speed transistors used in cell phones and satellites, and the weight-efficient solar cell.

Professor Woodall spent most of the early and mid parts of his career at the IBM Thomas J. Watson Research Center, where he rose to the coveted rank of IBM Fellow. He built the first high purity single crystals of gallium arsenide there, enabling the first definitive measurements of carrier velocity versus electric field relationships, as well as GaAs crystals used for the first non-supercooled injection laser. He and Hans Ruprecht pioneered the liquid-phase epitaxial growth of both Si doped GaAs used for high efficiency IR LEDs, and gallium aluminum arsenide (GaAlAs), which led to his most important research contribution so far the first working heterojunction. They built it from gallium aluminum arsenide mated to gallium arsenide (GaAlAs/GaAs), and it remains the world's most important compound semiconductor heterojunction.

He then invented and patented many important commercial high-speed electronic and photonic devices which depend on the heterojunction, including bright red LEDs and the two classes of ultra-fast transistors, called the heterojunction bipolar transistor (HBT) and pseudomorphic high-electron-mobility transistor (pHEMT). Many new areas of solid-state physics have evolved and been realized as a result of his work, including the semiconductor superlattice, low-dimensional systems, mesoscopics, and resonant tunneling.

Professor Woodall was elected to the National Academy of Engineering in 1989 and is a fellow of the American Physical Society (APS), the Institute of Electrical and Electronics Engineers (IEEE), the Electrochemical Society (ECS), and AVS. He has served as president of the ECS and AVS, and on the board and executive committee of the American Institute of Physics (AIP). He has published 315 publications in the open literature and been issued 67 U.S. patents. He received five major IBM Research Division Awards, 30 IBM Invention Achievement Awards, and an

IBM Corporate Award in 1992 for the invention of the GaAlAs/GaAs heterojunction. Other recognition includes a 1975 Industrial Research 100 Award; the 1980 Electronics Division Award of the Electrochemical Society (ECS); the 1984 IEEE Jack A. Morton Award; the 1985 ECS Solid State Science and Technology Award; the 1988 Heinrich Welker Gold Medal and International GaAs Symposium Award; the 1990 American Vacuum Society's (AVS) Medard Welch Award, its highest honor; the 1997 Eta Kappa Nu Vladimir Karapetoff Eminent Members' Award; the 1998 American Society for Engineering Education's General Electric Senior Research Award; and the 1998 ECS Edward Goodrich Acheson Award, its highest honor.

Woodall co-founded LightSpin Technologies, Inc., a high technology start-up company, and serves as its Chief Science Officer. From 1993 through 1999, he held the Charles William Harrison Distinguished Professorship of Microelectronics at Purdue University. He earned a Ph.D. in electrical engineering from Cornell University and a B.S. in metallurgy from MIT.

I speak with utmost sincerity in expressing my gratitude to Professor Woodall for the lifetime of contributions or, more accurately, several lifetimes' worth of contributions that he has rendered in service to our nation in enabling it to become the world leader in technology and research. Our lives and our society would be dramatically different today had we not benefitted from Professor Woodall's drive and genius, and it fills me with exceptional pride to see him recognized for his efforts. Outstanding technologists such as he create to the tools to fully realize human and societal potential, and by having someone as accomplished as Professor Woodall on its faculty, both Connecticut and Yale University will be well-situated to produce the next generation of engineering lights. On behalf of your state and your country, Professor Woodall, please accept my deepest congratulations and thanks.●

THE COMMUNITY ACTION PROGRAM EAST CENTRAL OREGON (CAPECO)

● Mr. SMITH of Oregon. Madam President, I rise today to commend my friends at the Community Action Program East Central Oregon, CAPECO. CAPECO was formed in October 1987 to support the economic development efforts of Morrow, Umatilla, Gilliam, and Wheeler Counties through its worker training services.

Located in my home town of Pendleton, OR, CAPECO works with the Oregon Workforce Alliance to offer employment and training services to employers and citizens of Morrow and Umatilla counties. CAPECO is an active Work-Links partner, offering services to help job seekers, workers, and employers. The Program has been active since the inception of the Workforce Investment Act and has been a tremendous help to hundreds of displaced workers trying to get back on their feet.

This important program not only provides up to fifty percent of displaced workers' wages, but it offers skill assessments and retraining, and help with job applications, interviewing techniques, and stress management.

I have heard from many constituents about how important this service has been in getting back to work or gaining skills for a new job. Ms. Mary Paige Rose recently contacted me to tell me how CAPECO changed her career. Ms. Rose writes: ''I was classified as a displaced worker by Oregon's Employment Department. They directed me to go to CAPECO and attend their classes called Choices and Options. This class was instructed by Mary Kinsch who became my work force counselor and confident. In less than a year, I have opened my own business due to the services I received from CAPECO . . . When I was fired from my account executive sales position . . . it devastated me. I had never been fired before and never had needed to use these types of social services. I am forever grateful for CAPECO and for the Oregon Employment Department for assisting me. I would not be where I am today without the aid. . . . With the help of programs like CAPECO, I am not a liability to Umatilla County or the State of Oregon, I am an asset. I appreciate all the help that Mary Kinsch and CAPECO were able to give me through the Workforce Investment Act. Please know that programs like CAPECO are very needed especially in such a distressed area as Umatilla County.''

Madam President, I am proud of CAPECO's important contribution to the Oregon economy and proud of constituents like Ms. Rose who have taken advantage of these services and also contributed to job growth in the state. They are a credit to my state of Oregon and to this country.●

GRANT CHAPEL

● Mr. BINGAMAN. Madam President, on June 14, the church family of Grant Chapel in Albuquerque celebrates what its pastor describes as ''one hundred twenty years of God's faithfulness to Grant and to the community of Albuquerque.''

Organized in 1882 as the ''Colored Methodist Mission,'' it was founded to serve as a place of worship for African American people in New Mexico. A year later, it was one of five churches awarded a plot of land by New Mexico Township, Inc., to promote development in Albuquerque. In 1892, it became known as the Coal Avenue Methodist Church and in 1905 it was renamed Grant Chapel to honor Bishop Abram Grant of the 5th Episcopal District which included the states and territories in the West.

Building and growing are very much part of Grant Chapel's history. The congregation has chosen to change sites over the years, and with each move, a new vitality has been infused into the church. Over the course of its history, some fifty ministers have served here, each building on one another's success, and contributing to its importance in the community.

I am proud to add my voice in praise of the good people—past, present and future—of Grant chapel, and to wish them at least another hundred twenty years of prayerful service.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:05 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 bill:

S. 2431. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits.

The enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD)

At 12:24 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4775) making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

Mr. YOUNG of Florida, Mr. REGULA, Mr. LEWIS of California, Mr. ROGERS of Kentucky, Mr. SKEEN, Mr. WOLF, Mr. KOLBE, Mr. CALLAHAN, Mr. WALSH, Mr. TAYLOR of North Carolina, Mr. HOBSON, Mr. ISTOOK, Mr. BONILLA, Mr. KNOLLENBERG, Mr. OBEY, Mr. MURTHA, Mr. DICKS, Mr. SABO, Mr. HOYER, Mr. MOLLOHAN, Ms. KAPTUR, Mr. VISCLOSKY, Mrs. LOWEY, Mr. SERRANO, and Mr. OLVER.

The message further announced that the House disagrees to the amendment

of the Senate to the bill (H.R. 4) to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Energy and Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. TAUZIN, Mr. BILIRAKIS, Mr. BARTON of Texas, Mr. UPTON, Mr. STEARNS, Mr. GILLMOR, Mr. BURR of North Carolina, Mr. DINGELL, Mr. WAXMAN, Mr. MARKEY, Mr. BOUCHER, Mr. GORDON, and Mr. RUSH.

From the Committee on Agriculture, for consideration of section 401 of the House bill and sections 265, 301, 604, 941–948, 950, 1103, 1221, 1311–1313, and 2008 of Senate amendment, and modifications committed to conference: Mr. COMBEST, Mr. LUCAS of Oklahoma, and Mr. STENHOLM.

From the Committee on Armed Services, for consideration of sections 401 and 6305 of the House bill and sections 301, 501–507, 509, 513, 809, 821, 914, 920, 1401, 1407–1409, 1411, 1801 and 1803, of the Senate amendment, and modification committed to conference: Mr. STUMP, Mr. WELDON of Pennsylvania, and Mr. SKELTON.

From the Committee on the Budget, for consideration of section 1013 of the Senate amendment, and modifications committed to conference: Mr. NUSSLE, Mr. GUTKNECHT, and Mr. MOORE.

From the Committee on Education and the Workforce, for consideration of section 134 of the House bill and sections 715, 774901, 903, 1505 and 1507 of the Senate amendment, and modifications committed to conference: Mr. MCKEON, Mr. NORWOOD, and Mr. GEORGE MILLER of California.

From the Commmittee on Financial Services, for consideration of division D of the House bill and sections 931–940 and 950 of the Senate amendment, and modifications committed to conference: Mr. OXLEY, Mrs. ROUKEMA, and Mr. LAFALCE.

From the Committee on the Judiciary, for consideration of sections 206, 209, 253, 531–532, 708, 767, 783, and 1109 of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. SMITH of Texas, and Mr. CONYERS.

From the Committee on Resources, for consideration of sections 401, 2441–2451, 6001–6234, and 6301–6801 of the House bill and sections 201, 265, 272, 301, 401–407, 602–606, 609, 612, 705, 707, 712, 721, 1234, 1351–1352, 1704, and 1811 of the Senate amendment, and modifications committed to conference: Mr. HANSEN, Mrs. CUBIN, and Mr. RAHALL:

That Mr. GEORGE MILLER of California is appointed in lieu of Mr. RAHALL for consideration of sections 6501–6512 of the House bill, and modifications committed to conference.

From the Committee on Science, for consideration of sections 125, 152, 305–6, 801, division B, division E, and section 6512 of the House bill and sections 501–507, 509, 513–516, 770–772, 807–809, 814–816, 824, 832, 1001–1022, title XI, title XII, title XIII, title XIV, sections 1502, 1504–1505, title XVI, and sections 1801–1805 of the Senate amendment, and modifications committed to conference: Mr. BOEHLERT, Mr. BARTLETT of Maryland, and Mr. HALL of Texas:

That Mr. COSTELLO is appointed in lieu of Mr. HALL of Texas for consideration of division E of the House bill, and modifications committed to conference:

That Ms. WOOLSEY is appointed in lieu of Mr. HALL of Texas for consideration of sections 2001–2178 and 2201–2261 of division B of the House bill, and modifications committed to conference.

From the Committee on Transportation and Infrastructure, for consideration of sections 121–126, 151, 152, 401, 701, 2101–2105, 2141–2144, 6104, 6507, and 6509 of the House bill and sections 102, 201, 205, 301, 701–783, 812, 814, 816, 823, 911–916, 918–920, 949, 1214, 1261–1262 and 1351–1352, of the Senate amendment, and modifications committed to conference: Mr. YOUNG of Alaska, Mr. PETRI, and Mr. OBERSTAR:

That Mr. COSTELLO is appointed in lieu of Mr. OBERSTAR for consideration of sections 121–126 of the House bill and sections 911–916 and 918–919 of the Senate amendment, and modifications committed to conference:

That Mr. BORSKI is appointed in lieu of Mr. OBERSTAR for consideration of sections 151, 2101–2105, and 2141–2144 of the House bill and sections 812, 814, and 816 of the Senate amendment, and modifications committed to conference:

That Mr. DEFAZIO is appointed in lieu of Mr. OBERSTAR for consideration of section 401 of the House bill and sections 201, 205, 301, 1262, and 1351–1352 of the Senate amendment, and modifications committed to conference.

From the Committee on Ways and Means, for consideration of division C of the House bill and divisions H and I of the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. MCCRERY, and Mr. RANGEL.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

At 3:21 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. 4019. An act to provide that the marriage penalty relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4019. An act to provide that the marriage penalty relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent; to the Committee on Finance.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 13, 2002, she had presented to the President of the United States the following enrolled bill.

S. 2431. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 633: A bill to provide for the review and management of airport congestion, and for other purposes. (Rept. No. 107-162).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

H. Con. Res. 387: A concurrent resolution recognizing the American Society of Civil Engineers for reaching its 150th Anniversary and for the many vital contributions of civil engineers to the quality of life of our Nation's people including the research and development projects that have led to the physical infrastructure of modern America.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 283: A resolution recognizing the successful completion of democratic elections in the Republic of Colombia.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1956: A bill to combat terrorism and defend the Nation against terrorist attacks, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 104: A concurrent resolution recognizing the American Society of Civil Engineers on the occasion of the 150th anniversary of its founding and for the many vital contributions of civil engineers to the quality of life of the people of the United States, including the research and development projects that have led to the physical infrastructure of modern America.

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title and with an amended preamble:

S. Con. Res. 114: A concurrent resolution expressing the sense of Congress regarding North Korean refugees who are detained in china and returned to North Korea where they face torture, imprisonment, and execution.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Henry E. Autrey, of Missouri, to be United States District Judge for the Eastern District of Missouri.

Richard E. Dorr, of Missouri, to be United States District Judge for the Western District of Missouri.

David C. Godbey, of Texas, to be United States District Judge for the Northern District of Texas.

Henry E. Hudson, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Timothy J. Savage, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Amy J. St. Eve, of Illinois, to be United States District Judge for the Northern District of Illinois.

Gregory Robert Miller, of Florida, to be United States Attorney for the Northern District of Florida for the term of four years.

Kevin Vincent Ryan, of California, to be United States Attorney for the Northern District of California, for the term of four years.

Randall Dean Anderson, of Utah, to be United States Marshal for the District of Utah for the term of four years.

Ray Elmer Carnahan, of Arkansas, to be United States Marshal for the Eastern District of Arkansas for the term of four years.

David Scott Carpenter, of North Dakota, to be United States Marshal for the District of North Dakota for the term of four years.

Theresa A. Merrow, of Kentucky, to be United States Marshal for the Middle District of Georgia for the term of four years.

Ruben Monzon, of Texas, to be United States Marshal for the Southern District of Texas for the term of four years.

James Michael Wahlrab, of Ohio, to be United States Marshal for the Southern District of Ohio for the term of four years.

By Mr. BIDEN for the Committee on Foreign Relations.

*Tony P. Hall, of Ohio, for the rank of Ambassador during his tenure of service as United States Representative to the United Nations Agencies for Food and Agriculture.

*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. WELLSTONE (for himself and Mr. DAYTON):

S. 2617. A bill to protect the rights of American consumers to diagnose, service, and repair motor vehicles purchased in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. TORRICELLI (for himself and Mr. CORZINE):

S. 2618. A bill to direct the Director of the Federal Emergency Management Agency to designate New Jersey Task Force 1 as part of the National Urban Search and Rescue Response System; to the Committee on Environment and Public Works.

By Mr. KENNEDY (for himself and Mr. SESSIONS):

S. 2619. A bill to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape; to the Committee on the Judiciary; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself and Mr. BROWNBACK):

S. 2620. A bill to provide that the marriage penalty relief provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be permanent; to the Committee on Finance.

By Mr. LEAHY (for himself and Mr. BIDEN):

S. 2621. A bill to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 2622. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 2623. A bill 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; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself and Mr. SPECTER):

S. Res. 284. A resolution expressing support for ''National Night Out'' and requesting that the President make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. Res. 285. A resolution expressing the sense of the Senate condemning the failure of the International Whaling Commission to recognize the needs of Alaskan Eskimos; to the Committee on Foreign Relations.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. Res. 286. A resolution commending and congratulating the Los Angeles Lakers for their outstanding drive, discipline, and mastery in winning the 2002 National Basketball Association Championship; considered and agreed to.

By Mr. HUTCHINSON (for himself, Mr. DURBIN, Mr. BOND, and Mr. HOLLINGS):

S. Con. Res. 121. A concurrent resolution expressing the sense of Congress that there should be established a National Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 839

At the request of Mr. BAYH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 840

At the request of Mr. BIDEN, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 840, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws.

S. 913

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 917

At the request of Ms. COLLINS, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors 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. 2051

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2086

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2086, a bill to provide emergency agricultural assistance.

S. 2116

At the request of Mr. KERRY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2116, a bill to reform the program of block grants to States for temporary assistance for needy families to help States address the importance of adequate, affordable housing in promoting family progress towards self-sufficiency, and for other purposes.

S. 2119

At the request of Mr. GRASSLEY, the name of the Senator from Delaware

(Mr. CARPER) was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2134

At the request of Mr. ALLEN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2134, a bill to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

S. 2194

At the request of Mr. MCCONNELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. CORZINE) 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. 2233

At the request of Mr. THOMAS, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2233, a bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans.

S. 2246

At the request of Mr. DODD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2428

At the request of Mr. KERRY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2428, a bill to amend the National Sea Grant College Program Act.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from North Carolina (Mr. HELMS) 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. 2484

At the request of Mr. BAUCUS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2484, a bill to amend part A of title IV of the Social Security Act to reauthorize and improve the operation of temporary assistance to needy families programs operated by Indian tribes, and for other purposes.

S. 2496

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2496, a bill to provide for the establishment of investigative teams 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, and for other purposes.

S. 2560

At the request of Mr. ALLARD, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2560, a bill to provide for a multiagency cooperative effort to encourage further research regarding the causes of chronic wasting disease and methods to control the further spread of the disease in deer and elk herds, to monitor the incidence of the disease, to support State efforts to control the disease, and for other purposes.

S. 2600

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2600, a bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

S. RES. 242

At the request of Mr. THURMOND, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. Res. 242, a resolution designating August 16, 2002, as ''National Airborne Day.''

S. CON. RES. 110

At the request of Mrs. FEINSTEIN, the names of the Senator from Arizona (Mr. KYL), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. Con. Res. 110, a concurrent resolution honoring the heroism and courage displayed by airline flight attendants on a daily basis.

AMENDMENT NO. 3834

At the request of Mr. NELSON of Florida, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 3834 proposed to S. 2600, a bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE (for himself and Mr. DAYTON):

S. 2617. A bill to protect the rights of American consumers to diagnose, service, and repair motor vehicles purchased in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WELLSTONE. Madam President, I rise today to introduce the Motor Vehicle Owners' Right to Repair Act of 2002. This legislation would protect the viability of independent service station and repair shops and ensure that consumers will continue to have a choice of automotive service providers.

The 1990 Clean Air Act mandated that vehicle manufacturers install computer systems to monitor emissions in 1994 model year cars and beyond. Today, many vehicle systems are integrated into the car's computer system, making auto repair an increasingly ''high tech'' business and making access to the computer and the information it contains vital to the ability to perform repairs.

Increasingly, however, independent repair shops are being barred access to the codes and diagnostic tools necessary to repair newer model cars. The effect is to reduce consumer choice for auto repair services, and to endanger the livelihood thousands of small, family owned repair shops across the country.

On April 10, I met with a group of repair shop owners from Minnesota. The explained that new practices by some auto manufactures were preventing them from competing on an even playing field. One thing we don't need is another industry where all the little guys, the small, independent businesses, are driven out. This is terrible for our communities. And reduced competition means higher prices for consumers

Specifically, the Motor Vehicle Owners' Right to Repair Act would simply require a manufacturer of a motor vehicle sold in the United States to disclose to the vehicle owner, a repair facility, and the Federal Trade Commission, FTC, the information necessary to diagnose, service, or repair the vehicle. The bill bars the FTC from requiring disclosure of any information entitled to protection as a manufacturer's trade secret.

This legislation is an example of what is good for small business is good for the consumer. The bill is endorsed by the 44 million member American Automobile Association, AAA, as well as the Automotive Service Association, the trade association of automotive service professionals.

To reiterate, I want to introduce a bill and tell colleagues about it. I have sent out a ''Dear Colleague'' letter. This is very much a pro-consumer bill as well. It is called the Motor Vehicle and Owners Right to Repair Act. There has to be a better title.

Basically, this is the issue. The automotive industry, for 100 years, has always shared information with mechanics. But post-1994, you have cars with very computerized systems. All of a sudden, the automotive industry is now saying to independent mechanics, we will not share with you the information about the computer system so you can get into the computer system, do the diagnosis and the repair, in which case I think it is a blatant anticompetitive practice.

It puts the independent mechanics, the small guys, out of business. In addition, it says to the consumers: Listen, you might want to take your car back to the dealership for repair, but now that is your only choice because you may want to go to the neighborhood mechanic you have worked with for years and he might want your business, but we are going to make it impossible for him to get your business. We are going to make it impossible for you to go there.

I like this piece of legislation because it is little guy versus big guy. It feels right to me. At 5 feet, 5 inches, I like the little guys.

In April, some mechanics came by our office and talked with Perry Lang, who works with me, and they said this is happening to us and asked for some help.

I say on the floor of the Senate two things: No. 1, I am circulating a ''Dear Colleague'' letter. I hope to get a lot of support. I think there will be a lot of support.

This is going on in the House with a lot of Republicans as well as Democrats.

The second thing that I am saying to the industry today on the floor of the Senate—and I think they are watching this carefully—is we are going to get a good head of steam on this. If you want to sit down and negotiate an agreement with the mechanics that is fair to these independent mechanics, go ahead. Then we won't have to pass the legislation. But I could not believe when I heard the report of what they are dealing with.

Again, you have a blatant anticompetitive practice of the industry basically saying we will not share with you any information about our computerized systems. If the industry wants to say there is some kind of a trade patent secret which they can't share, they can go to the FTC and get approval for that. Otherwise, for 100 years, this has not happened. Now we get into a blatant collusion, anticompetitive practice that is unfair to the independent mechanics who a lot of Senators know as friends and as small businesspeople. I am aiming to stop it.

By Mr. KENNEDY (for himself and Mr. SESSIONS):

S. 2619. A bill to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape; to the Committee on the Judiciary.

Mr. KENNEDY. Madam President, as the Supreme Court has made clear, ''being violently assaulted in prison is simply not part of the penalty that criminal offenders pay for their offenses against society.'' Government officials have a duty under the Constitution to prevent prison violence.

Too often, however, officials fail to take obvious steps to protect vulnerable inmates. Prison rape is a serious problem in our Nation's prisons, jails, and detention facilities. Of the two million prisoners in the United States, it is conservatively estimated that one in ten has been raped. According to a 1996 study, 22 percent of prisoners in Nebraska had been pressured or forced to have sex against their will while incarcerated. Human Rights Watch recently reported, ''shockingly high rates of sexual abuse'' in U.S. prisons.

Prison rape causes severe physical and psychological pain to its victims. It also leads to the increased transmission of HIV, hepatitis, and other diseases. The brutalization in prison also makes it more likely that prisoners will commit crimes after they are released, as 600,000 prisoners are each year.

To deal with this serious problem, Senator SESSIONS and I are today introducing the Prison Rape Reduction Act of 2002. This bipartisan legislation is intended to address the prison-rape epidemic in an effective and comprehensive manner, while still respecting the primary role of States and local governments in administering prisons and jails.

Our bill directs the Department of Justice to conduct an annual statistical review and analysis of the frequency and effects of prison rape. It establishes a special panel to conduct hearings on prison systems, prisons, and jails where the incidence of rape is high. It directs the Attorney General to collect complaints of rape from inmates, transmit them to the appropriate authorities, and review how the authorities respond. It also directs the Attorney General to provide information, assistance, and training to Federal, State, and local authorities on the prevention, investigation, and punishment of prison rape.

Our bill also authorizes $40 million in grants to enhance the prevention, investigation, and punishment of prison rape. These grants will strengthen the ability of state and local officials to prevent these abuses.

Finally, our bill establishes a commission that will conduct hearings over two years and recommend national correctional standards on a wide range of issues, including inmate classification, investigation of rape complaints, trauma case for rape victims, disease prevention, and staff training. These standards should apply as soon as possible to the Federal Bureau of Prisons. Prison accreditation organizations that receive Federal funding should also adopt the standards. States should adopt the standards too. If they ''opt out'' by passing a statute, they will suffer no penalty, but States that fail to act at all will lose 20 percent of their prison-related federal funding.

Our bill is supported by a broad coalition of religious, civil rights, and human rights organizations, including the Salvation Army, the Southern Baptist Convention, the National Association of Evangelicals, Prison Fellowship, Focus on the Family, the Presbyterian Church, the Justice Policy Institute, the Sentencing Project, Youth Law Center, Human Rights Watch, the National Association for the Advancement of Colored People, and the National Council of La Raza. Together, these diverse groups have demonstrated impressive moral leadership on this issue.

It is a privilege to work on this legislation with Congressmen FRANK WOLF and BOBBY SCOTT in the House and Senator SESSIONS in the Senate. While we may disagree on other issues relating to criminal justice, we all recognize that rape is unacceptable, and it is long past time to end it.

Mr. SESSIONS. Madam President, I want to commend Senator KENNEDY for his leadership on the important issue of reducing prison rape. I have enjoyed working with him to craft and refine the legislation that we are introducing today, the Prison Rape Reduction Act of 2002. Though Senator KENNEDY and I come from different backgrounds and have different political philosophies, we both agree that Congress should act to reduce prison rape.

I would also like to thank Congressman FRANK WOLF and BOBBY SCOTT for their important leadership on this bill in the House of Representatives. Congressman WOLF is a recognized champion for human dignity across the globe and this legislation to reduce prison rape is consistent with his philosophy. Congressman SCOTT is very knowledgeable on criminal law issues. While he and I have agreed and disagreed on many issues over the years, we agree on the need to reduce prison rape.

As a Federal prosecutor for 15 years and as Attorney General of Alabama, I sent many guilty criminals to prison where they belong. I believed that they should be treated fairly in court, and I treated them fairly. I also believe that they should be treated fairly in prison. Most prison wardens and sheriffs are outstanding public servants that do an excellent job of supervising inmates, and I commend my friends in the law enforcement community for their hard work in this area.

However, knowingly subjecting a prisoner to rape is cruel and unusual punishment under the Eighth Amendment to the Constitution of the United States. Some studies have estimated that over 10 percent of the inmates in certain prisons are subject to rape. I hope that this statistic is an exaggeration. Nonetheless, it is the duty of Government officials to ensure that criminals who are convicted and sentenced to prison serve the sentence imposed by the judge and rape is not a part of any lawful sentence.

This bill responds to the problem of rape of prison inmates in three principal ways. First, the bill establishes a bipartisan National Commission that will study prison rape at the federal, state, and local levels. Within 2 years, the commission will publish the results

of its study and make recommendations on how to reduce prison rape.

Second, the bill directs the Attorney General to issue a rule for the reduction of prison rape in Federal prisons. To avoid a 20 percent reduction in certain Federal funds, each State will have to pass a statute that either adopts or rejects the standards for State prisons. This bill contains no unfunded mandate to order States how to deal with prison rape. It does, however, require that they address the issue.

Third, the bill will require the Department of Justice to conduct statistical surveys on prison rape for Federal, State, and local prisons and jails. Further, the Department of Justice will select officials in charge of certain prisons with an incidence of prison rape exceeding the national average by 30 percent to come to Washington and testify to the Department about the prison rape problem in their institution. If they refuse to testify, the prison will lose 20 percent of certain Federal funds.

In addition, the bill provides for $40 million in grants to States for prevention, investigation, and prosecution of prison rape. This will help the States to reduce repeat offenses by inmates.

A broad and bipartisan array of organizations and individuals have added their support to this bill. The list includes: American Psychological Association; American Values; Biblical Witness Fellowship, UCC; Camp Fire USA; Center for Religious Freedom, Freedom House; Christian Rescue Committee; Citizens United for Rehabilitation of Errants—Virginia, Inc. (Virginia CURE); Disciple Renewal; Focus on the Family; Mary Ann Glendon, Learned Hand Professor of Law, Harvard Law School; Good News, UMC; Human Rights Watch; Human Rights and the Drug War; Institute on Religion and Democracy; Justice Policy Institute; Lutheran Office for Governmental Affairs; National Association for the Advancement of Colored People; National Association of Evangelicals; National Association of School Psychologists; National Center on Institutions and Alternatives; National Council for La Raza; National Network for Youth; National Mental Health Association; Marvin Olasky, Editor—World Magazine; Partnership for Responsible Drug Information; Presbyterian Church (U.S.A.); Prison Fellowship; Religious Action Center of Reform Judaism; Renew Network; Research and Policy Reform, Inc.; Salvation Army; The Sentencing Project; Southern Baptist Convention; Stop Prison Rape; Unitarian Universalists for Juvenile Justice; Volunteers of America; and Youth Law Center.

I am especially proud of the evangelical Christian groups for their work in gathering support for the bill. They have worked tirelessly for ethics and compassion in government, and this legislation reflects those values.

I would also like to thank Linda Chavez and Mike Horowitz for the ideas that started this legislative initiative. Well-conceived, carefully crafted ideas drive many legislative and political initiatives that become law after people work together to form a bipartisan, moral position.

I also want to commend the hard work of Bill Pryor, the attorney general of Alabama, who will end up dealing with the effects of this legislation at the state level. Bill has worked with Prison Fellowship, has talked with Alabama prison officials, and has worked with me on this legislation. In addition to being an outstanding legal scholar and leader among all the States' attorneys general, Bill cares about people and demands fairness in how the State treats both victims and prisoners. I was very pleased that Attorney General Pryor joined us at the press conference to express his support of the bill.

This bill will address prison rape, not through unfunded mandates and lawsuits, but through examining the problem and allowing sunshine to expose deficiencies that need to be addressed. This bill is a necessary step to reform and a bipartisan step toward justice.

By Mr. LEAHY (for himself and Mr. BIDEN);

S. 2621. A bill to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, I rise to introduce legislation today with Senator BIDEN to clarify that an airplane is a vehicle for purposes of terrorist and other violent acts against mass transportation systems. A significant question about this point has been raised in an important criminal case and deserves our prompt attention.

Earlier this week, on June 11, 2002, a U.S. District Judge in Boston dismissed one of the nine charges against Richard Reid stemming from his alleged attempt to detonate an explosive device in his shoe while onboard an international flight from Paris to Miami on December 22, 2001. The dismissed count charged defendant Reid with violating section 1993 of title 18, United States Code, by attempting to ''wreck, set fire to, and disable a mass transportation vehicle.''

Section 1993 is a new criminal law that was added, as section 801, to the USA PATRIOT Act to punish terrorist attacks and other acts of violence against, inter alia, a ''mass transportation'' vehicle or ferry, or against a passenger or employee of a mass transportation provider. I had urged that this provision be included in the final anti-terrorism law considered by the Congress. A similar provision was originally part of S. 2783, the ''21st Century Law Enforcement and Public Safety Act,'' that I introduced in the last Congress in June, 2000 on the request of the Clinton Administration.

The district court rejected defendant Reid's arguments to dismiss the section 1993 charge on grounds that 1. the penalty provision does not apply to an ''attempt'' and 2. an airplane is not engaged in ''mass transportation.'' ''Mass transportation'' is defined in section 1993 by reference to the ''the meaning given to that term in section 5302(a)(7) of title 49, U.S.C., except that the term shall include schoolbus, charter and sightseeing transportation.'' Section 5302(a)(7), in turn, provides the following definition: ''mass transportation'' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter or sightseeing transportation.'' The court explained that ''commercial aircraft transport large numbers of people every day'' and that the definition of ''mass transportation'' ''when read in an ordinary or natural way, encompasses aircraft of the kind at issue here.'' *U.S.* v. *Reid*, CR No. 02–10013, at p. 10, 12 (D. MA, June 11, 2002).

Defendant Reid also argued that the section 1993 charge should be dismissed because an airplane is not a ''vehicle.'' The court agreed, citing the fact that the term ''vehicle'' is not defined in section 1993 and that the Dictionary Act, 1 U.S.C. §4, narrowly defines ''vehicle'' to include ''every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation *on land*.'' Emphasis in original opinion. Notwithstanding common parlance and other court decisions that have interpreted this Dictionary Act definition to encompass aircraft, the district court relied on the narrow definition to conclude that an aircraft is not a ''vehicle'' within the meaning of section 1993.

The new section 1993 was intended to provide broad federal criminal jurisdiction over terrorist and violent acts against all mass transportation systems, not only bus services but also commercial airplanes, cruise ships, railroads and other forms of transportation available for public carriage. The bill I introduce today would add a definition of ''vehicle'' to section 1993 and clarify that an airplane is a ''vehicle'' both in common parlance and under this new criminal law to protect mass transportation systems. Specifically, the bill would define this term to mean ''any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water or through the air.''

I urge the Senate to act promptly and pass this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2621

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

SECTION 1. DEFINITION.

Section 1993(c) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air.''.

By Mr. HOLLINGS:

S. 2622. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Joseph A. De Laine in recognition of his contributions to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

Mr. HOLLINGS. Madam President, I rise today to introduce legislation to present Reverend Joseph A. De Laine the Congressional Gold Medal in honor of his heroic sacrifices to desegregate our public schools. His crusade to break down barriers in education forever scarred his own life, but led to the landmark Brown v. Board of Education case in 1954.

Eight years before Rosa Parks refused to move to the back of the bus, Rev. De Laine, a minister and principal, organized African-American parents to petition the Summerton, SC, school board for a bus and gasoline so their children would not have to walk 10 miles to attend a segregated school. A year later, in Briggs v. Elliott, the parents sued to end segregation. It was a case that as a young lawyer I watched Thurgood Marshall argue before the Supreme Court as one of the five cases collectively known as Brown v. Board of Education. For this Senator, their arguments helped to shape my view on racial matters.

For his efforts, Rev. De Laine was subjected to a reign of domestic terrorism. He lost his job. He watched his church and home burn. He was charged with assault and battery with intent to kill after shots were fired at his home and he fired back to mark the car. He had to leave South Carolina forever; relocate to New York, where he started an AME Church, and he eventually retired in North Carolina. Not until the year 2000, 26 years after his death and 45 years after the incident in his home was Rev. De Laine cleared of all charges.

Last month, I spoke to the 100 descendants of Briggs v. Elliott, and I ask unanimous consent that my remarks be printed in the RECORD, which show the bravery of Rev. De Laine during a troubled time in our Nation's past, and which point to the immeasurable benefits he has given our Nation.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

BRIGGS V. ELLIOTT DESCENDANTS RE-UNION BANQUET, SUMMERTON, SOUTH CAROLINA, MAY 11, 2002

I want to give you an insight into exactly what happened to your parents 50 years ago in Summerton, SC, that led to the desegregation of our Nation's schools by the Supreme Court of the United States.

I speak with some trepidation, because right now I can see Harry Briggs' son walking down that dirt road all the way here to Scotts Branch School, and that school bus passing, all for the white children. Yet all your families were asking for was a bus. But they were told: ''you don't pay any taxes, so how can you ask for a bus?'' What they didn't say is you didn't have a job, whereby you could make a living and be able to pay the taxes. They didn't say that.

I think of the threats, the burnings, the shooting up of Reverend John De Laine's home. I think about how they turned him into a fugitive. He had to leave his home in South Carolina, never to return. Harry Briggs had to leave his home and go to Florida to earn a living. It's not for me to tell the descendants of the Briggs v. Elliott case how they have suffered.

I didn't try this case, don't misunderstand me. My beginnings with Briggs v. Elliott started in 1948 when I was elected to the House of Representatives in Columbia.

The previous year James Hinton, the head of the NAACP in the State gave a speech in Columbia. He talked about the need to get separate but equal facilities. He got Rev. De Laine from Summerton in the audience all fired up. Rev. De Laine, who was the principal here, put together a petition signed by 20 parents, of 46 children, the Summerton 66.

I'll never forget the day after I was sworn into the Legislature the superintendent of schools in Charleston County took me across the Cooper River Bridge, down the Mathis Ferry Road, to the Freedom School, the black school. He said I want to show you what we really do, he used the word at that time, ''for a Negro education.''

This was a cold November Day, and we went into a big one-room building. That's all they had, one room, with a pot belly stove in the middle. They had a class in this corner, a class in that back corner, a class up front in this corner, and a class here. Of course, they didn't have any desks, and very few books, and one teacher teaching the four classes.

When I went to Columbia I was with a bunch of rebels. I introduced an anti-lynching bill. I had never heard of lynchings down in Charleston, but then they had one. As we debated the bill, a fellow who was the grand dragon of the Klan got up with all these Klansmen in the Gallery, and he mumbled and raised cane. Speaker Blott got some order. But several House members walked out. They said they wouldn't be seated in the Legislature with a fellow like that. We passed the anti-lynching bill.

I'm trying to give you this background, so you'll understand the significance of what your parents did. We had just had the case, whereby blacks could participate in the Democratic primary. And we had just given women the right to vote.

And in 1949 and 1950, I struggled because there was no money in the state for separate but equal schools, or anything else. I said we ought to put in a 3 percent sales tax to pay for things. Governor Thurmond opposed it, and the senators particularly opposed it. But I made the motion for a one-cent tax on cigarettes; a one-cent tax on gasoline; and a one-cent tax on beer. Beer, cigarettes, and gasoline.

We formed a House Committee with six of us to work on it. We worked all summer. It's a long story, but let me cut it and say by December we had it all written. I knew the incoming governor, Governor Byrnes. I felt it would be good to ask him to see if he could help me with this measure.

The second week in January, before he was sworn in, he called me and said: ''You've got to come to Columbia, I'm going to include this in my Inaugural address.'' Over time, I made 79 talks on the proposal, until we finally passed the sales tax, which provided some money for separate but equal schools.

When the Briggs v. Elliott case came up, before Judge Waring in Charleston, he questioned separate but equal. Then in December 1952, the case went to the Supreme Court. Governor Byrnes had served on the State Supreme Court, and he wanted to make sure we won the case. In my mind, he was absolutely sure that under Chief Justice Vinson the State would win it.

But to make sure, he set aside Mr. Bob McC. Figg, who had done all the work, and selected John W. Davis, as the attorney for South Carolina against Thurgood Marshall, who was representing Briggs and the NAACP. Mr. Davis had been the Solicitor General of the United States. He had been the Democratic nominee for president in 1924. He was considered the greatest constitutional mind in the country.

The second thing the Governor did was to call me up and say: ''I'm appointing you to go to Washington, because you know intimately this law here that built the schools. You have to go to Washington in case any questions of fact come up.''

So we took a train to Washington. We came in at 6 o'clock that morning at Union Station, and we sat down for breakfast. I'll never forget it, because Thurgood Marshall walked in. He and Bob McC. Figg had become real close friends. So he sat down and was eating breakfast with us, and we began swapping stories.

Mr. Marshall said ''Bob, you know that black family that moved into that white neighborhood in Cicero, IL. They have so much trouble. There are riots, and everything else going on.'' And he said: ''Don't tell anybody, but I got hold of Governor Adlai Stevenson.'' Stevenson was the governor of Illinois at the time. And he said: ''I sent that family back to Mississippi for safe keeping.'' And Thurgood added, ''for God's sake, don't tell anybody that or it will ruin me.'' I said: ''for God's sake, don't tell anybody I'm eating breakfast with you, or I will never get elected again.''

I tell you that story so you can get a feel for 1952, for what it was like 50 years ago.

We had wanted Briggs to be the lead case before the Supreme Court. It was one of five cases that they would hear collectively. But soon after our breakfast, we found out that Roy Wilkens from the NAACP had gotten together with the Solicitor General and moved the Kansas case in front of the South Carolina case. Some reports said the reason was because they wanted a northern case. That was not it. There was another case from the State of Delaware, which was just as north as the State of Kansas.

Kansas was selected because up until the sixth grade, yes, it was segregated. But thereafter it was a local option, and the schools were mostly integrated.

Before the court John W. Davis obviously made a very impassioned, constitutional argument. But Thurgood Marshall made the real argument, there wasn't any question about it. He had been with this case. He had the feel, and everything else of that kind.

I can still hear and see Justice Frankfurter on the Court leaning over and saying, ''Mr. Marshall, Mr. Marshall, you've won your case, you've won your case. What happens next''? And Thurgood Marshall said, well, if he prevails, then the state imposed policy of separation by race would be removed. The little children can go to the school of their choice. They play together before they go to school. They come back and play together after school. Now they can be together at school. The State imposed policy of separation by race in South Carolina would be gone.

Another lawyer arguing the case was George E. C. Hayes, and when I heard him that was my epiphany. Mr. Hayes got everyone because he used a jury argument before

the Supreme Court. He said: as black soldiers we went to the war to fight on the front lines in Europe, and when we come home we have to sit on the back of the bus.

I had been with the 9th Anti-Artillery Aircraft unit in Tunisia in Africa for a month. And then I was in Italy and Germany and crossed over to what is now Kosovo. So I served. I knew exactly what he was talking about. And I said this is wrong.

The next year Chief Justice Vinson died. It was reported at that time that Justice Frankfurter said for the first time that he believed there was a God in Heaven when Vison passed away. They appointed Mr. Earl Warren as Chief Justice, who dragged everybody back to the Court to re-argue the case in December of 1953. He didn't want to hear about separate but equal. He wanted the case re-argued on the constitutionality of segregation itself.

Then on May 17, 1953 the decision came down, it was unanimous, segregation was over in this country. So the lawyers immediately got together to discuss how to implement the decision. Since the decision said to integrate schools with all deliberate speed, there was arguments back and forth on how we could comply with this order with all deliberate speed and not start chaos all over the land.

Some school authority down in Charleston came up with the idea that with all deliberate speed meant we would integrate the first grade the first year; we would integrate the first and second grades the second year; the third year would be the first, second, and third grades. Over a 12–year period, we would then have the 12 grades integrated. When the head of the NAACP in New York heard that he said: ''Noooo Way. We are not going to be given our constitutional rights on the installment plan.'' And that ended that. But nothing was done for about 10 years, until Martin Luther King came along.

When I became Governor, I started working on other areas that needed to be integrated, beginning with law enforcement. I'll never forget all the white sheriffs who were against all the blacks. We only had 34 black sheriffs. We have about 500 today.

And we literally broke up and locked up the Ku Klux Klan. I remember on the day I was sworn in as Governor, waiting for me was a green and gold embossed envelope, with a lifetime membership into the Ku Klux Klan. I never heard of such a thing. I asked the head of law enforcement, do we have the Ku Klux Klan in South Carolina? He said, ''Ohhh yes. We have 1,727 members.'' I asked, you have an actual count? And he said: ''Ohhh yes, we keep a count of them.'' He said he could get rid of them, but no Governor had helped him in the past. I said, I'll help you. What do we do? He said: ''I need a little money.''

So we infiltrated the Klan, and the members began to know, or their bosses at businesses knew because they would say to these people: ''You know on Friday night, your man, so and so, has been going to these rallies.'' The next thing you know, they quit going to the rallies. So by the time we integrated Clemson with Harvey Gantt, it went very, very peacefully. And there were less than 300 Klansmen.

Then, of course, as Senator I took my hunger trips. This is the effect those arguments before the court had on me. I took those trips with the NAACP to 16 different counties. As a result, we embellished the food stamp program, we instituted the women infants and children's feeding program, and the school lunch program. The attendance in schools went way up when we started that.

As your Senator I had the privilege of employing Ralph Everett. He was the first black staff director of any committee in the United States Senate.

We have both Andy Chishom and Israel Brooks as the first black Marshalls of South Carolina. Matthew Perry, the first black district judge of a Federal court ever appointed, I appointed. The first black woman judge to the Federal district court, Margaret Seymour, I appointed her. So we have made a lot of progress along that line.

But to give you a feel for how things have changed, I remember speaking at the C.A. Johnson High School in Columbia, the largest black high school in the entire state, the day after Martin Luther King was assassinated.

At the event, there was a mid-shipman, a senior at the Naval Academy, who stood up and made one of the finest talks I ever heard. I turned to the principal, because it was his son, and I asked: who appointed your son to the Naval Academy? He didn't answer. We walked down the row, and I can see me now, asking him again. He still didn't answer. When I got to my car, I said evidently you don't understand my accent from Charleston. Who appointed your son to the U.S. Naval Academy? He said, ''Senator, I didn't want to have to answer that question. We couldn't get a member of the South Carolina delegation to appoint him. Hubert Humphrey appointed him.''

What goes around, comes around. Today, I have more minority appointments to West Point, Annapolis, and the Air Force Academies than anybody. Recently I had Chuck Bolden, who is a major general in the marine corps and a former astronaut, ready to return to NASA as the number two person there. But the Pentagon raised the question about taking such a talent during a time of war and moving him to the civilian space program. So we said the heck with it, he's too needed in the military.

That is the effect Briggs v. Elliott had on this public servant. There isn't any question that without the courage of your parents, our society would be a lot worse off today.

I was there a few years back when the Congress of the United gave the Congressional Gold Medal to Rosa Parks. She deserved it, and we wouldn't take anything from her for not moving her seat. But in the 1950s the worst they could have done to her was to pull her off the bus. These descendants lost their homes. They lost their livelihoods. They almost lost their lives. As far as continuing their life in the State of South Carolina, they could not do it.

Without their courage, without their stamina, without their example in starting the Briggs v. Elliott case, we never would have had a civil rights act. We never would have had a voting rights act. We never would have had all the progress we've made over the many, many years.

So I wanted particularly to come back and to publicly thank each of you descendants. And I want to announce that I am putting forward a bill that would honor posthumously Rev. De Laine with a Congressional Gold Medal.

I need 66 co-sponsors in the Senate. We have to have similar support on the House side. But Cong. Clyburn, he can get way more votes than I can. I don't think he'll have any trouble. We'll try to work it out so that in '04, the 50th anniversary of when the decision came down, we'll be able to make that presentation.

I just want to end by saying because of the courage of your parents, we made far more progress in the United States of America. Our country is a far stronger country. We are more than ever the land of the free and the home of the brave because of Briggs v. Elliott. And I thank you all very, very much.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 2623. A bill 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, to the Committee on Energy and Natural Resources.

Mr. WARNER. Madam President I am pleased to introduce legislation, along with my colleague, Senator ALLEN, to create the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park.

This legislation builds on an effort that I have been involved with for over a decade. In 1991, the Congress authorized the National Park Service to conduct an assessment of the historical integrity of significant Civil War battlefields in the Shenandoah Valley of Virginia. That examination identified 10 Civil War battlefields in eight counties in the Valley that remained significantly as they were during the war.

The Valley itself was a location of constant engagements throughout the War with more than 325 armed conflicts. The 10 battlefields that are today preserved under the Shenandoah Valley National Battlefields Management Plan include the places of Stonewall Jackson's 1862 campaign, and later Union General Philip Sheridan's 1864 campaign which left the Valley in ruins.

This legislation is the product of many months of discussions with affected individual property owners with the battlefield boundary, our partner non-profit organizations who today preserve Belle Grove Plantation and surrounding lands within the battlefield, local governments and many interested citizens. I am pleased to present to the Senate their strong support for this legislation. I know that with retaining the private sector ownership of buildings and their direct participation in preserving and interpreting the story of Cedar Creek, we will have a truly unique partnership.

The compelling story of the events that unfolded at Cedar Creek surely earns recognition within our National Park system. In October of 1864, the Federal Army of the Shenandoah, having soundly defeated the Confederate Army of the Valley at Winchester on September 19 and then again at Fisher's Hill on September 22, ran the Confederate forces out of the Shenandoah Valley. In the process of this Union advance, Federal forces either burned or took all of the Confederate food reserves and livestock between Staunton and Strasburg. Thinking he had finally deprived the Valley as the Confederate's food source and as an invasion route North, Major General Philip Sheridan left his army camped along Cedar Creek at Middletown and went to Washington to have meetings with his supporters.

Refusing to give up the Valley to the Federals, General Jubal Early moved his very hungry, tired, and ill-equipped army of about 17,000 to Fisher's Hill on October 13. Facing down Sheridan's

well dug-in army of over 30,000 men, Early had to make a decision to attack or retreat. He chose to attack. On the night of October 18, he sent three of his divisions under the command of Major General John Gordon across the Shenandoah River and along the flank of Massanutten Mountain to hit the Federal position from the east, behind its entrenchments along Cedar Creek.

After marching and maneuvering all night, Gordon's divisions struck at dawn in a thick fog. The Federals were clearly surprised. Early pushed the Federals all the way out of their camps, past Belle Grove plantation and all the way through Middleton. At midday, Gordon ordered a halt to the advance so that he could regroup his forces.

Being informed that there was a battle going on, Sheridan rushed to Middletown from Winchester. Once he arrived there in the afternoon, he found his army posted along a ridge north of Middletown. There he was able to rally his men, and from the position he ordered a massive counterattack. The counterattack completely swept the Confederates from the field.

The battle of Cedar Creek was significant for many reasons. The battle dealt the crushing blow to the Confederacy in the Shenandoah Valley, thus ending the career of Jubal Early in the process. Most importantly, however, coupled with the successes of General William T. Sherman in the Atlanta campaign, the battle boosted the morale of the war-weary North and guaranteed the re-election of President Abraham Lincoln.

The untouched landscape of this battlefield and the historic structure of Belle Grove plantation still today evoke the stories of the war. This site will serve to tell the whole story of the campaigns of the Valley and visitors will experience the full impact of the War of these surrounding rural communities.

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. 2623

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 ''Cedar Creek Battlefield and Belle Grove Plantation National Historical Park Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to establish the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park in order to—

(1) help preserve, protect, and interpret a nationally significant Civil War landscape and antebellum plantation for the education, inspiration, and benefit of present and future generations;

(2) serve as a focal point to recognize and interpret important events and geographic locations representing key Civil War battles in the Shenandoah Valley, including those battlefields associated with the Thomas J. (stonewall) Jackson campaign of 862 and the decisive campaigns of 1864;

(3) tell the rich story of the Battle of Cedar Creek and its significance in the conduct of the war in the Shenandoah Valley; and

(4) preserve the significant historic, natural, cultural, military, and scenic resources found in the Cedar Creek Battlefield and Belle Grove Plantation areas through partnerships with local landowners and the community.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The Battle of Cedar Creek, also known as the battle of Belle Grove, was a major event of the Civil War and the history of this country. It represented the end of the Civil War's Shenandoah Valley campaign of 1864 and contributed to the reelection of President Abraham Lincoln and the eventual outcome of the war.

(2) 2,500 acres of the Cedar Creek Battlefield and Belle Grove Plantation were designated a national historic landmark in 1969 because of their ability to illustrate and interpret important eras and events in the history of the United States. The Cedar Creek Battlefield, Belle Grove Manor House, the Heater House, and Harmony Hall (a National Historic Landmark) are also listed on the Virginia Landmarks Register.

(3) The Secretary of the Interior has approved the Shenandoah Valley Battlefields National Historic District Management Plan, September 2000, which preserves the District's historic character, and protects and interprets 10 significant Civil War battlefields within the District, including the Cedar Creek battlefield.

(4) The Shenandoah Valley Battlefields National Historic District Management Plan and the National Park Service Special Resource Study recognize the Cedar Creek battlefield as the most significant Civil War resource within the Historic District.

(5) The Shenandoah Valley Battlefields National Historic District Management Plan, which was developed with extensive public participation over a 3-year period and is administered by the Shenandoah Valley Battlefields Foundation, recommends that Cedar Creek Battlefield be established as a new unit of the National Park System to provide permanent protection for the battlefield and to serve as the central site to increase the public's education and awareness of the War's legacy throughout the Historic District.

(6) The Cedar Creek Battlefield Foundation, organized in 1988 to preserve and interpret the Cedar Creek Battlefield and the 1864 Valley Campaign, has acquired 308 acres of land within the boundaries of the National Historic Landmark. The foundation annually hosts a major reenactment and living history event on the Cedar Creek Battlefield.

(7) Belle Grove Plantation is a Historic Site of the National Trust for Historic Preservation that occupies 383 acres within the National Historic Landmark. The Belle Grove Manor House was built by Isaac Hite, a Revolutionary War patriot married to the sister of President James Madison, who was a frequent visitor at Belle Grove. President Thomas Jefferson assisted with the design of the house. During the Civil War Belle Grove was at the center of the decisive battle of Cedar Creek. Belle Grove is managed locally by Belle Grove, Incorporated, and has been open to the public since 1967. The house has remained virtually unchanged since it was built in 1797, offering visitors an experience of the life and times of the people who lived there in the 18th and 19th centuries.

(8) The panoramic views of the mountains, natural areas, and waterways provide visitors with an inspiring setting of great natural beauty. The historic, natural, cultural, military, and scenic resources found in the Cedar Creek Battlefield and Belle Grove Plantation areas are nationally and regionally significant.

(9) The existing, independent, not-for-profit organizations dedicated to the protection and interpretation of the resources described above provide the foundation for public-private partnerships to further the success of protecting, preserving, and interpreting these resources.

(10) None of these resources, sites, or stories of the Shenandoah Valley are protected by or interpreted within the National Park System.

SEC. 4. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park Advisory Commission established by section 9.

(2) MAP.—The term ''Map'' means the map entitled ''Cedar Creek Battlefield and Belle Grove Plantation National Historic Park'', numbered CECR–80,000, and dated June 12, 2002.

(3) PARK.—The term ''Park'' means the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park established under section 5 and depicted on the Map.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 5. ESTABLISHMENT OF CEDAR CREEK BATTLEFIELD AND BELLE GROVE PLANTATION NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—There is established the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park, consisting of approximately 3,000 acres, as generally depicted on the Map.

(b) AVAILABILITY OF MAP.—The Map shall be on file and available for public inspection in the offices of the National Park Service of the Department of the Interior.

SEC. 6. ACQUISITION OF PROPERTY.

(a) REAL PROPERTY.—The Secretary may acquire land or interests in land within the boundaries of the park, from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange.

(b) BOUNDARY REVISION.—After acquiring land for the Park, the Secretary shall—

(1) revise the boundary map of the Park to include newly acquired land within the boundary; and

(2) administer newly acquired land subject to applicable laws (including regulations).

(c) PERSONAL PROPERTY.—The Secretary may acquire personal property associated with, and appropriate for, interpretation of the Park.

(d) CONSERVATION EASEMENTS AND COVENANTS.—The Secretary is authorized to acquire conservation easements and enter into covenants regarding lads in or adjacent to the Park for willing sellers only. Such conservation easements and covenants shall have the effect of protecting the scenic, natural, and historic resources on adjacent lands and preserving the natural or historic setting of the Park when viewed from within or outside the Park.

(e) SUPPORT FACILITIES.—The National Park Service is authorized to acquire from willing sellers up to 50 acres of land outside the park boundary, but in close proximity to the park, to develop facilities for one or more of the following:

(1) Visitors.

(2) Administrative functions.

(3) Museums.

(4) Curatorial functions.

(5) Maintenance.

SEC. 7. ADMINISTRATION.

The Secretary shall administer the Park in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including—

(1) the Act entitled ''An Act to establish a National Park Service, and for other purposes'', approved August 25, 1916 (16 U.S.C. 1 et seq.); and

(2) the Act entitled ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 8. MANAGEMENT OF PARK.

(a) MANAGEMENT PLAN.—The Secretary, in consultation with the Commission, shall prepare a management plan for the Park. In particular, the management plan shall contain provisions to address the needs of owners of non-Federal land, including independent nonprofit organizations within the boundaries of the Park.

(b) SUBMISSION OF PLAN TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit the management plan for the Park to Congress.

SEC. 9. CEDAR CREEK BATTLEFIELD AND BELLE GROVE PLANTATION NATIONAL HISTORICAL PARK ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established the Cedar Creek Battlefield and Belle Grove Planation National Historical Park Advisory Commission.

(b) DUTIES.—The Commission shall—

(1) advise the Secretary in the preparation and implementation of a general management plan described in section 8; and

(2) advise the Secretary with respect to the identification of sites of significance outside the Park boundary deemed necessary to fulfill the purposes of this Act.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members appointed by the Secretary so as to include the following:

(A) 1 representative from the Commonwealth of Virginia.

(B) 1 representative each from the local governments of Strasburg, Middletown, Frederick County, Shenandoah County, and Warren County.

(C) 2 representatives of private landowners within the Park.

(D) 1 representative from a citizen interest group.

(E) 1 representative from the Cedar Creek Battlefield Foundation.

(F) 1 representative from Belle Grove, Incorporated.

(G) 1 representative from the National Trust for Historic Preservation.

(H) 1 representative from the Shenandoah Valley Battlefields Foundation.

(I) 1 ex officio representative from the National Park Service.

(J) 1 ex officio representative from the United States Forest Service.

(2) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members to serve a term of one year renewable for one additional year.

(3) VACANCIES.—A vacancy on the Commission shall be filed in the same manner in which the original appointment was made.

(4) TERMS OF SERVICE.—

(A) IN GENERAL.—Each member shall be appointed for a term of 3 years and may be reappointed for not more than 2 successive terms.

(B) INITIAL MEMBERS.—Of the members first appointed under paragraph (1), the Secretary shall appoint—

(i) 4 members for a term of 1 year;

(ii) 5 members for a term of 2 years; and

(iii) 6 members for a term of 3 years.

(5) EXTENDED SERVICE.—A member may serve after the expiration of that member's term until a successor has taken office.

(6) MAJORITY RULE.—The Commission shall act and advise by affirmative vote of a majority of its members.

(7) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or a majority of the members of the Commission.

(8) QUORUM.—8 members shall constitute a quorum.

(d) COMPENSATION.—Members shall serve without pay. Members who are full-time officers or employees of the United States, the Commonwealth of Virginia, or any political subdivision thereof shall receive no additional pay on account of their service on the Commission.

(e) HEARINGS; PUBLIC INVOLVEMENT.—The Commission may, for purposes of carrying out this Act, hold such hearings, sit and act at such times and places, take such public testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise any subpoena authority.

(f) FACA NONAPPLICABILITY.—The Federal Advisory Committee Act shall not apply to the Commission.

SEC. 10. CONSERVATION OF CEDAR CREEK BATTLEFIELD AND BELLE GROVE PLANTATION NATIONAL HISTORICAL PARK.

(a) ENCOURAGEMENT OF CONSERVATION.—The Secretary and the Commission shall encourage conservation of the historic and natural resources within and in proximity of the Park by landowners, local governments, organizations, and businesses.

(b) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to local governments, in cooperative efforts which complement the values of the Park.

(c) COOPERATION BY FEDERAL AGENCIES.—Any Federal entity conducting or supporting activities directly affecting the Park shall consult, cooperate, and, to the maximum extent practicable, coordinate its activities with the Secretary in a manner that—

(1) is consistent with the purposes of this Act and the standards and criteria established pursuant to the general management plan developed pursuant to section 8;

(2) is not likely to have an adverse effect on the resources of the Park; and

(3) is likely to provide for full public participation in order to consider the views of all interested parties.

SEC. 11. ENDOWMENT.

(a) IN GENERAL.—In accordance with the provisions of subsection (b), the Secretary is authorized to receive and expend funds from an endowment to be established with the National Park Foundation, or its successors and assigns.

(b) CONDITIONS.—Funds from the endowment referred to in subsection (a) shall be expended exclusively as the Secretary, in consultation with the Commission, may designate for the interpretation, preservation, and maintenance of the Park resources and public access areas. No expenditure shall be made pursuant to this section unless the Secretary determines that such an expenditure is consistent with the purposes of this Act.

SEC. 12. COOPERATIVE AGREEMENTS

(a) IN GENERAL.—In order to further the purposes of this Act, the Secretary is authorized to enter into cooperative agreements with interested public and private entities and individuals (including the National Trust for Historic Preservation, Belle Grove, Inc., the Cedar Creek Battlefield Foundation, the Shenandoah Valley Battlefields Foundation, and the Counties of Frederick, Shenandoah, and Warren), through technical and financial assistance, including encouraging the conservation of historic and natural resources within and near the Park.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may provide to any person, organization, or governmental entity technical and financial assistance for the purposes of this Act, including the following:

(1) Preserving historic structures within the Park.

(2) Maintaining the natural or cultural landscape of the Park.

(3) Local preservation planning, interpretation, and management of public visitation for the Park.

(4) Furthering the goals of the Shenandoah Valley Battlefields Foundation and National Historic District Management Plan.

SEC. 13. ROLES OF KEY PARTNER ORGANIZATIONS.

(a) IN GENERAL.—In recognition that central portions of the Park are presently owned and operated for the benefit of the public by key partner organizations, the Secretary shall acknowledge and support the continued participation of these partner organizations in the management of the Park.

(b) PARK PARTNERS.—Roles of the current key partners include the following:

(1) CEDAR CREEK BATTLEFIELD FOUNDATION.—The Cedar Creek Battlefield Foundation may—

(A) continue to own, operate, and manage the lands acquired by the Foundation within the Park;

(B) continue to conduct reenactments and other events within the Park; and

(C) transfer ownership interest in portions of their land to the National Park Service by donation, sale, or other means that meet the legal requirements of National Park Service land acquisitions.

(2) NATIONAL TRUST FOR HISTORIC PRESERVATION AND BELLE GROVE INCORPORATED.—The National Trust for Historic Preservation and Belle Grove Incorporated may continue to own, operate, and manage Belle Grove Plantation and its structures and grounds within the Park boundary. Belle Grove Incorporated may continue to own the house and grounds known as Bowman's Fort or Harmony Hall for the purpose of permanent preservation, with a long-term goal of opening the property to the public.

(3) SHENANDOAH COUNTY.—Shenandoah County may continue to own, operate, and manage the Keister park site within the Park for the benefit of the public.

(4) GATEWAY COMMUNITIES.—The adjacent historic towns of Strasburg and Middletown shall be acknowledged at Gateway Communities to the Park.

(5) SHENANDOAH VALLEY BATTLEFIELDS FOUNDATION.—The Shenandoah Valley Battlefields Foundation may continue to administer and manage the Shenandoah Valley Battlefields National Historic District in partnership with the National Park Service and in accordance with the Management Plan for the District in which the Park is located.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as are necessary to carry out this Act.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 284—EXPRESSING THE SUPPORT FOR ''NATIONAL NIGHT OUT'' AND REQUESTING THAT THE PRESIDENT MAKE NEIGHBORHOOD CRIME PREVENTION COMMUNITY POLICING AND REDUCTION OF SCHOOL CRIME IMPORTANT PRIORITIES OF THE ADMINISTRATION.

Mr. BIDEN (for himself and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 284

Whereas neighborhood crime is a continuing concern of the American people;

Whereas the fight against neighborhood crime and terrorism requires the cooperation of community residents, neighborhood crime watch organizations, schools, community policing groups, and other law enforcement officials;

Whereas neighborhood crime watch organizations are effective in promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas the vigilance of neighborhood crime watch organizations creates safer communities and discourages drug dealers from operating in the communities monitored by those organizations;

Whereas the American people are concerned about violence and crime in schools, especially about incidents that result in fatalities at school, and are seeking methods to prevent such violence and crime;

Whereas community-based programs involving law enforcement personnel, school administrators, teachers, parents, and local communities are effective in reducing violence and crime in schools;

Whereas the Federal Government has made efforts to prevent neighborhood crime, including supporting community policing programs;

Whereas the Attorney General has called Federal efforts to support community policing a ''miraculous sort of success'';

Whereas the Administration has supported neighborhood watch programs through the establishment of the Citizen Corps;

Whereas on August 6, 2002, people across America will take part in National Night Out, an event that highlights the importance of community participation in crime prevention efforts;

Whereas on National Night Out participants will light up their homes and neighborhoods between 7:00 p.m. and 10:00 p.m. on that date, and spend that time outside with their neighbors; and

Whereas schools that turn their lights on from 7:00 p.m. to 10:00 p.m. on August 6, 2002, send a positive message to the participants of National Night Out and show their commitment to reducing crime and violence in schools: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of National Night Out;

(2) recognizes that the fight against neighborhood crime and terrorism requires individuals, neighborhood crime watch organizations, schools, and community policing groups and other law enforcement officials to work together;

(3) encourages neighborhood residents, crime watch organizations, and schools to participate in National Night Out activities on August 6, 2002, between 7:00 p.m. and 10:00 p.m.; and

(4) requests that the President—

(A) issue a proclamation calling on the people of the United States to participate in National Night Out with appropriate activities; and

(B) make neighborhood crime prevention, community policing, and reduction of school crime important priorities of the Administration.

Mr. BIDEN. Madam President, today I rise to submit a resolution, along with Senator SPECTER, supporting ''National Night Out,'' a program at the forefront of the Nation's effort to combat crime and terrorism. On August 6 of this year, over 33 million people in 9,700 communities from all 50 States will participate in the 19th Annual National Night Out. These volunteers greet their neighbors, meet with local police, and participate in block parties and parades, all to encourage citizens to become active caretakers of their communities. This resolution would salute and encourage those efforts.

This past year has seen our nation both horrified by unthinkable tragedy, and driven to ensure that nothing so terrible ever happens again. Unfortunately, we can't have a police officer protecting us on every block, during every minute, of everyday. And while many of us in the Congress have worked for years to enhance the tools and resources available to law enforcement, few things are more valuable in our ongoing war against terrorism and crime than the eyes and ears of conscientious citizens. A 1995 study by the National Institute of Justice shows that crime rates are 40 percent lower, on average, in communities with high mutual trust among neighbors. By encouraging members of each community to get to know one another, be familiar with their block, and work with local law enforcement officials to spot and address suspicious situations, National Night Out helps all of us sleep more soundly.

Today, with terrorists seeking to strike our homeland, our efforts to keep America's streets safe are more crucial than ever. Working side by side with local law enforcement, neighborhood crime watch groups have been, and will continue to be an invaluable resource. In fact, a Justice Department survey indicates that 90 percent of law enforcement officers believe National Night Out enhances their policing programs. Every year, National Night Out provides Americans with a great opportunity to meet their neighbors, show their patriotism, and keep their streets safe. I hope my colleagues will join Senator SPECTER and me in thanking them for making a difference, one doorstep at a time.

SENATE RESOLUTION 285—EXPRESSING THE SENSE OF THE SENATE CONDEMNING THE FAILURE OF THE INTERNATIONAL WHALING COMMISSION TO RECOGNIZE THE NEEDS OF ALASKAN ESKIMOS

Mr. MURKOWSKI (for himself and Mr. STEVENS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 285

Whereas the International Whaling Commission was founded in 1946 under the International Convention for the Regulation of Whaling, with the purpose of providing for the proper conservation of whale stocks in order to make possible the orderly development of the whaling industry;

Whereas the Commission has explicitly recognized aboriginal subsistence whaling as separate from commercial whaling and has in the past provided quotas for aboriginal subsistence whaling participants from Denmark, the Russian Federation, St. Vincent and The Grenadines and the United States;

Whereas the Commission has failed to renew the aboriginal subsistence whaling which previously was designated for Alaska Eskimo whalers;

Whereas the Commission's failure to reauthorize quotas for aboriginal subsistence whaling was orchestrated by nations disgruntled by the United States position in opposition to the resumption of commercial whaling and determined to retaliate against legitimate United States interests in aboriginal subsistence whaling;

Whereas aboriginal subsistence whaling has been a mainstay of the culture and livelihood of the Inuit people of Alaska for thousands of years;

Whereas whaling by the Inupiat people of northern Alaska brings significant benefits to every member of the successful villages, where whale meat is shared among all residents;

Whereas the Inupiat people of Alaska have consistently followed responsible management practices in carrying out their whaling activities;

Whereas the Inupiat people of Alaska have embraced the goal of whale conservation and participated heavily in whale research and monitoring that demonstrates that their subsistence whaling has no adverse effect on the population of bowhead whales, their preferred species: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the failure of the Commission to renew aboriginal whaling quotas is inconsistent with the understandings on which the Commission is based, and jeopardizes the continued existence of the Commission as a meaningful international body; and

(2) regardless of any current or subsequent action of the Commission, the United States government should take all steps necessary to ensure the continuance of scientifically sound aboriginal subsistence whaling by the Inupiat people of Alaska.

Mr. MURKOWSKI. Madam President, I rise to offer a sense of the Senate resolution condemning the International Whaling Commission's recent vote against renewing quotas for aboriginal subsistence whaling by Alaska's Inuit people.

I have always respected both the goals and the processes of the International Whaling Commission, but my support has been badly eroded by recent events.

The Inupiat people of northern Alaska have engaged in environmentally responsible whaling practices for thousands of years, with no international supervision. They were forced to stand and watch as the great whales were decimated.

Alaska's Inupiat people responded positively to the conservation goals of the International Commission, forming their own organization, the Alaska Eskimo Whaling Commission, which has participated wholeheartedly in International Commission meetings. The Alaska Commission has also put significant assets and effort toward research and monitoring that has proven conclusively that current Alaskan whaling poses no danger to the stocks of bowhead whales that are its target species.

Whaling is more important to the communities of northern Alaska than most can possibly understand. It provides a critical element of their diet, a major staple for their survival. But beyond that, it is a custom that is deeply ingrained in the culture of the Inupiat people.

Becoming a whaling captain is one of the greatest honors possible, and carries with it great responsibility. Whaling captains provide gear and supplies for their crews at significant cost, yet when a whale is taken, they receive no compensation other than the knowledge of a job well done, for which they are not even allowed to deduct their costs as charitable contributions. It is a job that is important not only to the whalers themselves, but to every resident of the whaling communities, where their catch is shared between young and old alike.

But that long history and honorable practice suffered a serious blow at the recent International Whaling Commission meeting in Shimoneseki, Japan. Nations promoting the resumption of commercial whaling, led by Japan itself, engineered a vote to reject the proposed renewal of quotas for Eskimo whaling.

It is clear from a statement released by the Japanese Fisheries Agency on May 24 that this action was taken solely to retaliate against the United States for our opposition to the resumption of commercial whaling, specifically our rejection of a small quota of Minke whales for four coastal villages. There is a word for such an action, and that word is ''spiteful.''

This is not the way international negotiations should be conducted.

Alaska's aboriginal whaling has nothing to do with commercial whaling, and everything to do with honoring a way of life that has come to be synonymous with survival for Alaska's Inupiat people.

It is not that I lack sympathy for the Japanese people, or the long history of whaling that is part of the culture of those four Japanese coastal villages. I happen to believe that history also should be honored, and I hope that an agreeable solution to the current dilemma will be developed in the near future.

Nor can I suggest that this development was a complete surprise. Japan has long sought the resumption of commercial whaling, which is, in fact, the stated purpose of the International Whaling Commission. It has long warned that some form of retaliation might result from our continued opposition in the face of scientific evidence that some whale populations, such as the Minke whales sought by the coastal villages, have fully recovered and could support the resumption of whaling.

Japan complains that the U.S. is being ''unfair.'' How could anything be more unfair than the action Japan has orchestrated against Alaska's Inupiat people?

I repeat, that this is not how international negotiations should be conducted. Targeting Alaska's Inupiat whaling is not justified and can only serve to further alienate even those who might be sympathetic to the Japanese villages.

The resolution I am introducing today condemns this unwarranted development, and calls on U.S. authorities to do everything in their power to ensure that aboriginal subsistence whaling in Alaska is allowed to continue under the same carefully crafted and scientifically justified system that currently guides it. I understand the various executive branch agencies with an interest in this issue are already engaged in doing just that, and they deserve our enthusiastic support.

SENATE RESOLUTION 286—COMMENDING AND CONGRATULATING THE LOS ANGELES LAKERS FOR THEIR OUTSTANDING DRIVE, DISCIPLINE, AND MASTERY IN WINNING THE 2002 NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 286

Whereas the Los Angeles Lakers are 1 of the greatest sports franchises in history;

Whereas the Laker organization has won 14 National Basketball Association Championships;

Whereas the Los Angeles Lakers are only the fifth team to win 3 consecutive National Basketball Association Championships and the seventh team to sweep the finals 4 games to none;

Whereas the Laker organization has fielded such legendary superstars as George Mikan, Wilt Chamberlain, Jerry West, Elgin Baylor, Kareem Abdul-Jabbar, Earvin ''Magic'' Johnson, and now, Shaquille O'Neal and Kobe Bryant;

Whereas Shaquille O'Neal won his third straight National Basketball Association Finals Most Valuable Player award, joining Michael Jordan as the only player to win 3 consecutive awards;

Whereas Shaquille O'Neal scored a record 145 points in the 2002 4-game finals series;

Whereas Shaquille O'Neal's 59.5 percent career field goal percentage in National Basketball Association Finals games is number 1 all-time and his 34.2 point scoring average ranks second;

Whereas Kobe Bryant was named to the 2001–2002 All-National Basketball Association First Team after averaging 25.5 points per game, 5.5 rebounds per game, and 5.5 assists per game during the regular season;

Whereas Kobe Bryant averaged 26.8 points, 5.8 rebounds, and 5.3 assists during the 2002 National Basketball Association Finals;

Whereas Coach Phil Jackson won his ninth National Basketball Association title, tying the record of legendary Boston Celtics coach, Red Auerbach;

Whereas Coach Phil Jackson won his 156th postseason game, surpassing former Lakers Coach Pat Riley to become the winningest playoff coach in National Basketball Association history;

Whereas the Los Angeles Lakers epitomize the spirit of their hometown with their determination, heart, stamina, and amazing comeback ability;

Whereas the support of all the Los Angeles fans and the people of California propelled the Los Angeles Lakers to another National Basketball Association Championship; and

Whereas the Los Angeles Lakers are poised to win a fourth straight National Basketball Association Championship next season: Now, therefore, be it

Resolved, That the Senate commends and congratulates the Los Angeles Lakers on winning the 2002 National Basketball Association Championship Title.

SENATE CONCURRENT RESOLUTION 121—EXPRESSING THE SENSE OF CONGRESS THAT THERE SHOULD BE ESTABLISHED A NATIONAL HEALTH CENTER WEEK FOR THE WEEK BEGINNING ON AUGUST 18, 2002, TO RAISE AWARENESS OF HEALTH SERVICES PROVIDED BY COMMUNITY, MIGRANT, PUBLIC HOUSING, AND HOMELESS HEALTH CENTERS

Mr. HUTCHINSON (for himself, Mr. DURBIN, Mr. BOND, and Mr. HOLLINGS) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 121

Whereas community, migrant, public housing, and homeless health centers (referred to in this concurrent resolution as ''health centers'') are nonprofit, community-owned and community-operated health providers and are vital to the Nation's communities;

Whereas there are more than 1,000 health centers serving 12,000,000 people at more than 4,000 health delivery sites, spanning urban and rural communities in all 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands;

Whereas health centers have provided cost-effective, quality health care to the Nation's poor and medically underserved (including the working poor, the uninsured, and many high-risk and vulnerable populations), acting as a vital safety net in the Nation's health delivery system, meeting escalating health needs, and reducing health disparities;

Whereas health centers provide care to 1 of every 9 uninsured Americans, 1 of every 8 low-income Americans, and 1 of every 10 rural Americans, and without health centers these Americans would otherwise lack access to health care;

Whereas health centers and other innovative programs in primary and preventive

care reach out to 650,000 homeless persons and 700,000 farm workers;

Whereas health centers make health care responsive and cost-effective by integrating the delivery of primary care with aggressive outreach, patient education, translation, and enabling support services;

Whereas health centers increase the use of preventive health services such as immunizations, Pap smears, mammograms, and glaucoma screenings;

Whereas in communities served by health centers, infant mortality rates have been reduced by between 10 and 40 percent;

Whereas health centers are built by community initiative;

Whereas Federal grants provide seed money to empower communities to find partners and resources and to recruit doctors and needed health professionals;

Whereas Federal grants, on average, contribute 22 percent of a health center's budget, with the remainder provided by State and local governments, medicare, medicaid, private contributions, private insurance, and patient fees;

Whereas health centers are community-oriented and patient-focused;

Whereas health centers tailor their services to fit the special needs and priorities of communities by working together with schools, businesses, churches, community organizations, foundations, and State and local governments;

Whereas health centers contribute to the health and well-being of their communities by keeping children healthy and in school and helping adults remain productive and on the job;

Whereas health centers engage citizen participation and provide jobs for 50,000 community residents; and

Whereas the establishment of a National Community Health Center Week for the week beginning on August 18, 2002, would raise awareness of the health services provided by health centers: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) there should be established a National Community Health Center Week for the week beginning on August 18, 2002, to raise awareness of health services provided by health centers; and

(2) the President should issue a proclamation calling on the people of the United States and interested organizations to observe such a week with appropriate programs and activities.

Mr. HUTCHINSON. Madam President, I rise today to submit a concurrent resolution, along with my colleagues, Senators DURBIN, BOND, and HOLLINGS, that would establish the week of August 18, 2002, as National Community Health Center Week.

Community, migrant, public housing, and homeless health centers are nonprofit providers of health care for our Nation's medically underserved. An essential element of our Nation's safety net, health centers provide care to 1 of every 9 uninsured Americans, 1 of every 8 low-income Americans and 1 of every 10 rural Americans. In rural and small communities, health centers are often the only health care providers, and in many cases can be the difference between life and death. Communities served by these health care centers have experienced reduced infant mortality rates by as much as 10 and 40 percent. Not only are health centers contributing to the physical well-being of communities, they are also contributing to the economic well-being of the communities where they are located, by employing over 50,000 community residents nationwide.

I commend President Bush for recognizing the valuable role of community health centers. The President has wisely called for the establishment of 1,200 new and expanded health center sites by 2006 that will enable health centers to serve more than 16 million patients annually.

Congress should also pay tribute to the role of these centers in improving the health and well-being of our Nation's poor and medically underserved by establishing the week of August 18, 2002, as National Community Health Center Week.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3835. Mr. LEAHY (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table.

SA 3836. Mr. MCCONNELL (for himself, Mr. GRAMM, Mr. LOTT, and Mr. SANTORUM) proposed an amendment to the bill S. 2600, supra.

SA 3837. Mr. NELSON, of Nebraska (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2600, supra; which was ordered to lie on the table.

SA 3838. Mr. ALLEN (for himself, Mr. BURNS, Mr. WARNER, Mr. SMITH, of New Hampshire, Mrs. HUTCHISON, and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill S. 2600, supra.

SA 3839. Mr. HATCH proposed an amendment to the bill S. 2600, supra.

SA 3840. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2600, supra; which was ordered to lie on the table.

SA 3841. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2600, supra; which was ordered to lie on the table.

SA 3842. Mr. SANTORUM proposed an amendment to the bill S. 2600, supra.

SA 3843. Mr. BROWNBACK proposed an amendment to the bill S. 2600, supra.

SA 3844. Mr. ENSIGN proposed an amendment to amendment SA 3843 proposed by Mr. BROWNBACK to the bill (S. 2600) supra.

SA 3845. Mr. REID (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 672, to amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens ''age-out'' while awaiting immigration processing, and for other purposes.

SA 3846. Mr. REID (for Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1209, to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

TEXT OF AMENDMENTS

SA 3835. Mr. LEAHY (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table; as follows:

On page 14, line 9, insert before ''but'' the following: ''or that could have operated through such self insurance arrangements under applicable State law in effect on September 11, 2001,''.

SA 3836. Mr. MCCONNELL (for himself, Mr. GRAMM, Mr. LOTT, and Mr. SANTORUM) proposed an amendment to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; as follows:

On page 29, strike line 1 and all that follows through page 30, line 17, and insert the following:

SEC. 10. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for such claims, except as provided in subsection (f).

(2) PREEMPTION OF STATE ACTIONS.—All State causes of action of any kind for claims arising out of or resulting from an act of terrorism that are otherwise available under State law, are hereby preempted, except as provided in subsection (f).

(b) GOVERNING LAW.—The substantive law for decision in an action described in subsection (a)(1) shall be derived from the law, including applicable choice of law principles, of the State in which the act of terrorism giving rise to the action occurred, except to the extent that—

(1) the law, including choice of law principles, of another State is determined to be applicable to the action by the district court hearing the action; or

(2) otherwise applicable State law (including that determined under paragraph (1), is inconsistent with or otherwise preempted by Federal law.

(c) FEDERAL JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, not later than 90 days after the date of the occurrence of an act of terrorism, the Judicial Panel on Multidistrict Litigation shall assign a single Federal district court to conduct pretrial and trial proceedings in all pending and future civil actions for claims arising out of or resulting from that act of terrorism.

(2) SELECTION CRITERIA.—The Judicial Panel on Multidistrict Litigation shall select and assign the district court under paragraph (1) based on the convenience of the parties and the just and efficient conduct of the proceedings.

(3) JURISDICTION.—The district court assigned by the Judicial Panel on Multidistrict Litigation shall have original and exclusive jurisdiction over all actions under paragraph (1). For purposes of personal jurisdiction, the district court assigned by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

(4) TRANSFER OF CASES FILED IN OTHER FEDERAL COURTS.—Any civil action for claims arising out of or resulting from an act of terrorism that is filed in a Federal district court other than the Federal district court assigned by the Judicial Panel on Multidistrict Litigation under paragraph (1) shall be transferred to the Federal district court so assigned.

(5) REMOVAL OF CASES FILED IN STATE COURTS.—Any civil action for claims arising out of or resulting from an act of terrorism that is filed in a State court shall be removable to the Federal district court assigned by the Judicial Panel on Multidistrict Litigation under paragraph (1).

(d) APPROVAL OF SETTLEMENTS.—Any settlement between the parties of a civil action described in this section for claims arising out of or resulting from an act of terrorism shall be subject to prior approval by the Secretary after consultation by the Secretary with the Attorney General.

(e) LIMITATION ON DAMAGES.—

(1) IN GENERAL.—Punitive or exemplary damages shall not be available for any losses in any action described in subsection (a)(1), including any settlement described in subsection (d), except where—

(A) punitive or exemplary damages are permitted by applicable State law; and

(B) the harm to the plaintiff was caused by a criminal act or course of conduct for which the defendant was convicted under Federal or State criminal law, including a conviction based on a guilty pea or plea of nolo contendere.

(2) PROTECTION OF TAXPAYER FUNDS.—Any amounts awarded in, or granted in settlement of, an action described in subsection (a)(1) that are attributable to punitive or exemplary damages allowable under paragraph (1) of this subsection shall not count as insured losses for purposes of this Act.

(f) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way be construed to limit the ability of any plaintiff to seek any form of recovery from any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(g) EFFECTIVE PERIOD.—This section shall apply only to actions described in subsection (a)(1) arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including any applicable extension period.

SA 3837. Mr. NELSON of Nebraska (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Terrorism Risk Insurance Act of 2002''.

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) insurance firms that provide property and casualty insurance are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(2) insurance firms that provide group term life and accidental death insurance are important financial institutions, the products of which allow employers, labor unions, and other groups to protect their employees and members against the financial impact of untimely death and allow their employees and members to make financial provisions for their families and other beneficiaries at reasonable cost;

(3) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(4) the ability of employers, labor unions, and other groups to obtain group life and accidental death insurance is critical to the ability of such groups to attract employees and members, which is vital to sustained high levels of employment and economic growth;

(5) insurance firms that provide property and casualty insurance and insurance firms that provide group life and accidental death insurance face similar concentrations of financial risk;

(6) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(7) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

(8) a decision by insurers to deal with such uncertainties, either by terminating or excluding coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, otherwise suppress economic activity and deprive the beneficiaries of group life insureds the financial security and benefits of such coverage; and

(9) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) PURPOSE.—The purpose of this Act is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance and group life and accidental death insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term ''act of terrorism'' means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(ii) to have resulted in damage or loss of life within the United States, or outside the United States in the case of an air carrier described in paragraph (3)(A)(ii); and

(iii) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act or event shall be certified by the Secretary as an act of terrorism if—

(i) the act or event is committed in the course of a war declared by the Congress; or

(ii) losses resulting from the act or event, in the aggregate, do not exceed $5,000,000.

(C) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act or event as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

(2) BUSINESS INTERRUPTION COVERAGE.—The term ''business interruption coverage'' means—

(A) coverage of losses for temporary relocation expenses and ongoing expenses, including ordinary wages, where—

(i) there is physical damage to the business premises of such magnitude that the business cannot open for business;

(ii) there is physical damage to other property that totally prevents customers or employees from gaining access to the business premises; or

(iii) the Federal, State, or local government shuts down an area due to physical or environmental damage, thereby preventing customers or employees from gaining access to the business premises; and

(B) does not include lost profits, other than in the case of a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and applicable regulations thereunder) in any case described in clause (i), (ii), or (iii) of subparagraph (A).

(3) INSURED LOSS.—The term ''insured loss''—

(A) means any loss resulting from an act of terrorism that is covered by primary property and casualty insurance, including business interruption coverage, or group life insurance, including accidental death insurance, issued by a participating insurance company, if such loss—

(i) occurs within the United States; or

(ii) occurs to or aboard an air carrier (as defined in section 40102 of title 49, United States Code) or to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; and

(B) excludes coverage under any health insurance or individual life insurance policy.

(4) MARKET SHARE.—

(A) IN GENERAL.—The ''market share'' of a participating insurance company shall be calculated using the total amount of direct written property and casualty insurance premiums or group life insurance premiums, including premiums for accidental death insurance for the participating insurance company during the 2-year period preceding the year in which the subject act of terrorism occurred (or during such other period for which adequate data are available, as determined by the Secretary), as a percentage of the aggregate of all such property and casualty insurance or group life insurance, including accidental death insurance premiums industry-wide during that period.

(B) ADJUSTMENTS.—The Secretary may adjust the market share of a participating insurance company under subparagraph (A), as necessary to reflect current market participation of that participating insurance company.

(5) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(6) PARTICIPATING INSURANCE COMPANY.—The term ''participating insurance company'' means any insurance company, including any subsidiary or affiliate thereof—

(A) that—

(i) is licensed or admitted to engage in the business of providing primary insurance in any State, and was so licensed or admitted on September 11, 2001; or

(ii) is not licensed or admitted as described in clause (i), if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor thereto;

(B) receives direct premiums for any type of commercial property and casualty insurance coverage or that, not later than 21 days after the date of enactment of this Act, submits written notification to the Secretary of its intent to participate in the Program with regard to personal lines of property and casualty insurance;

(C) that receives direct premiums for group life insurance coverage, including accidental death insurance coverage and, not later than 21 days after the date of enactment of this Act, submits written notification to the Secretary of its intent to participate in the Program; and

(D) that meets any other criteria that the Secretary may reasonably prescribe.

(7) PARTICIPATING PROPERTY AND CASUALTY INSURANCE COMPANY DEDUCTIBLE.—The term ''participating property and casualty insurance company deductible'' means—

(A) a participating property and casualty insurance company's market share, multiplied by $10,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002; and

(B) a participating property and casualty insurance company's market share, multiplied by $15,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2003, and ending at midnight on December 31, 2003, if the Program is extended in accordance with section 6.

(8) PARTICIPATING GROUP LIFE INSURANCE COMPANY DEDUCTIBLE.—The term ''participating group life insurance company deductible'' means—

(A) a participating group life insurance company's market share, multiplied by $2,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002; and

(B) a participating group life insurance company's market share, multiplied by $3,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2003, and ending at midnight on December 31, 2003, if the program is extended in accordance with section 6.

(9) PERSON.—The term ''person'' means any individual, business, or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(10) PROGRAM.—The term ''Program'' means the Terrorism Insured Loss Shared Compensation Program established by this Act.

(11) PROPERTY AND CASUALTY INSURANCE.—The term ''property and casualty insurance—

(A) means commercial lines of property and casualty insurance;

(B) includes personal lines of property and casualty insurance, if a notification is made in accordance with paragraph (6)(B); and

(C) does not include—

(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); or

(ii) private mortgage insurance, as that term is defined in section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901).

(12) GROUP LIFE INSURANCE.—The term ''group life insurance'' means an insurance contract that provides life insurance coverage for a number of persons under a single contract and that provides such coverage on the basis of a group selection of risks.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(14) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and each of the United States Virgin Islands.

(15) UNITED STATES.—The term ''United States'' means all States of the United States.

SEC. 4. TERRORISM INSURED LOSS SHARED COMPENSATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insured Loss Shared Compensation Program.

(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of Federal or State law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (e).

(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under subsection (e), unless—

(1) a person that suffers an insured loss, or a person acting on behalf of that person, files a claim with a participating insurance company;

(2) the participating insurance company provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program—

(A) in the case of any policy covering an insured loss that is issued on or after the date of enactment of this Act, in the policy, at the time of offer, purchase, and renewal of the policy; and

(B) in the case of any policy that is issued before the date of enactment of this Act, not later than 90 days after that date of enactment;

(3) the participating insurance company processes the claim for the insured loss in accordance with its standard business practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the participating insurance company submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written verification and certification—

(i) of the underlying claim; and

(ii) of all payments made for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) MANDATORY PARTICIPATION; MANDATORY AVAILABILITY.—Each insurance company that meets the definition of a participating insurance company under section 3—

(1) shall participate in the Program;

(2) shall make available in all of its property and casualty insurance policies (in all of its participating lines) and all of its group life and accidental death policies, coverage for insured losses; and

(3) shall make available property and casualty insurance and group life and accidental death coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.–

(d) PARTICIPATION BY SELF INSURED ENTITIES.—

(1) DETERMINATION BY THE SECRETARY.—The Secretary may, in consultation with the NAIC, establish procedures to allow participation in the Program by municipalities and other governmental or quasi-governmental entities (and by any other entity, as the Secretary deems appropriate) operating through self insurance arrangements that were in existence on September 11, 2001, but only if the Secretary makes a determination with regard to participation by any such entity before the occurrence of an act of terrorism in which the entity incurs an insured loss.

(2) PARTICIPATION.—If the Secretary makes a determination to allow an entity described in paragraph (1) to participate in the Program, all reports, conditions, requirements, and standards established by this Act for participating insurance companies shall apply to any such entity, as determined to be appropriate by the Secretary.

(e) SHARED INSURANCE LOSS COVERAGE.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—Subject to the cap on liability under paragraph (2) and the limitation under paragraph (6), the Federal share of compensation under the Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002—

(i) shall be equal to 80 percent of that portion of the amount of aggregate insured losses that—

(I) exceeds the participating insurance company deductibles required to be paid for those insured losses; and

(II) does not exceed $10,000,000,000; and

(ii) shall be equal to 90 percent of that portion of the amount of aggregate insured losses that—

(I) exceeds the participating insurance company deductibles required to be paid for those insured losses; and

(II) exceeds $10,000,000,000.

(B) EXTENSION PERIOD.—If the Program is extended in accordance with section 6, the Federal share of compensation under the Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the period beginning on January 1, 2003, and ending at midnight on December 31, 2003, shall be calculated in accordance with clauses (i) and (ii) of subparagraph (A), subject to the cap on liability in paragraph (2) and the limitation under paragraph (6).

(C) PRO RATA SHARE.—If, during the period described in subparagraph (A) (or during the period described in subparagraph (B), if the –Program is extended in accordance with section 6), the aggregate insured losses for that period –exceed $10,000,000,000, the Secretary shall determine the pro rata share for each participating insurance company of the Federal share of compensation for insured losses calculated under subparagraph (A).—

(2) CAP ON ANNUAL LIABILITY.—Notwithstanding paragraph (1), or any other provision of Federal or State law, if the aggregate

insured losses exceed $100,000,000,000 during any period referred to in subparagraph (A) or (B) of paragraph (1)—

(A) the Secretary shall not make any payment under this Act for any portion of the amount of such losses that exceeds $100,000,000,000; and

(B) participating insurance companies shall not be liable for the payment of any portion of the amount that exceeds $100,000,000,000.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed $100,000,000,000 in any period described in paragraph (1), and the Congress shall determine the procedures for and the source of any such excess payments.

(4) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATIONS FINAL.—Any determination of the Secretary under this subsection shall be final, and shall not be subject to judicial review.

(6) IN-FORCE REINSURANCE AGREEMENTS.—For policies covered by reinsurance contracts in force on the date of enactment of this Act, until the in-force reinsurance contract is renewed, amended, or has reached its 1-year anniversary date, any Federal share of compensation due to a participating insurance company for insured losses during the effective period of the Program shall be shared—

(A) with all reinsurance companies to which the participating insurance company has ceded some share of the insured loss pursuant to an in-force reinsurance contract; and

(B) in a manner that distributes the Federal share of compensation for insured losses between the participating insurance company and the reinsurance company or companies in the same proportion as the insured losses would have been distributed if the Program did not exist.

SEC. 5. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(a) GENERAL AUTHORITY.—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to implement the Program.

(b) INTERIM RULES AND PROCEDURES.—The Secretary shall issue interim final rules or procedures specifying the manner in which—

(1) participating insurance companies may file, verify, and certify claims under the Program;

(2) the Secretary shall publish or otherwise publicly announce the applicable percentage of insured losses that is the responsibility of participating insurance companies and the percentage that is the responsibility of the Federal Government under the Program;

(3) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual aggregate insured losses;

(4) the Secretary may, at any time, seek repayment from or reimburse any participating insurance company, based on estimates of insured losses under the Program, to effectuate the insured loss sharing provisions contained in section 4;

(5) each participating insurance company that incurs insured losses shall pay its pro rata share of insured losses, in accordance with section 4; and

(6) the Secretary will determine any final netting of payments for actual insured losses under the Program, including payments owed to the Federal Government from any participating insurance company and any Federal share of compensation for insured losses owed to any participating insurance company, to effectuate the insured loss sharing provisions contained in section 4.

(c) SUBROGATION RIGHTS.—The United States shall have the right of subrogation with respect to any payment made by the United States under the Program.

(d) CONTRACTS FOR SERVICES.—The Secretary may employ persons or contract for services as may be necessary to implement the Program.

(e) CIVIL PENALTIES.—The Secretary may assess civil money penalties for violations of this Act or any rule, regulation, or order issued by the Secretary under this Act relating to the submission of false or misleading information for purposes of the Program, or any failure to repay any amount required to be reimbursed under regulations or procedures described in section 5(b). The authority granted under this subsection shall continue during any period in which the Secretary's authority under section 6(d) is in effect.

SEC. 6. TERMINATION OF PROGRAM; DISCRETIONARY EXTENSION.

(a) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—The Program shall terminate at midnight on December 31, 2002, unless the Secretary—

(A) determines, after considering the report and finding required by this section, that the Program should be extended for 1 additional year, until midnight on December 31, 2003; and

(B) promptly notifies the Congress of such determination and the reasons therefor.

(2) DETERMINATION FINAL.—The determination of the Secretary under paragraph (1) shall be final, and shall not be subject to judicial review.

(3) TERMINATION AFTER EXTENSION.—If the Program is extended under paragraph (1), the Program shall terminate at midnight on December 31, 2003.

(b) REPORT TO CONGRESS.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(1) regarding—

(A) the availability of insurance coverage for acts of terrorism;

(B) the affordability of such coverage, including the effect of such coverage on premiums; and

(C) the capacity of the insurance industry to absorb future losses resulting from acts of terrorism, taking into account the profitability of the insurance industry; and

(2) that considers—

(A) the impact of the Program on each of the factors described in paragraph (1); and

(B) the probable impact on such factors and on the United States economy if the Program terminates at midnight on December 31, 2002.

(c) FINDING REQUIRED.—A determination under subsection (a) to extend the Program shall be based on a finding by the Secretary that—

(1) widespread market uncertainties continue to disrupt the ability of insurance companies to price insurance coverage for losses resulting from acts of terrorism, thereby resulting in the continuing unavailability of affordable insurance for consumers; and

(2) extending the Program for an additional year would likely encourage economic stabilization and facilitate a transition to a viable market for private terrorism risk insurance.

(d) CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION.—Following the termination of the Program under subsection (a), the Secretary may take such actions as may be necessary to ensure payment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this Act, in accordance with the provisions of section 4 and regulations promulgated thereunder.

(e) REPEAL; SAVINGS CLAUSE.—This Act is repealed at midnight on the final termination date of the Program under subsection (a), except that such repeal shall not be construed—

(1) to prevent the Secretary from taking, or causing to be taken, such actions under subsection (d) of this section and sections 4(e)(4), 4(e)(5), 5(a)(1), 5(c), 5(d), and 5(e) (as in effect on the day before the date of such repeal), and applicable regulations promulgated thereunder, during any period in which the authority of the Secretary under subsection (d) of this section is in effect; or

(2) to prevent the availability of funding under section 10(b) during any period in which the authority of the Secretary under subsection (d) of this section is in effect.

(f) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Secretary should make any determination under subsection (a) in sufficient time to enable participating insurance companies to include coverage for acts of terrorism in their policies for 2003.

(g) STUDY AND REPORT ON SCOPE OF THE PROGRAM.—

(1) STUDY.—The Secretary, after consultation with the NAIC, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of individual life insurance and other lines of insurance coverage.

(2) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

(h) REPORTS REGARDING TERRORISM RISK INSURANCE PREMIUMS.—

(1) REPORT TO THE NAIC.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, each participating insurance company shall submit a report to the NAIC that states the premium rates charged by that participating insurance company during the preceding 6-month period for insured losses covered by the Program, and includes an explanation of and justification for those rates.

(2) REPORTS FORWARDED.—The NAIC shall promptly forward copies of each report submitted under paragraph (1) to the Secretary, the Secretary of Commerce, the Chairman of the Federal Trade Commission, and the Comptroller General of the United States.

(3) AGENCY REPORTS TO CONGRESS.—

(A) IN GENERAL.—The Secretary, the Secretary of Commerce, and the Chairman of the Federal Trade Commission shall submit joint reports to Congress and the Comptroller General of the United States summarizing and evaluating the reports forwarded under paragraph (2).

(B) TIMING.—The reports required under subparagraph (A) shall be submitted—

(i) 9 months after the date of enactment of this Act; and

(ii) 12 months after the date of submission of the first report under clause (i).

(4) GAO EVALUATION AND REPORT.—

(A) EVALUATION.—The Comptroller General of the United States shall evaluate each report submitted under paragraph (3), and upon request, the Secretary, the Secretary of Commerce, the Chairman of the Federal Trade Commission, and the NAIC shall provide to the Comptroller all documents, records, and any other information that the Comptroller deems necessary to carry out such evaluation.

(B) REPORT TO CONGRESS.—Not later than 90 days after receipt of each report submitted under paragraph (3), the Comptroller General of the United States shall submit to Congress a report of the evaluation required by subparagraph (A).

SEC. 7. PRESERVATION OF STATE LAW.

Nothing in this Act shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any participating insurance company or other person—

(1) except as specifically provided in this Act; and

(2) except that—

(A) the definition of the term ''act of terrorism'' in section 3 shall be the exclusive definition of that term for purposes of compensation for insured losses under this Act, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any type of insurance covered by this Act;

(B) during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002, rates for terrorism risk insurance covered by this Act and filed with any State shall not be subject to prior approval or a waiting period, under any law of a State that would otherwise be applicable, except that nothing in this Act affects the ability of any State to invalidate a rate as excessive, inadequate, or unfairly discriminatory; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect, as provided in section 6 (including any period during which the authority of the Secretary under section 6(d) is in effect), books and records of any participating insurance company that are relevant to the Program shall be provided, or caused to be provided, to the Secretary or the designee of the Secretary, upon request by the Secretary or such designee, notwithstanding any provision of the laws of any State prohibiting or limiting such access.

SEC. 8. SENSE OF THE CONGRESS REGARDING CAPACITY BUILDING.

It is the sense of the Congress that the insurance industry should build capacity and aggregate risk to provide affordable property and casualty insurance coverage and group life insurance coverage, including accidental death coverage, for terrorism risk.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS; PAYMENT AUTHORITY.

(a) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary for administrative expenses of the Program, to remain available until expended.

(b) PAYMENT AUTHORITY.—This Act constitutes payment authority in advance of appropriation Acts, and represents the obligation of the Federal Government to provide for the Federal share of compensation for insured losses under the Program.

SEC. 10. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from an act of terrorism, which shall be the exclusive cause of action and remedy for claims for such property damage, personal injury, or death, except as provided in subsection (d).

(2) PREEMPTION OF STATE ACTIONS.—All State causes of action of any kind for property damage, personal injury, or death arising out of or resulting from an act of terrorism that are otherwise available under State law, are hereby preempted, except as provided in subsection (d).

(b) GOVERNING LAW.—The substantive law for decision in an action described in subsection (a)(1) shall be derived from the law, including applicable choice of law principles, of the State in which the act of terrorism giving rise to the action occurred, except to the extent that—

(1) the law, including choice of law principles, of another State is determined to be applicable to the action by the district court hearing the action; or

(2) otherwise applicable State law (including that determined pursuant to paragraph (1)), is in consistent with or otherwise preempted by Federal law.

(c) PUNITIVE DAMAGES.—Any amounts awarded in a civil action described in subsection (a)(1) that are attributable to punitive damages shall not count as insured losses for purposes of this Act.

(d) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way be construed to limit the ability of any plaintiff to seek any form of recovery from any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(e) EFFECTIVE PERIOD.—This section shall apply only to actions described in subsection (a)(1) arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including, if applicable, any extension period provided for under section 6.

SA 3838. Mr. ALLEN (for himself, Mr. BURNS, Mr. WARNER, Mr. SMITH of New Hampshire, Mrs. HUTCHISON, and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; as follows:

At the appropriate place, insert the following:

SEC. ___. SATISFACTION OF JUDGMENTS FROM FROZEN ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism or for which a terrorist party is not immune under section 1605(a)(7) of title 28, United States Code, the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to the extent of any compensatory damages for which such terrorist party has been adjudged liable.

(b) PRESIDENTIAL WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(2) EXCEPTION.—A waiver under this subsection shall not apply to—

(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used by the United States for any nondiplomatic purpose (including use as rental property), or the proceeds of such use; or

(B) the proceeds of any sale or transfer for value to a third party of any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(c) SPECIAL RULE FOR CASES AGAINST IRAN.—Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386; 114 Stat. 1542) is amended—

(1) in subsection (a)(2)(A)(ii), by inserting after ''July 27, 2000'' the following: ''or before October 28, 2000,'';

(2) in subsection (b)(2)(B), by inserting after ''the date of enactment of this Act'' the following: ''(less amounts therein as to which the United States has an interest in subrogation pursuant to subsection (c) arising prior to the date of entry of the judgment or judgments to be satisfied in whole or in part hereunder).'';

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

''(d) DISTRIBUTION OF FOREIGN MILITARY SALES FUNDS INADEQUATE TO SATISFY FULL AMOUNT OF COMPENSATORY AWARDS AGAINST IRAN.—

''(1)(A) In the event that the Secretary determines that the amounts available to be paid under subsection (b)(2) are inadequate to pay the entire amount of compensatory damages awarded in judgments issued as of the date of the enactment of this subsection in cases identified in subsection (a)(2)(A), the Secretary shall, not later than 60 days after such date, make payment from the account specified in subsection (b)(2) to each party to which such judgment has been issued a share of the amounts in that account which are not subject to subrogation to the United States under this Act.

''(B) The amount so paid to each such person shall be calculated by the proportion that the amount of compensatory damages awarded in a judgment issued to that particular person bears to the total amount of all compensatory damages awarded to all persons to whom judgments have been issued in cases identified in subsection (a)(2)(A) as of the date referred to in subparagraph (A).

''(2) Nothing herein shall bar, or require delay in, enforcement of any judgment to which this subsection applies under any procedure or against assets otherwise available under this section or under any other provision of law.

''(3) Any person receiving less than the full amount of compensatory damages awarded to that party in judgments to which this subsection applies shall not be required to make the election set forth in subsection (a)(2)(C) in order to qualify for payment hereunder.''.

(d) DEFINITIONS.—In this section:

(1) The term ''terrorist party'' means a terrorist, a terrorist organization, or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(2) The term ''blocked asset'' means any asset seized or frozen by the United States in accordance with law, or otherwise held by the United States without claim of ownership by the United States.

(3) The term ''property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations'' and the term ''asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations'' mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States

under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

SA 3839. Mr. HATCH proposed an amendment to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; as follows:

At the end, add the following:

TITLE II—ANTITERRORISM PROVISIONS

Subtitle A—Suppression of Terrorist Bombings

SEC. 201. SHORT TITLE.

This subtitle may be cited as the ''Terrorist Bombings Convention Implementation Act of 2002''.

SEC. 202. BOMBING STATUTE.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332e the following:

''§ 2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever unlawfully delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility—

''(A) with the intent to cause death or serious bodily injury, or

''(B) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss,

shall be punished as prescribed in subsection (c).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c).

''(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) if—

''(1) the offense takes place in the United States and—

''(A) the offense is committed against another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

''(B) the offense is committed in an attempt to compel another state or the United States to do or abstain from doing any act;

''(C) at the time the offense is committed, it is committed—

''(i) on board a vessel flying the flag of another state;

''(ii) on board an aircraft which is registered under the laws of another state; or

''(iii) on board an aircraft which is operated by the government of another state;

''(D) a perpetrator is found outside the United States;

''(E) a perpetrator is a national of another state or a stateless person; or

''(F) a victim is a national of another state or a stateless person;

''(2) the offense takes place outside the United States and—

''(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

''(B) a victim is a national of the United States;

''(C) a perpetrator is found in the United States;

''(D) the offense is committed in an attempt to compel the United States to do or abstain from doing any act;

''(E) the offense is committed against a state or government facility of the United States, including an embassy or other diplomatic or consular premises of the United States;

''(F) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed; or

''(G) the offense is committed on board an aircraft which is operated by the United States.

''(c) PENALTIES.—Whoever violates this section shall be imprisoned for any term of years or for life, and if death results from the violation, shall be punished by death or imprisoned for any term of years or for life.

''(d) EXEMPTIONS TO JURISDICTION.—This section does not apply to—

''(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law,

''(2) activities undertaken by military forces of a state in the exercise of their official duties; or

''(3) offenses committed within the United States, where the alleged offender and the victims are United States citizens and the alleged offender is found in the United States, or where jurisdiction is predicated solely on the nationality of the victims or the alleged offender and the offense has no substantial effect on interstate or foreign commerce.

''(e) DEFINITIONS.—As used in this section, the term—

''(1) 'serious bodily injury' has the meaning given that term in section 1365(g)(3) of this title;

''(2) 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(3) 'state or government facility' includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

''(4) 'intergovernmental organization' includes international organization (as defined in section 1116(b)(5) of this title);

''(5) 'infrastructure facility' means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, or communications;

''(6) 'place of public use' means those parts of any building, land, street, waterway, or other location that are accessible or open to members of the public, whether continuously, periodically, or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

''(7) 'public transportation system' means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

''(8) 'explosive' has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage;

''(9) 'other lethal device' means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents or toxins (as those terms are defined in section 178 of this title), or radiation or radioactive material;

''(10) 'military forces of a state' means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

''(11) 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature; and

''(12) 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding after the item relating to section 2332e the following:

''2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.''.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the applicability of any other Federal or State law which might pertain to the underlying conduct.

SEC. 203. EFFECTIVE DATE.

Section 202 shall become effective on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States.

Subtitle B—Suppression of the Financing of Terrorism

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Suppression of the Financing of Terrorism Convention Implementation Act of 2002''.

SEC. 212. TERRORISM FINANCING STATUTE.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339C. Prohibitions against the financing of terrorism

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever, in a circumstance described in subsection (c), by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

''(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

''(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

''(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

''(b) CONCEALMENT.—

''(1) IN GENERAL.—Whoever, in the United States, or outside the United States and a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions), knowingly conceals or disguises the nature, the location, the source, or the ownership or

control of any material support or resources provided in violation of section 2339B of this chapter, or of any funds provided or collected in violation of subsection (a) or any proceeds of such funds, shall be punished as prescribed in subsection (d)(2).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(2).

''(c) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

''(1) the offense takes place in the United States and—

''(A) a perpetrator was a national of another state or a stateless person;

''(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

''(C) on board an aircraft which is operated by the government of another state;

''(D) a perpetrator is found outside the United States;

''(E) was directed toward or resulted in the carrying out of a predicate act against—

''(i) a national of another state; or

''(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

''(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

''(G) was directed toward or resulted in the carrying out of a predicate act—

''(i) outside the United States; or

''(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

''(2) the offense takes place outside the United States and—

''(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

''(B) a perpetrator is found in the United States; or

''(C) was directed toward or resulted in the carrying out of a predicate act against—

''(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

''(ii) any person or property within the United States;

''(iii) any national of the United States or the property of such national; or

''(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

''(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

''(4) the offense is committed on board an aircraft which is operated by the United States; or

''(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

''(d) PENALTIES.—

''(1) Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

''(2) Whoever violates subsection (b) shall be fined under this title, imprisoned for not more than 10 years, or both.

''(e) DEFINITIONS.—As used in this section—

''(1) the term 'funds' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

''(2) the term 'government facility' means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

''(3) the term 'proceeds' means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

''(4) the term 'provides' includes giving, donating, and transmitting;

''(5) the term 'collects' includes raising and receiving;

''(6) the term 'predicate act' means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

''(7) the term 'treaty' means—

''(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

''(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

''(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

''(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

''(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

''(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

''(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

''(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

''(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

''(8) the term 'intergovernmental organization' includes international organizations;

''(9) the term 'international organization' has the same meaning as in section 1116(b)(5) of this title;

''(10) the term 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

''(11) the term 'serious bodily injury' has the same meaning as in section 1365(g)(3) of this title;

''(12) the term 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(13) the term 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.

''(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least $10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339C. Prohibitions against the financing of terrorism.''.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the scope or applicability of any other Federal or State law.

SEC. 213. EFFECTIVE DATE.

Except for sections 2339C(c)(1)(D) and (2)(B) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of the Financing of Terrorism enters into force for the United States, and for the provisions of section 2339C(e)(7)(I) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of Terrorist Bombing enters into force for the United States, section 212 of this subtitle shall take effect upon the date of enactment of this Act.

Subtitle C—Ancillary Measures

SEC. 221. ANCILLARY MEASURES.

(a) WIRETAP PREDICATES.—Section 2516(1)(q) of title 18, United States Code, is amended by—

(1) inserting ''2332f,'' after ''2332d,''; and

(2) striking ''or 2339B'' and inserting ''2339B, or 2339C''.

(b) FEDERAL CRIME OF TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by—

(1) inserting ''2332f (relating to bombing of public places and facilities),'' after ''2332b (relating to acts of terrorism transcending national boundaries),''; and

(2) inserting ''2339C (relating to financing of terrorism),'' before ''or 2340A (relating to torture)''.

(c) PROVIDING MATERIAL SUPPORT TO TERRORISTS PREDICATE.—Section 2339A of title 18, United States Code, is amended by inserting ''2332f,'' before ''or 2340A''.

(d) FORFEITURE OF FUNDS, PROCEEDS, AND INSTRUMENTALITIES.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(H) Any property, real or personal, involved in a violation or attempted violation, or which constitutes or is derived from proceeds traceable to a violation, of section 2339C of this title.''.

SA 3840 Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SEPARATE ACCOUNT REQUIRED.

If a participating insurance company increases annual premium rates on covered risks, the company—

(1) shall deposit the amount of the increase in premium in a separate, segregated account;

(2) shall identify the portion of the premium insuring against terrorism risk on a separate line item on the policy; and

(3) may not disburse any funds from amounts in that separate, segregated account for any purpose other than the payment of losses from acts of terrorism.

SA 3841. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the ''National Terrorism Reinsurance Fund Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The terrorist attacks on the World Trade Center and Pentagon on September 11, 2001, have inflicted possibly the largest loss ever incurred by insurers and reinsurers.

(2) The magnitude of the loss, and its impact on the current capacity of the reinsurance market, threaten the ability of the property and casualty insurance market to provide coverage to building owners, businesses, and American citizens.

(3) It is necessary to create a temporary reinsurance mechanism to augment the capacity of private insurers to provide insurance for terrorism related risks.

SEC. 3. PURPOSE.

The purpose of this Act is to facilitate the coverage by property and casualty insurers of the peril for losses due to acts of terrorism by providing additional reinsurance capacity for loss or damage due to acts of terrorism occurring within the United States, its territories, and possessions.

SEC. 4. NATIONAL TERRORISM REINSURANCE PROGRAM.

(a) IN GENERAL.—The Secretary of Commerce shall establish and administer a program to provide reinsurance to participating insurers for losses due to acts of terrorism.

(b) ADVISORY COMMITTEE; MEMBERSHIP.—There is established an advisory committee to provide advice and counsel to the Secretary in carrying out the program of reinsurance established by the Secretary. The advisory committee shall consist of 10 members, as follows:

(1) 3 representatives of the property and casualty insurance industry, appointed by the Secretary.

(2) A representative of property and casualty insurance agents, appointed by the Secretary.

(3) A representative of consumers of property casualty insurance, appointed by the Secretary.

(4) A representative of a recognized national credit rating agency, appointed by the Secretary.

(5) A representative of the banking or real estate industry, appointed by the Secretary.

(6) 2 representatives of the National Association of Insurance Commissioners, designated by that organization.

(7) A representative of the Department of the Treasury, designated by the Secretary of the Treasury.

(c) NATIONAL TERRORISM REINSURANCE FUND.—

(1) ESTABLISHMENT.—To carry out the reinsurance program, the Secretary shall establish a National Terrorism Reinsurance Fund which shall be available, without fiscal year limitations—

(A) to make such payments as may, from time to time, be required under reinsurance contracts under this Act;

(B) to pay such administrative expenses as may be necessary or appropriate to carry out the purposes of this Act, but such expenses may not exceed $5,000,000 for each of fiscal years 2002, 2003, and 2004; and

(C) to repay to the Secretary of the Treasury such sums, including interest thereon, as may be borrowed from the Treasury for purposes of this Act.

(2) CREDITS TO FUND.—The Fund shall be credited with—

(A) reinsurance premiums, fees, and other charges which may be paid or collected in connection with reinsurance provided under this Act;

(B) interest which may be earned on investments of the Fund;

(C) receipts from any other source which may, from time to time, be credited to the Fund; and

(D) Funds borrowed by the Secretary from the Treasury.

(3) INVESTMENT IN OBLIGATIONS ISSUED OR GUARANTEED BY UNITED STATES.—If the Secretary determines that the moneys of the Fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(4) LOANS TO FUND.—The Secretary of the Treasury shall grant loans to the Fund in the manner and to the extent provided in this Act.

(d) UNDERWRITING STANDARDS.—In order to carry out the responsibilities of the Secretary under this Act and protect the Fund, the Secretary shall establish minimum underwriting standards for participating insurers.

(e) MONITORING OF TERRORISM INSURANCE RATES.—

(1) SECRETARY TO ESTABLISH SPECIAL COMMITTEE ON RATES.—The Secretary shall establish a special committee on rates, the size and membership of which shall be determined by the Secretary, except that the committee shall, at a minimum, include—

(A) representatives of providers of insurance for losses due to acts of terrorism;

(B) representatives of purchases of such insurance;

(C) at least 2 representatives of NAIC; and

(D) at least 2 independent insurance actuaries.

(2) DUTIES.—The special committee on rates shall meet at the call of the Secretary and shall—

(A) review reports filed with the Secretary by State insurance regulatory authorities;

(B) collect data on rate disclosure practices of participating insurers for insurance for covered lines and for losses due to acts of terrorism; and

(C) provide such advice and counsel to the Secretary as the Secretary may require.

SEC. 5. FUND OPERATIONS.

(a) FUNDING BY PREMIUM.—

(1) IN GENERAL.—For the year beginning January 1, 2002, and each subsequent year of operation, participating insurers shall pay into the Fund an annual reinsurance contract premium of not less than 3 percent of their respective gross direct written premiums for covered lines for the calendar year. The annual premium shall be paid in installments at the end of each calendar quarter. The reinsurance contract premium and any annual assessment may be recovered by a participating insurer from its covered lines policyholders as a direct surcharge calculated as a uniform percentage of premium.

(2) ADDITIONAL CREDIT RISK PREMIUM.—If the Secretary determines that a participating insurer has a credit rating that is lower than the second from highest credit rating awarded by nationally recognized credit rating agencies, the Secretary may charge an additional credit risk premium, of up to 0.5 percent of gross direct written premiums for covered lines received by that insurer, to compensate the Fund for credit risk associated with providing reinsurance to that insurer.

(b) INITIAL CAPITAL.—

(1) LOAN.—The Fund shall have an initial capital of $2,000,000,000, which the Secretary shall borrow from the Treasury of the United States. Upon application by the Secretary, the Secretary of the Treasury shall transfer that amount to the Fund, out of amounts in the Treasury not otherwise appropriated, at standard market rates.

(2) REPAYMENT OF START-UP LOAN.—The Secretary shall use premiums received from assessments in calendar year 2002 to repay the loan provided to the Fund under paragraph (1).

(c) SHORTFALL LOANS.—

(1) IN GENERAL.—If the Secretary determines that the balance in the accounts of the Fund is insufficient to cover anticipated claims, administrative expenses, and maintain adequate reserves for any other reason, after taking into account premiums assessed under subsection (a) and any other amounts receivable, the Secretary shall borrow from the Treasury an amount sufficient to satisfy the obligations of the Fund and to maintain a positive balance of $2,000,000,000 in the accounts of the Fund. Upon application by the Secretary, the Secretary of the Treasury shall transfer to the Fund, out of amounts in the Treasury not otherwise appropriated, the requested amount as an interest-bearing loan.

(2) INTEREST RATE.—The rate of interest on any loan made to the Fund under paragraph (1) shall be established by the Secretary of the Treasury and based on the weighted average credit rating of the Fund before the loss that made the loan necessary.

(3) $50 BILLION LOAN LIMIT.—Notwithstanding any other provision of this Act, the total amount of loans outstanding at any time from the Treasury to the Fund may not exceed the amount by which $50,000,000,000 exceeds the Fund's assets.

(4) REPAYMENT OF LOANS BY ASSESSMENT.—Any loan under paragraph (1) shall be repaid from reserves of the Fund, assessments of participating insurers, or a combination thereof. If an assessment is necessary, the maximum annual assessment under this subsection shall be not more than 3 percent of the direct written premium for covered lines. The reinsurance contract premium and any annual assessment may be recovered by a participating insurer from its covered lines policyholders as a direct surcharge calculated as a uniform percentage of premium.

SEC. 6. COVERAGE PROVIDED.

(a) IN GENERAL.—The Fund shall provide reinsurance for losses resulting from acts of terrorism covered by reinsurance contracts

entered into between the Fund and participating insurers that write covered lines of insurance within the meaning of section 14(5)(A) or that have elected, under section 14(5)(C), to voluntarily include another line of insurance.

(b) RETENTION.—The Fund shall reimburse participating insurers for losses resulting from acts of terrorism on direct losses in any calendar year in excess of 10 percent of a participating insurer's average gross direct written premiums and policyholders' surplus for covered lines for the most recently ended calendar year for which data are available, based on each participating insurer's annual statement for that calendar year as reported to NAIC.

(c) REIMBURSEMENT AMOUNT.—If a participating insurer demonstrates to the satisfaction of the Secretary that it is has paid claims for losses resulting from acts of terrorism equal to or in excess of the amount of retention required by subsection (b), then the Fund shall reimburse the participating insurer for—

(1) 90 percent of its covered losses in calendar year 2002; and

(2) a percentage of its covered losses in calendar years beginning after calendar year 2002 equal to—

(A) 90 percent if the insurer pays an assessment equal to 4 percent of the insurer's average gross direct written premiums and policy-holders' surplus for the most recently ended calendar year;

(B) 80 percent if the insurer pays as assessment equal to 3 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently calendar year; and

(C) 70 percent if the insurer pays an assessment equal to 2 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year.

(d) $50,000,000,000 LIMIT.—Except as provided in subsection (e), the Fund may not reimburse participating insurers for covered losses in excess of a total Fund reimbursement amount for all participating insurers of $50,000,000,000.

(e) LOSSES EXCEEDING $50,000,000,000 LIMIT.—If the Secretary determines that reimbursable losses in a calendar year from an event exceed $50,000,000,000, the Secretary—

(1) shall pay, out of amounts in the Treasury not otherwise appropriated.

(A) 90 percent of the covered losses occurring in calendar year 2002 in excess, in the aggregate, of $50,000,000,000 but not in excess of $100,000,000; and

(B) 80 percent of the covered losses occurring in calendar year 2003 or 2004 in excess, in the aggregate, of $50,000,000,000 but not in excess of $100,000,000; and

(2) shall notify the Congress of that determination and transmit to the Congress recommendations for responding to the insufficiency of available amounts to cover reimbursable losses.

(f) REPORTS TO STATE REGULATOR; CERTIFICATION.—

(1) REPORTING TERRORISM COVERAGE.—A participating insurer shall—

(A) report the amount of its terrorism insurance coverage to the insurance regulatory authority for each State in which it does business; and

(B) obtain a certification from the State that it is not providing terrorism insurance coverage in excess of its capacity under State solvency requirements.

(2) REPORTS TO SECRETARY.—The State regulator shall furnish a copy of the certification received under paragraph (1) to the Secretary.

SEC. 7. SECRETARY TO DETERMINE IF LOSS IS ATTRIBUTABLE TO TERRORISM.

(a) INITIAL DETERMINATION.—If a participating insurer files a claim for reimbursement from the Fund, the Secretary shall make an initial determination as to whether the losses or expected losses were caused by an act of terrorism.

(b) NOTICE AND HEARING.—The Secretary shall give public notice of the initial determination and afford all interested parties an opportunity to be heard on the question of whether the losses or expected losses were caused by an act of terrorism.

(c) FINAL DETERMINATION.—Within 30 days after the Secretary's initial determination, the Secretary shall make a final determination as to whether the losses or expected losses were caused by an act of terrorism.

(d) STANDARD OF REVIEW.—The Secretary's determination shall be upheld upon judicial review if based upon substantial evidence.

SEC. 8. MANDATORY COVERAGE BY PROPERTY AND CASUALTY INSURERS FOR ACTS OF TERRORISM.

(a) IN GENERAL.—An insurer that provides lines of coverage described in section 14(5)(A) or 14(5)(B) may not—

(1) exclude or limit coverage in those lines for losses from acts of terrorism in the United States, its territories, and possessions in property and casualty insurance policy forms; or

(2) deny or cancel coverage solely due to the risk of losses from acts of terrorism in the United States.

(b) TERMS AND CONDITIONS.—Insurance against losses from acts of terrorism in the United States shall be covered with the same deductibles, limits, terms, and conditions as the standard provisions of the policy for non-catastrophic perils.

SEC. 9. PASS-THROUGHS AND OTHER RATE INCREASES.

(a) LIMITATION ON RATE INCREASES FOR COVERED RISKS.—Except as provided in subsection (b), a participating insurer that provides lines of coverage described in section 14(5)(A) or 14(5)(B) may not increase annual rates on covered risks during any period in which the insurer participates in the Fund by a percent in excess of the sum of—

(1) the percent used to determine the insurer's assessment under section 5(a)(1); and

(2) if there is an assessment against the insurer under section 5(c)(4), a percent equivalent to the percent assessment of the insurer's gross direct written premium for covered lines.

(b) TERRORISM-RELATED INCREASES IN EXCESS OF PASS-THROUGHS.—

(1) REPORTS BY INSURERS.—Not less than 30 days before the date on which a participating insurer increases the premium rate for insurance on any covered line of insurance described in section 14(5) based, in whole or in part, on risk associated with insurance against losses due to acts of terrorism, the insurer shall file a report with the State insurance regulatory authority for the State in which the premium increase is effective that—

(A) explains the need for the increased premium;

(B) identifies the portion of the increase properly attributable to risk associated with insurance offered by that insurer against losses due to acts of terrorism; and

(C) demonstrates, by substantial evidence, why that portion of the increase is warranted.

(2) REPORTS BY STATE REGULATORS.—Within 15 days after a State insurance regulatory authority receives a report from an insurer required by paragraph (1), the authority—

(A) shall transmit a copy of the report to the Secretary;

(B) may include a determination with respect to whether an insurer has met the requirement of paragraph (1)(C); and

(C) may include with the report any commentary or analysis it deems appropriate.

SEC. 10. CREDIT FOR REINSURANCE.

Each State shall afford an insurer obtaining reinsurance from the Fund credit for such reinsurance on the same basis and to the same extent that credit for reinsurance would be available to that insurer under applicable State law when reinsurance is obtained from an assuming insurer licensed or accredited in that State.

SEC. 11. ADMINISTRATIVE PROVISIONS; REPORTS AND ANALYSIS.

(a) IN GENERAL.—In carrying out this Act, the Secretary may—

(1) issue such rules and regulations as may be necessary to administer this Act;

(2) enter into reinsurance contracts, adjust and pay claims as provided in this Act, and carry out the activities necessary to implement this Act;

(3) set forth the coverage provided by the Fund to accomplish the purposes of this Act;

(4) provide for an audit of the books and records of the Fund by the General Accounting Office;

(5) take appropriate action to collect premiums or assessments under this Act; and

(6) audit the reports, claims, books, and records of participating insurers.

(b) REPORTS FROM INSURERS.—Participaitng insurers shall submit reports on a quarterly or other basis (as required by the Secretary) to the Secretary, the Federal Trade Commission, and the General Accounting Office setting forth rates, premiums, risk analysis, coverage, reserves, claims made for reimbursement from the Fund, and such additional financial and actuarial information as the Secretary may require regarding lines of coverage described in section 14(5)(A) or 14(5)(B).

(c) FTC ANALYSIS AND ENFORCEMENT.—The Federal Trade Commission shall review the reports submitted under subsection (b), treating the information contained in the reports as privileged and confidential, for the purpose of determining whether any insurer is engaged in unfair methods of competition or unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45)).

(d) GAO REVIEW.—The Comptroller General shall provide for review and analysis of the reports submitted under subsection (b), and, if necessary, provide of audit of reimbursement claims filed by insurers with the Fund.

(e) REPORTS BY SECRETARY.—No later than march 31st of each calendar year, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Technology and the House of Representatives Committee on Commerce an annual report on insurance rate increases for the preceding calendar year in the United States based upon the reports received by the Secretary under this Act. The Secretary may include in the report a recommendation for legislation to impose Federal regulation of insurance rates on covered lines of insurance if the Secretary determines that premium rates for insurance on covered lines of insurance are—

(1) unreasonable; and

(2) attributable to insurance for losses from acts of terrorism.

SEC. 12. INAPPLICABILITY OF CERTAIN LAWS.

(a) IN GENERAL.—State laws relating to insurance rates, insurance policy forms, insurance rates on any covered lines of insurance described in section 14(5)(A) or 14(5)(B), insurer financial requirements, and insurer licensing do not apply to contracts entered into by the Fund. The Fund is not subject to State tax and is exempt from Federal income tax. The reinsurance contract premium paid and assessments collected by insurers shall not be subject to local, State, or Federal tax.

The reinsurance contract premium and assessments recovered from policyholders shall not be subject to local, State, or Federal tax.

(b) EXCEPTION FOR UNFAIR TRADE PRACTICE LAWS.—Notwithstanding subsection (a), nothing in this Act supersedes or preempts a State law that prohibits unfair methods of competition in commerce, unfair or deceptive acts or practices in commerce, or unfair insurance claims practices.

SEC. 13. SUNSET PROVISION.

(a) ASSESSMENT AND COLLECTION OF PREMIUMS.—The Secretary shall continue the premium assessment and collection operations of the Fund under this Act as long as loans due from the Fund to the United States Treasury are outstanding.

(b) PROVISION OF REINSURANCE.—The Secretary shall suspend other operations of the Fund for new contract years on the close of business on December 31, 2004, and may suspend the offering of reinsurance contracts for new contract years at any time before that date if the Secretary determines that the reinsurance provided by the Fund is no longer needed for covered lines due to market conditions.

(c) REVIEW OF PRIVATE REINSURANCE AVAILABILITY.—The Secretary shall review the cost and availability of private reinsurance for acts of terrorism at least annually and shall report the findings and any recommendations to Congress by June 1 of each year the Fund is in operation.

(d) DISSOLUTION OF FUND.—

(1) DISTRIBUTION FOR RESERVES.—When the Secretary determines that all Fund operations have been terminated, the Secretary shall dissolve the Fund. Any unencumbered Fund assets remaining after the satisfaction of all outstanding claims, loans from the Treasury, and other liabilities of the fund shall be distributed, on a pro rata basis based on premiums paid, to any insurer that—

(A) participated in the Fund during its operation; and

(B) demonstrates, to the satisfaction of the Secretary, that any amount received as a distribution from the Fund will be permanently credited to a reserve account maintained by that insurer against claims for industrywide aggregate losses of $2,000,000,000 from—

(i) acts of terrorism in the United States; or

(ii) the effects of earthquakes, volcanic eruptions, tsunamis, or hurricanes.

(2) RETENTION REQUIREMENT FOR TAPPING RESERVE.—Amounts credited to a reserve under paragraph (a) may not be used by an insurer to pay claims until the insurer has paid claims for losses resulting from acts or events described in paragraph (1)(B) in excess of 10 percent of that insurer's average gross direct written premiums and policyholders' surplus for covered lines for the most recently ended calendar year for which data are available.

(3) OFFICER AND DIRECTOR PENALTIES FOR MISUSE OF RESERVES.—Any officer or director of an insurer who knowingly authorizes or directs the use of any amount received from the Fund under paragraph (1) for any purpose other than an appropriate use of amounts in the reserve to which the amount is credited shall be guilty of a Class E felony and sentenced in accordance with the provisions of section 3551 of title 18, United States Code.

(4) RESIDUAL DISTRIBUTION TO TREASURY.—Any unencumbered Fund assets remaining after the distribution under paragraph (1) shall be covered into the Treasury of the United States as miscellaneous receipts.

SEC. 14. DEFINITIONS.

In this Act:

(1) SECRETARY.—Except where otherwise specifically provided, the term ''Secretary'' means the Secretary of Commerce.

(2) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(3) FUND.—The term ''Fund'' means the National Terrorism Reinsurance Fund established under section 4.

(4) PARTICIPATING INSURER.—The term ''participating insurer'' means every property and casualty insurer writing on a direct basis a covered line or lines of insurance in any jurisdiction of the United States, its territories, or possessions, including residual market insurers.

(5) COVERED LINE.—

(A) IN GENERAL.—The term ''covered line'' means any one or a combination of the following, written on a direct basis, as reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank:

(i) Fire.
(ii) Allied lines.
(iii) Commercial multiple peril.
(iv) Ocean marine.
(v) Inland marine.
(vi) Workers compensation.
(vii) Products liability.
(viii) Commercial auto no-fault (personal injury protection), other commercial auto liability, or commercial auto physical damage.
(ix) Aircraft (all peril).
(x) Fidelity and surety.
(xi) Burglary and theft.
(xii) Boiler and machinery.
(xiii) Any other line of insurance that is reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank which is voluntarily elected by a participating insurer to be included in its reinsurance contract with the Fund.

(B) OTHER LINES.—For purposes of clause (xiii), the lines of business that may be voluntarily selected are the following:

(i) Farmowners multiple peril.
(ii) Homeowners multiple peril.
(iii) Mortgage guaranty.
(iv) Financial guaranty.
(v) Private passenger automobile insurance.

(C) ELECTION.—The election to voluntarily include another line of insurance, if made, must apply to all affiliated insurers that are members of an insurer group. Any voluntary election is on a one-time basis and is irrevocable.

(6) LOSSES.—The term ''losses'' means direct incurred losses from an act of terrorism for covered lines, plus defense and cost containment expenses. Notwithstanding the preceding sentence, a loss shall not be recognized as a loss for the purpose of determining the amount of an insurer's retention or reimbursement under this Act unless the claim for the loss has been paid within 12 months after the terrorism event occurs and other loss adjustments.

(7) COVERED LOSSES.—The term ''covered losses'' means direct losses in excess of the participating insurer's retention.

(8) TERRORISM; ACT OF TERRORISM.—

(A) IN GENERAL.—The terms ''terrorism'' and ''act of terrorism'' means any act, certified by the Secretary in concurrence with the Secretary of State and the Attorney General, as a violent act or act dangerous to human life, property or infrastructure, within the United States, its territories and possessions, that is committed by an individual or individuals acting on behalf of foreign agents or foreign interests (other than a foreign government) as part of an effort to coerce or intimidate the civilian population of the United States or to influence the policy or affect the conduct of the United States government.

(B) ACTS OF WAR.—No act shall be certified as an act of terrorism if the act is committed in the course of a war declared by the Congress of the United States or by a foreign government.

(C) FINALITY OF CERTIFICATION.—Any certification, or determination not to certify, by the Secretary under subparagraph (A) is final and not subject to judicial review.

(9) INSURER.—

(A) IN GENERAL.—The term ''insurer'' means an entity writing covered lines on a direct basis and licensed as a property and casualty insurer, risk retention group, or other entity authorized by law as a residual market mechanism providing property or casualty coverage in at least one jurisdiction of the United States, its territories, or possessions.

(B) VOLUNTARY PARTICIPATION.—A State workers' compensation, auto, or property insurance Fund may voluntarily participate as an insurer.

(10) CONTRACT YEAR.—The term ''contract year'' means the period of time that obligations exist between a participating insurer and the Fund for a given annual reinsurance contract.

(11) RETENTION.—The term ''retention'' means the level of direct losses retained by a participating insurer for which the insurer is not entitled to reimbursement by the Fund.

SA 3842. Mr. SANTORUM proposed an amendment to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; as follows:

At the end, add the following:

TITLE II—ANTITERRORISM PROVISIONS

Subtitle A—Suppression of Terrorist Bombings

SEC. 201. SHORT TITLE.

This subtitle may be cited as the ''Terrorist Bombings Convention Implementation Act of 2002''.

SEC. 202. BOMBING STATUTE.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332e the following:

''§ 2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever unlawfully delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility—

''(A) with the intent to cause death or serious bodily injury, or

''(B) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss,

shall be punished as prescribed in subsection (c).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c).

''(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) if—

''(1) the offense takes place in the United States and—

''(A) the offense is committed against another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

''(B) the offense is committed in an attempt to compel another state or the United States to do or abstain from doing any act;

''(C) at the time the offense is committed, it is committed—

''(i) on board a vessel flying the flag of another state;

''(ii) on board an aircraft which is registered under the laws of another state; or

''(iii) on board an aircraft which is operated by the government of another state;

''(D) a perpetrator is found outside the United States;

''(E) a perpetrator is a national of another state or a stateless person; or

''(F) a victim is a national of another state or a stateless person;

''(2) the offense takes place outside the United States and—

''(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

''(B) a victim is a national of the United States;

''(C) a perpetrator is found in the United States;

''(D) the offense is committed in an attempt to compel the United States to do or abstain from doing any act;

''(E) the offense is committed against a state or government facility of the United States, including an embassy or other diplomatic or consular premises of the United States;

''(F) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed; or

''(G) the offense is committed on board an aircraft which is operated by the United States.

''(c) PENALTIES.—Whoever violates this section shall be imprisoned for any term of years or for life, and if death results from the violation, shall be punished by death or imprisoned for any term of years or for life.

''(d) EXEMPTIONS TO JURISDICTION.—This section does not apply to—

''(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law,

''(2) activities undertaken by military forces of a state in the exercise of their official duties; or

''(3) offenses committed within the United States, where the alleged offender and the victims are United States citizens and the alleged offender is found in the United States, or where jurisdiction is predicated solely on the nationality of the victims or the alleged offender and the offense has no substantial effect on interstate or foreign commerce.

''(e) DEFINITIONS.—As used in this section, the term—

''(1) 'serious bodily injury' has the meaning given that term in section 1365(g)(3) of this title;

''(2) 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(3) 'state or government facility' includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

''(4) 'intergovernmental organization' includes international organization (as defined in section 1116(b)(5) of this title);

''(5) 'infrastructure facility' means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, or communications;

''(6) 'place of public use' means those parts of any building, land, street, waterway, or other location that are accessible or open to members of the public, whether continuously, periodically, or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

''(7) 'public transportation system' means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

''(8) 'explosive' has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage;

''(9) 'other lethal device' means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents or toxins (as those terms are defined in section 178 of this title), or radiation or radioactive material;

''(10) 'military forces of a state' means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

''(11) 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature; and

''(12) 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding after the item relating to section 2332e the following:

''2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.''.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the applicability of any other Federal or State law which might pertain to the underlying conduct.

SEC. 203. EFFECTIVE DATE.

Section 202 shall become effective on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States.

Subtitle B—Suppression of the Financing of Terrorism

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Suppression of the Financing of Terrorism Convention Implementation Act of 2002''.

SEC. 212. TERRORISM FINANCING STATUTE.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339C. Prohibitions against the financing of terrorism

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever, in a circumstance described in subsection (c), by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

''(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

''(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

''(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

''(b) CONCEALMENT.—

''(1) IN GENERAL.—Whoever, in the United States, or outside the United States and a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions), knowingly conceals or disguises the nature, the location, the source, or the ownership or control of any material support or resources provided in violation of section 2339B of this chapter, or of any funds provided or collected in violation of subsection (a) or any proceeds of such funds, shall be punished as prescribed in subsection (d)(2).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(2).

''(c) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

''(1) the offense takes place in the United States and—

''(A) a perpetrator was a national of another state or a stateless person;

''(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

''(C) on board an aircraft which is operated by the government of another state;

''(D) a perpetrator is found outside the United States;

''(E) was directed toward or resulted in the carrying out of a predicate act against—

''(i) a national of another state; or

''(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

''(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

''(G) was directed toward or resulted in the carrying out of a predicate act—

''(i) outside the United States; or

''(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

''(2) the offense takes place outside the United States and—

''(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

''(B) a perpetrator is found in the United States; or

''(C) was directed toward or resulted in the carrying out of a predicate act against—

''(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

''(ii) any person or property within the United States;

''(iii) any national of the United States or the property of such national; or

''(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

''(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

''(4) the offense is committed on board an aircraft which is operated by the United States; or

''(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

''(d) PENALTIES.—

''(1) Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

''(2) Whoever violates subsection (b) shall be fined under this title, imprisoned for not more than 10 years, or both.

''(e) DEFINITIONS.—As used in this section—

''(1) the term 'funds' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

''(2) the term 'government facility' means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

''(3) the term 'proceeds' means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

''(4) the term 'provides' includes giving, donating, and transmitting;

''(5) the term 'collects' includes raising and receiving;

''(6) the term 'predicate act' means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

''(7) the term 'treaty' means—

''(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

''(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

''(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

''(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

''(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

''(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

''(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

''(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

''(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

''(8) the term 'intergovernmental organization' includes international organizations;

''(9) the term 'international organization' has the same meaning as in section 1116(b)(5) of this title;

''(10) the term 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

''(11) the term 'serious bodily injury' has the same meaning as in section 1365(g)(3) of this title;

''(12) the term 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(13) the term 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.

''(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least $10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2339C. Prohibitions against the financing of terrorism.''.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the scope or applicability of any other Federal or State law.

SEC. 213. EFFECTIVE DATE.

Except for sections 2339C(c)(1)(D) and (2)(B) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of the Financing of Terrorism enters into force for the United States, and for the provisions of section 2339C(e)(7)(I) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of Terrorist Bombing enters into force for the United States, section 212 of this subtitle shall take effect upon the date of enactment of this Act.

Subtitle C—Ancillary Measures

SEC. 221. ANCILLARY MEASURES.

(a) WIRETAP PREDICATES.—Section 2516(1)(q) of title 18, United States Code, is amended by—

(1) inserting ''2332f,'' after ''2332d,''; and

(2) striking ''or 2339B'' and inserting ''2339B, or 2339C''.

(b) FEDERAL CRIME OF TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by—

(1) inserting ''2332f (relating to bombing of public places and facilities),'' after ''2332b (relating to acts of terrorism transcending national boundaries),''; and

(2) inserting ''2339C (relating to financing of terrorism),'' before ''or 2340A (relating to torture)''.

(c) PROVIDING MATERIAL SUPPORT TO TERRORISTS PREDICATE.—Section 2339A of title 18, United States Code, is amended by inserting ''2332f,'' before ''or 2340A''.

(d) FORFEITURE OF FUNDS, PROCEEDS, AND INSTRUMENTALITIES.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(H) Any property, real or personal, involved in a violation or attempted violation, or which constitutes or is derived from proceeds traceable to a violation, of section 2339C of this title.''.

SA 3843. Mr. BROWNBACK proposed an amendment to the bill S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; as follows:

At the appropriate place add the following:

SEC. ___. UNPATENTABILITY OF HUMAN ORGANISMS.

Section 101 of title 35, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Whoever''; and

(2) by adding at the end the following:

''(b) UNPATENTABILITY OF HUMAN ORGANISMS.—

''(1) DEFINITION.—In this subsection, the term 'human cloning' means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism (at any stage of development) that is genetically virtually identical to an existing or previously existing human organism.

''(2) UNPATENTABILITY.—A patent may not be obtained for—

''(A) an organism of the human species at any stage of development produced by any method, whether in vitro or in vivo, including the zygote, embryo, fetus, child or adult;

''(B) a living organism made by human cloning; or

''(C) a process of human cloning.''.

SA 3844. Mr. ENSIGN proposed an amendment to amendment SA 3843 proposed by Mr. BROWNBACK to the bill (S. 2600) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; as follows:

Strike all after the first word and insert the following:

UNPATENTABILITY OF HUMAN ORGANISMS.

Section 101 of title 35, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Whoever''; and

(2) by adding at the end the following:

''(b) UNPATENTABILITY OF HUMAN ORGANISMS.—

''(1) DEFINITION.—In this subsection, the term 'human cloning' means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism (at any stage of development) that is genetically virtually identical to an existing or previously existing human organism.

''(2) UNPATENTABILITY.—A patent may not be obtained for—

''(A) an organism of the human species at any stage of development produced by any method, whether in vitro or in vivo, including the zygote, embryo, fetus, child or adult;

''(B) a living organism made by human cloning; or

''(C) a process of human cloning.''.

''(3) EFFECTIVE DATE.—This section shall become effective 30 days after the date of enactment.''

SA 3845. Mr. REID (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 672, to amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens ''age-out'' while awaiting immigration processing, and for other purposes; as follows:

On page 9, line 9, strike ''(a)(4)'' and insert ''(a)(2)(A)''.

On page 10, line 9, strike ''209(b)(2)'' and insert ''209(b)(3)''.

SA 3846. Mr. REID (for Mrs. FEINSTEIN) proposed an amendment to the bill H.R. 1209, to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes; as follows:

On page 7, line 9, strike ''(a)(4)'' and insert ''(a)(2)(A)''.

On page 8, line 9, strike ''209(b)(2)'' and insert ''209(b)(3)''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. DODD. Madam President, I ask unanimous consent that the Committee on Finance be authorized to meet in open executive session during the session of the Senate on Thursday, June 13, 2002, at 10 a.m.

Agenda:

H.R. 7: Community Solutions Act.

S. 2498: Tax Shelter Transparency Act.

S. 2119: Reversing the Expatriation of Profits Offshore Act.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Madam President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 13, 2002 at 10:00 a.m. to hold a hearing on the CEDAW Treaty.

Agenda

Witnesses

Panel 1: The Honorable Carolyn B. Maloney (D–NY), U.S. House of Representatives, Washington, DC; the Honorable Juanita Millender-McDonald (D–CA), U.S. House of Representatives, Washington, DC; the Honorable Constance A. Morella (R–MD), U.S. House of Representatives, Washington, DC; and the Honorable Lynn C. Woolsey (D–CA), U.S. House of Representatives, Washington, DC.

Panel 2: The Honorable Harold Hongju Koh, Prefessor, Yale Law School, Former Assistant Secretary of State for Human Rights, New Haven, CT; the Honorable Juliette C. McLennan, Former U.S. Representative to the UN Commission on the Status of Women, Easton, MD; Ms. Jane E. Smith, Chief Executive Officer, Business and Professional Women/USA, Washington, DC; Ms. Kathryn Ogden Balmforth, Member, Firm of Wood Crapo, L.L.C., Salt Lake City, Utah, Former Director, World Family Policy Center, Brigham Young University, Provo, Utah; Ms. Jeane Kirkpatrick, Senior Fellow & Director of Foreign and Defense Policy Studies, American Enterprise Institute, Former Permanent Representative to the United Nations, Washington, DC; and Dr. Christina Hoff Sommers, Resident Scholar, American Enterprise Institute, Chevy Chase, MD.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Madam President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 13, 2002 at 2:15 p.m. to hold a business meeting to consider and vote on S. 2525, a bill to amend the Foreign Assistance Act of 1961 to increase assistance for foreign countries seriously affected by HIV–AIDS, tuberculosis, and malaria, and for other purposes.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DODD. Madam President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Implementation of Reading First and Reading Programs and Strategies during the session of the Senate on Thursday, June 13, 2002 at 10 a.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Mr. DODD. Madam President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Judicial Nominations on Thursday, June 13, 2002, in Dirksen Room 226 at 2 p.m.

Agenda

Witnesses

Panel I: The Honorable Arlen Specter, United States Senator (R–PA); the Honorable Mitch McConnell, United States Senator (R–KY); the Honorable Dianne Feinstein, United States Senator (D–CA); the Honorable Rick Santorum, United States Senator (R–PA); the Honorable Jim Bunning, United States Senator (R–KY); the Honorable Bill Nelson, United States Senator (D–FL); and the Honorable Roscoe Bartlett, United States Representative (Republican, 6th District of Maryland).

Panel II: John Rogers to the U.S. Court of Appeals for the Sixth Circuit.

Panel III: David Cercone to be U.S. District Court Judge for the Western District of Pennsylvania; Morrison Cohen England Jr. to be U.S. District Court Judge for the Eastern District of California; and Kenneth Marra to be U.S. District Court Judge for the Southern District of Florida.

Panel IV: Lawrence Greenfeld to be Director, Bureau of Justice Statistics.

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

COMMITTEE ON THE JUDICIARY

Mr. DODD. Madam President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 13, 2002, at 10:00 a.m. in Dirksen Room 226.

TENTATIVE AGENDA

I. NOMINATIONS

Henry E. Autrey to be a U.S. District Court Judge for the Eastern District of Missouri; Richard E. Dorr to be a U.S. District Court Judge for the Western District of Missouri; David Godbey to be a U.S. District Court Judge for the Northern District of Texas; Henry Hudson to be a U.S. District Court Judge for the Eastern District of Virginia; Timothy Savage to be a U.S. District Court Judge for the Eastern District of Pennsylvania; and Amy J. St. Eve to be a U.S. District Court Judge for the Northern District of Illinois.

To be a United States Attorney: Gregory Robert Miller for the Northern District of Florida, and Kevin Vincent Ryan for the Northern District of California.

To be a United States Marshal: Ray Elmer Carnahan for the Eastern District of Arkansas, David Scott Carpenter for the District of North Dakota, Theresa Merrow for the Eastern District of Georgia, Ruben Monzon for the Southern District of Texas, and James Michael Wahlrab for the Southern District of Ohio.

II. BILLS

S. 1956, The Safe Explosives Act [Kohl/Hatch/Schumer/Cantwell]

S. 1291, Development, Relief, and Education for Alien Minors Act [Hatch]

S. 2134, Terrorism Victim's Access to Compensation Act of 2002 [Harkin/Allen]

H.R. 3375, Embassy Employee Compensation Act [Blunt]

III. RESOLUTIONS

S. Con. Res. 104, A concurrent resolution recognizing the American Society of Civil Engineers on the occasion of the 150th anniversary of its founding and for the many vital contributions of civil engineers to the quality of life of the people of the United States, including the research and development projects that have led to the physical infrastructure of modern America. [Jeffords/Smith]

H. Con. Res. 387, Recognizing the American Society of Civil Engineers for reaching its 150th Anniversary and for the many vital contributions of civil engineers to the quality of life of our Nation's people including the research and development projects that have led to the physcial infrastructure of modern America [Barton/Moore]

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Madam President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 13, 2002 at 2:30 p.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. DODD. Madam President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 13, 2002, at 10:00 a.m. to conduct an oversight hearing on ''TEA–21: A National Partnership.''

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

PRIVILEGES OF THE FLOOR

Mr. DODD. Madam President, I ask unanimous consent that Jessica Byrnes be granted floor privileges for the duration of the debate on S. 2600.

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

Mr. WELLSTONE. Madam President, I ask unanimous consent that Amy Hertel be allowed to be on the floor of the Senate for the duration of the debate on this bill.

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

Mr. HATCH. Madam President, I ask unanimous consent that privilege of the floor be granted to Bruce Artim for the remainder of this session.

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

CHILD STATUS PROTECTION ACT

Mr. REID. Madam President, I ask unanimous consent the Senate now proceed to Calendar No. 374, S. 672.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 672) to amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens ''age-out'' while awaiting immigration processing, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment.

(Strike out all after the enacting clause and insert the part printed in italic.)

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Status Protection Act''.

SEC. 2. USE OF AGE ON PETITION FILING DATE, PARENT'S NATURALIZATION DATE, OR MARRIAGE TERMINATION DATE, IN DETERMINING STATUS AS IMMEDIATE RELATIVE.

Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by adding at the end the following:

''(f) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES.—

''(1) AGE ON PETITION FILING DATE.—Except as provided in paragraphs (2) and (3), for purposes of subsection (b)(2)(A)(i), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which the petition is filed with the Attorney General under section 204 to classify the alien as an immediate relative under subsection (b)(2)(A)(i).

''(2) AGE ON PARENT'S NATURALIZATION DATE.—In the case of a petition under section 204 initially filed for an alien child's classification as a family-sponsored immigrant under section 203(a)(2)(A), based on the child's parent being lawfully admitted for permanent residence, if the petition is later converted, due to the naturalization of the parent, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i), the determination described in paragraph (1) shall be made using the age of the alien on the date of the parent's naturalization.

''(3) AGE ON MARRIAGE TERMINATION DATE.—In the case of a petition under section 204 initially filed for an alien's classification as a family-sponsored immigrant under section 203(a)(3), based on the alien's being a married son or daughter of a citizen, if the petition is later converted, due to the legal termination of the alien's marriage, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i) or as an unmarried son or daughter of a citizen under section 203(a)(1), the determination described in paragraph (1) shall be made using the age of the alien on the date of the termination of the marriage.''.

SEC. 3. TREATMENT OF CERTAIN UNMARRIED SONS AND DAUGHTERS SEEKING STATUS AS FAMILY-SPONSORED, EMPLOYMENT-BASED, AND DIVERSITY IMMIGRANTS.

Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by adding at the end the following:

''(h) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—

''(1) IN GENERAL.—For purposes of subsections (a)(2)(A) and (d), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using—

''(A) the age of the alien on the date on which an immigrant visa number becomes available for such alien (or, in the case of subsection (d), the date on which an immigrant visa number became available for the alien's parent), but only if the alien has sought to acquire the status of an alien lawfully admitted for permanent residence within one year of such availability; reduced by

''(B) the number of days in the period during which the applicable petition described in paragraph (2) was pending.

''(2) PETITIONS DESCRIBED.—The petition described in this paragraph is—

''(A) with respect to a relationship described in subsection (a)(2)(A), a petition filed under section 204 for classification of an alien child under subsection (a)(2)(A); or

''(B) with respect to an alien child who is a derivative beneficiary under subsection (d), a petition filed under section 204 for classification of the alien's parent under subsection (a), (b), or (c).

''(3) RETENTION OF PRIORITY DATE.—If the age of an alien is determined under paragraph (1) to be 21 years of age or older for the purposes of subsections (a)(4) and (d), the alien's petition shall automatically be converted to the appropriate category and the alien shall retain the original priority date issued upon receipt of the original petition.''.

SEC. 4. USE OF AGE ON PARENT'S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ASYLUM.

Section 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(3)) is amended to read as follows:

''(3) TREATMENT OF SPOUSE AND CHILDREN.—

''(A) IN GENERAL.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

''(B) CONTINUED CLASSIFICATION OF CERTAIN ALIENS AS CHILDREN.—An unmarried alien who seeks to accompany, or follow to join, a parent granted asylum under this subsection, and who was under 21 years of age on the date on which such parent applied for asylum under this section, shall continue to be classified as a child for purposes of this paragraph and section 209(b)(2), if the alien attained 21 years of age after such application was filed but while it was pending.''.

SEC. 5. USE OF AGE ON PARENT'S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ADMISSION AS REFUGEE.

Section 207(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)) is amended—

(1) by striking ''(2)'' and inserting ''(2)(A)''; and

(2) by adding at the end the following:

''(B) An unmarried alien who seeks to accompany, or follow to join, a parent granted admission as a refugee under this subsection, and who was under 21 years of age on the date on which such parent applied for refugee status under this section, shall continue to be classified as a child for purposes of this paragraph, if the alien attained 21 years of age after such application was filed but while it was pending.''.

SEC. 6. TREATMENT OF CLASSIFICATION PETITIONS FOR UNMARRIED SONS AND DAUGHTERS OF NATURALIZED CITIZENS.

Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

''(k) PROCEDURES FOR UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), in the case of a petition under this section initially filed for an alien unmarried son or daughter's classification as a family-sponsored immigrant under section 203(a)(2)(B), based on a parent of the son or daughter being an alien lawfully admitted for permanent residence, if such parent subsequently becomes a naturalized citizen of the United States, such petition shall be converted to a petition to classify the unmarried son or daughter as a family-sponsored immigrant under section 203(a)(1).

''(2) EXCEPTION.—Paragraph (1) does not apply if the son or daughter files with the Attorney General a written statement that he or she elects not to have such conversion occur (or if it has occurred, to have such conversion revoked). Where such an election has been made, any determination with respect to the son or daughter's eligibility for admission as a family-sponsored immigrant shall be made as if such naturalization had not taken place.

''(3) PRIORITY DATE.—Regardless of whether a petition is converted under this subsection or not, if an unmarried son or daughter described in this subsection was assigned a priority date with respect to such petition before such naturalization, he or she may maintain that priority date.

''(4) CLARIFICATION.—This subsection shall apply to a petition if it is properly filed, regardless of whether it was approved or not before such naturalization.''.

SEC. 7. IMMIGRATION BENEFITS FOR CERTAIN ALIEN CHILDREN NOT AFFECTED.

Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)) is

amended by adding at the end the following new clause:

''(iii) Nothing in the amendments made by the Child Status Protection Act shall be construed to limit or deny any right or benefit provided under this subparagraph.''.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to any alien who is a derivative beneficiary or any other beneficiary of—

(1) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) approved before such date but only if a final determination has not been made on the beneficiary's application for an immigrant visa or adjustment of status to lawful permanent residence pursuant to such approved petition;

(2) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) pending on or after such date; or

(3) an application pending before the Department of Justice or the Department of State on or after such date.

Mr. REID. Madam President, Senator FEINSTEIN has a technical amendment at the desk, and I ask unanimous consent that the amendment be considered and agreed to, the motion to reconsider be laid upon the table, that the committee substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table, without any intervening action or debate.

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

The amendment (No. 3845) was agreed to, as follows:

On page 9, line 9, strike ''(a)(4)'' and insert ''(a)(2)(A)''.

On page 10, line 9, strike ''209(b)(2)'' and insert ''209(b)(3)''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 672), as amended, was read the third time and passed, as follows:

S. 672

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 ''Child Status Protection Act''.

SEC. 2. USE OF AGE ON PETITION FILING DATE, PARENT'S NATURALIZATION DATE, OR MARRIAGE TERMINATION DATE, IN DETERMINING STATUS AS IMMEDIATE RELATIVE.

Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by adding at the end the following:

''(f) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES.—

''(1) AGE ON PETITION FILING DATE.—Except as provided in paragraphs (2) and (3), for purposes of subsection (b)(2)(A)(i), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which the petition is filed with the Attorney General under section 204 to classify the alien as an immediate relative under subsection (b)(2)(A)(i).

''(2) AGE ON PARENT'S NATURALIZATION DATE.—In the case of a petition under section 204 initially filed for an alien child's classification as a family-sponsored immigrant under section 203(a)(2)(A), based on the child's parent being lawfully admitted for permanent residence, if the petition is later converted, due to the naturalization of the parent, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i), the determination described in paragraph (1) shall be made using the age of the alien on the date of the parent's naturalization.

''(3) AGE ON MARRIAGE TERMINATION DATE.—In the case of a petition under section 204 initially filed for an alien's classification as a family-sponsored immigrant under section 203(a)(3), based on the alien's being a married son or daughter of a citizen, if the petition is later converted, due to the legal termination of the alien's marriage, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i) or as an unmarried son or daughter of a citizen under section 203(a)(1), the determination described in paragraph (1) shall be made using the age of the alien on the date of the termination of the marriage.''.

SEC. 3. TREATMENT OF CERTAIN UNMARRIED SONS AND DAUGHTERS SEEKING STATUS AS FAMILY-SPONSORED, EMPLOYMENT-BASED, AND DIVERSITY IMMIGRANTS.

Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by adding at the end the following:

''(h) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—

''(1) IN GENERAL.—For purposes of subsections (a)(2)(A) and (d), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using—

''(A) the age of the alien on the date on which an immigrant visa number becomes available for such alien (or, in the case of subsection (d), the date on which an immigrant visa number became available for the alien's parent), but only if the alien has sought to acquire the status of an alien lawfully admitted for permanent residence within one year of such availability; reduced by

''(B) the number of days in the period during which the applicable petition described in paragraph (2) was pending.

''(2) PETITIONS DESCRIBED.—The petition described in this paragraph is—

''(A) with respect to a relationship described in subsection (a)(2)(A), a petition filed under section 204 for classification of an alien child under subsection (a)(2)(A); or

''(B) with respect to an alien child who is a derivative beneficiary under subsection (d), a petition filed under section 204 for classification of the alien's parent under subsection (a), (b), or (c).

''(3) RETENTION OF PRIORITY DATE.—If the age of an alien is determined under paragraph (1) to be 21 years of age or older for the purposes of subsections (a)(4) and (d), the alien's petition shall automatically be converted to the appropriate category and the alien shall retain the original priority date issued upon receipt of the original petition.''.

SEC. 4. USE OF AGE ON PARENT'S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ASYLUM.

Section 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(3)) is amended to read as follows:

''(3) TREATMENT OF SPOUSE AND CHILDREN.—

''(A) IN GENERAL.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

''(B) CONTINUED CLASSIFICATION OF CERTAIN ALIENS AS CHILDREN.—An unmarried alien who seeks to accompany, or follow to join, a parent granted asylum under this subsection, and who was under 21 years of age on the date on which such parent applied for asylum under this section, shall continue to be classified as a child for purposes of this paragraph and section 209(b)(2), if the alien attained 21 years of age after such application was filed but while it was pending.''.

SEC. 5. USE OF AGE ON PARENT'S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ADMISSION AS REFUGEE.

Section 207(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)) is amended—

(1) by striking ''(2)'' and inserting ''(2)(A)''; and

(2) by adding at the end the following:

''(B) An unmarried alien who seeks to accompany, or follow to join, a parent granted admission as a refugee under this subsection, and who was under 21 years of age on the date on which such parent applied for refugee status under this section, shall continue to be classified as a child for purposes of this paragraph, if the alien attained 21 years of age after such application was filed but while it was pending.''.

SEC. 6. TREATMENT OF CLASSIFICATION PETITIONS FOR UNMARRIED SONS AND DAUGHTERS OF NATURALIZED CITIZENS.

Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

''(k) PROCEDURES FOR UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), in the case of a petition under this section initially filed for an alien unmarried son or daughter's classification as a family-sponsored immigrant under section 203(a)(2)(B), based on a parent of the son or daughter being an alien lawfully admitted for permanent residence, if such parent subsequently becomes a naturalized citizen of the United States, such petition shall be converted to a petition to classify the unmarried son or daughter as a family-sponsored immigrant under section 203(a)(1).

''(2) EXCEPTION.—Paragraph (1) does not apply if the son or daughter files with the Attorney General a written statement that he or she elects not to have such conversion occur (or if it has occurred, to have such conversion revoked). Where such an election has been made, any determination with respect to the son or daughter's eligibility for admission as a family-sponsored immigrant shall be made as if such naturalization had not taken place.

''(3) PRIORITY DATE.—Regardless of whether a petition is converted under this subsection or not, if an unmarried son or daughter described in this subsection was assigned a priority date with respect to such petition before such naturalization, he or she may maintain that priority date.

''(4) CLARIFICATION.—This subsection shall apply to a petition if it is properly filed, regardless of whether it was approved or not before such naturalization.''.

SEC. 7. IMMIGRATION BENEFITS FOR CERTAIN ALIEN CHILDREN NOT AFFECTED.

Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)) is amended by adding at the end the following new clause:

''(iii) Nothing in the amendments made by the Child Status Protection Act shall be construed to limit or deny any right or benefit provided under this subparagraph.''.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to any alien who is a derivative beneficiary or any other beneficiary of—

(1) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) approved before such date but only if a final determination has not been made on the beneficiary's application for an immigrant visa or adjustment of status to lawful permanent residence pursuant to such approved petition;

(2) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) pending on or after such date; or

(3) an application pending before the Department of Justice or the Department of State on or after such date.

CHILD STATUS PROTECTION ACT OF 2001

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to Calendar No. 377, H.R. 1209.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1209) to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which has been reported from the Committee on the Judiciary, with an amendment.

(Strike out all after the enacting clause and insert the part printed in italic.)

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Status Protection Act''.

SEC. 2. USE OF AGE ON PETITION FILING DATE, PARENT'S NATURALIZATION DATE, OR MARRIAGE TERMINATION DATE, IN DETERMINING STATUS AS IMMEDIATE RELATIVE.

Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by adding at the end the following:

''(f) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES.—

''(1) AGE ON PETITION FILING DATE.—Except as provided in paragraphs (2) and (3), for purposes of subsection (b)(2)(A)(i), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which the petition is filed with the Attorney General under section 204 to classify the alien as an immediate relative under subsection (b)(2)(A)(i).

''(2) AGE ON PARENT'S NATURALIZATION DATE.—In the case of a petition under section 204 initially filed for an alien child's classification as a family-sponsored immigrant under section 203(a)(2)(A), based on the child's parent being lawfully admitted for permanent residence, if the petition is later converted, due to the naturalization of the parent, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i), the determination described in paragraph (1) shall be made using the age of the alien on the date of the parent's naturalization.

''(3) AGE ON MARRIAGE TERMINATION DATE.—In the case of a petition under section 204 initially filed for an alien's classification as a family-sponsored immigrant under section 203(a)(3), based on the alien's being a married son or daughter of a citizen, if the petition is later converted, due to the legal termination of the alien's marriage, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i) or as an unmarried son or daughter of a citizen under section 203(a)(1), the determination described in paragraph (1) shall be made using the age of the alien on the date of the termination of the marriage.''.

SEC. 3. TREATMENT OF CERTAIN UNMARRIED SONS AND DAUGHTERS SEEKING STATUS AS FAMILY-SPONSORED, EMPLOYMENT-BASED, AND DIVERSITY IMMIGRANTS.

Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by adding at the end the following:

''(h) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—

''(1) IN GENERAL.—For purposes of subsections (a)(2)(A) and (d), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using—

''(A) the age of the alien on the date on which an immigrant visa number becomes available for such alien (or, in the case of subsection (d), the date on which an immigrant visa number became available for the alien's parent), but only if the alien has sought to acquire the status of an alien lawfully admitted for permanent residence within one year of such availability; reduced by

''(B) the number of days in the period during which the applicable petition described in paragraph (2) was pending.

''(2) PETITIONS DESCRIBED.—The petition described in this paragraph is—

''(A) with respect to a relationship described in subsection (a)(2)(A), a petition filed under section 204 for classification of an alien child under subsection (a)(2)(A); or

''(B) with respect to an alien child who is a derivative beneficiary under subsection (d), a petition filed under section 204 for classification of the alien's parent under subsection (a), (b), or (c).

''(3) RETENTION OF PRIORITY DATE.—If the age of an alien is determined under paragraph (1) to be 21 years of age or older for the purposes of subsections (a)(4) and (d), the alien's petition shall automatically be converted to the appropriate category and the alien shall retain the original priority date issued upon receipt of the original petition.''.

SEC. 4. USE OF AGE ON PARENT'S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ASYLUM.

Section 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(3)) is amended to read as follows:

''(3) TREATMENT OF SPOUSE AND CHILDREN.—

''(A) IN GENERAL.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

''(B) CONTINUED CLASSIFICATION OF CERTAIN ALIENS AS CHILDREN.—An unmarried alien who seeks to accompany, or follow to join, a parent granted asylum under this subsection, and who was under 21 years of age on the date on which such parent applied for asylum under this section, shall continue to be classified as a child for purposes of this paragraph and section 209(b)(2), if the alien attained 21 years of age after such application was filed but while it was pending.''.

SEC. 5. USE OF AGE ON PARENT'S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ADMISSION AS REFUGEE.

Section 207(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)) is amended—

(1) by striking ''(2)'' and inserting ''(2)(A)''; and

(2) by adding at the end the following:

''(B) An unmarried alien who seeks to accompany, or follow to join, a parent granted admission as a refugee under this subsection, and who was under 21 years of age on the date on which such parent applied for refugee status under this section, shall continue to be classified as a child for purposes of this paragraph, if the alien attained 21 years of age after such application was filed but while it was pending.''.

SEC. 6. TREATMENT OF CLASSIFICATION PETITIONS FOR UNMARRIED SONS AND DAUGHTERS OF NATURALIZED CITIZENS.

Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

''(k) PROCEDURES FOR UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), in the case of a petition under this section initially filed for an alien unmarried son or daughter's classification as a family-sponsored immigrant under section 203(a)(2)(B), based on a parent of the son or daughter being an alien lawfully admitted for permanent residence, if such parent subsequently becomes a naturalized citizen of the United States, such petition shall be converted to a petition to classify the unmarried son or daughter as a family-sponsored immigrant under section 203(a)(1).

''(2) EXCEPTION.—Paragraph (1) does not apply if the son or daughter files with the Attorney General a written statement that he or she elects not to have such conversion occur (or if it has occurred, to have such conversion revoked). Where such an election has been made, any determination with respect to the son or daughter's eligibility for admission as a family-sponsored immigrant shall be made as if such naturalization had not taken place.

''(3) PRIORITY DATE.—Regardless of whether a petition is converted under this subsection or not, if an unmarried son or daughter described in this subsection was assigned a priority date with respect to such petition before such naturalization, he or she may maintain that priority date.

''(4) CLARIFICATION.—This subsection shall apply to a petition if it is properly filed, regardless of whether it was approved or not before such naturalization.''.

SEC. 7. IMMIGRATION BENEFITS FOR CERTAIN ALIEN CHILDREN NOT AFFECTED.

Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)) is amended by adding at the end the following new clause:

''(iii) Nothing in the amendments made by the Child Status Protection Act shall be construed to limit or deny any right or benefit provided under this subparagraph.''.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to any alien who is a derivative beneficiary or any other beneficiary of—

(1) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) approved before such date but only if a final determination has not been made on the beneficiary's application for an immigrant visa or adjustment of status to lawful permanent residence pursuant to such approved petition;

(2) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) pending on or after such date; or

(3) an application pending before the Department of Justice or the Department of State on or after such date.

Mr. REID. Madam President, Senator FEINSTEIN has a technical amendment at the desk, and I ask that the amendment be considered and agreed to, the motion to reconsider be laid upon the table, that the committee substitute amendment, as amended, be agreed to, the bill, as amended, be read a third

time, passed, and the motion to reconsider be laid upon the table, without any intervening action or debate.

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

The amendment (No. 3846) was agreed to, as follows:

On page 7, line 9, strike ''(a)(4)'' and insert ''(a)(2)(A)''.

On page 8, line 9, strike ''209(b)(2)'' and insert ''209(b)(3)''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 1209), as amended, was read the third time and passed.

CONGRATULATING THE LOS ANGELES LAKERS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of S. Res. 286 submitted earlier today by Senators FEINSTEIN and BOXER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 286) commending and congratulating the Los Angeles Lakers for their outstanding drive, discipline, and mastery in winning the 2002 National Basketball Association Championship.

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

Madam President, I rise today with my friend and colleague from California, Senator BARBARA BOXER, to commend and congratulate the Los Angeles Lakers for winning the 2002 National Basketball Association Championship last night.

Clearly, the Lakers are one of the most distinguished franchises in the history of professional sports. In sweeping a talented and game New Jersey Nets team, the Lakers won their third straight championship and their fourteenth overall.

Led by coach Phil Jackson, Shaquille O'Neal, and Kobe Bryant, the Lakers could not be denied. Shaquille O'Neal dominated the Finals and won his third straight National Basketball Association Finals Most Valuable Player award after scoring a record 145 points in a four game series.

Another superstar, Kobe Bryant, averaged 26.8 points, 5.3 assists, and 5.8 rebounds during the Finals series after being named to the 2001–2002 All-National Basketball Association First Team. In addition, he delighted fans with his usual collection of highlight material plays.

Coach Phil Jackson also had a record breaking night. He won his ninth National Basketball Association title, tying the record of the legendary Boston Celtics coach, Red Auerbach. In addition, he won his 156th post-season game, surpassing former Lakers coach Pat Riley to become the winningest playoff coach in National Basketball Association history.

But it should be pointed out that the Lakers could not have won the championship without the hard work and dedication of the entire team: Rick Fox, Derrick Fisher, Robert Horry, Brian Shaw, Devean George, Lindsey Hunter, Samaki Walker, Mark Madsen, Slava Medvedenko, and Mitch Richmond.

I also want to congratulate team owner Dr. Jerry Buss, General Manager Mitch Kupchak and all the others who put in the time and effort to bring another championship to the City of Angels. And, most importantly, I would like to thank the Laker fans in Los Angeles and throughout the state for being there for the team every step of the way.

The 2001–2002 Los Angeles Lakers have written another chapter in the history of one of the National Basketball Association's storied franchises and will certainly go down as one of the greatest teams of all time.

They have made the City of Los Angeles and the State of California proud.

The Los Angeles Lakers are a team with a tremendous amount of heart, stamina, determination and a clear will to win. I have no doubt that this team stands ready to make a run at a fourth straight championship and add yet another banner to the rafters of the Staples Center.

Mr. REID. Madam President, I was pulling for the Sacramento team. I have to say, as much as I dislike the Lakers, they sure came through in the clutch. They really know how to win. You have to admire them for that.

I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD, without further intervening action or debate.

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

The resolution (S. Res. 286) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 286

Whereas the Los Angeles Lakers are 1 of the greatest sports franchises in history;

Whereas the Laker organization has won 14 National Basketball Association Championships;

Whereas the Los Angeles Lakers are only the fifth team to win 3 consecutive National Basketball Association Championships and the seventh team to sweep the finals 4 games to none;

Whereas the Laker organization has fielded such legendary superstars as George Mikan, Wilt Chamberlain, Jerry West, Elgin Baylor, Kareem Abdul-Jabbar, Earvin ''Magic'' Johnson, and now, Shaquille O'Neal and Kobe Bryant;

Whereas Shaquille O'Neal won his third straight National Basketball Association Finals Most Valuable Player award, joining Michael Jordan as the only player to win 3 consecutive awards;

Whereas Shaquille O'Neal scored a record 145 points in the 2002 4-game finals series;

Whereas Shaquille O'Neal's 59.5 percent career field goal percentage in National Basketball Association Finals games is number 1 all-time and his 34.2 point scoring average ranks second;

Whereas Kobe Bryant was named to the 2001–2002 All-National Basketball Association First Team after averaging 25.5 points per game, 5.5 rebounds per game, and 5.5 assists per game during the regular season;

Whereas Kobe Bryant averaged 26.8 points, 5.8 rebounds, and 5.3 assists during the 2002 National Basketball Association Finals;

Whereas Coach Phil Jackson won his ninth National Basketball Association title, tying the record of legendary Boston Celtics coach, Red Auerbach;

Whereas Coach Phil Jackson won his 156th postseason game, surpassing former Lakers Coach Pat Riley to become the winningest playoff coach in National Basketball Association history;

Whereas the Los Angeles Lakers epitomize the spirit of their hometown with their determination, heart, stamina, and amazing comeback ability;

Whereas the support of all the Los Angeles fans and the people of California propelled the Los Angeles Lakers to another National Basketball Association Championship; and

Whereas the Los Angeles Lakers are poised to win a fourth straight National Basketball Association Championship next season: Now, therefore, be it

Resolved, That the Senate commends and congratulates the Los Angeles Lakers on winning the 2002 National Basketball Association Championship Title.

ORDERS FOR FRIDAY, JUNE 14, 2002

Mr. REID. Madam President, I ask unanimous consent when the Senate completes its business today, it adjourn until 9 a.m. Friday, June 14; 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 9:35 a.m., with 20 minutes under the control of Senator MURRAY, and the remaining time under the control of the Republican leader or his designee; further that at 9:35 a.m., the Senate resume consideration of the terrorism insurance bill.

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

PROGRAM

Mr. REID. Madam President, the Senate will conduct two rollcall votes beginning at approximately 9:35 a.m., first on passage of H.R. 3275, the Suppression of Terrorism Convention, and the second on the Allen amendment to the terrorism insurance bill regarding frozen assets.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:50 p.m., adjourned until Friday, June 14, 2002, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 13, 2002:

FEDERAL MARITIME COMMISSION

REBECCA DYE, OF NORTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2005, VICE JOHN A. MORAN, TERM EXPIRED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

WILLIAM A. SCHAMBRA, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING SEPTEMBER 14, 2006, VICE CAROL W. KINSLEY, TERM EXPIRED.

DONNA N. WILLIAMS, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2006, VICE ROBERT B. ROGERS, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EARL A. POWELL III, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006, VICE TOWNSEND D. WOLFE III, TERM EXPIRED.

NATIONAL LABOR RELATIONS BOARD

ROBERT J. BATTISTA, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2006, VICE PETER J. HURTGEN.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. PHILLIP M. BALISLE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. ROBERT F. WILLARD, 0000