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Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

God of power and providence, we begin this week of work in the Senate with Your assurance: ''I will not leave nor forsake you. Be strong and of good courage.''—Joshua 1:5–6.

You have chosen to be our God and elected us to be Your servants. You are the sovereign Lord of this Nation and have designated our country to be a land of righteousness, justice, and freedom. Your glory fills this historic Chamber.

Through Your grace, You never give up on us. With Your judgment, You hold us accountable to the absolutes of Your Ten Commandments. In Your mercy, You forgive us when we fail. By Your Spirit, You give us strength and courage.

You also call us to maintain unity in the midst of differing solutions to the problems that the Senators must address together. Guide their discussions and debates this week. When debate has ended and votes have been counted, enable the Senators to press on to the work ahead with unity. We pray this in our Lord's name. Amen.

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PLEDGE OF ALLEGIANCE

The Honorable JON KYL, a Senator from the State of Arizona, 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.

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RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Arizona is recognized.

SCHEDULE

Mr. KYL. Mr. President, today the Senate will be in a period of morning business until 3 p.m. with Senators DURBIN and THOMAS in control of the time.

Following morning business, the Senate will resume consideration of the Department of Defense authorization bill. By previous consent, at 3 p.m. Senators HATCH and KENNEDY will be recognized to offer their amendments regarding hate crimes. Those amendments will be debated simultaneously during today's session.

When the Senate convenes on Tuesday, Senator DODD will offer his amendment to the Defense authorization bill regarding a Cuba commission.

Those votes, along with the vote on the Murray amendment regarding abortions, are scheduled to occur in a stacked series on Tuesday at 3:15 p.m.

I thank my colleagues for their attention.

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MORNING BUSINESS

The PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, it is my understanding that the Democratic side under my control has morning business for the next hour, until 2 p.m. Is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. DURBIN. I thank the President very much.

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COLOMBIAN DRUG TRADE

Mr. DURBIN. Mr. President, I come to the floor today having arrived back in the country in the early morning hours from a trip which I took to Colombia this weekend with Senator JACK REED of Rhode Island. I had never been to this country before. In fact, I had never been to South America. But I have come to understand, as most Americans do, that what is happening in that country thousands of miles away has a direct impact on the quality of life in America.

Senator REED and I spent a little over 2 days there in intense meetings with the President of Colombia, the Secretary of Defense, and the head of the national police. We met with human rights groups.

It is hard to imagine, but yesterday we were in the southern reaches of Colombia in a province known as Putumayo, which is the major cocaine-producing section of South America in Colombia.

It was a whirlwind visit but one that I think is timely, because there is a request by the Clinton administration to appropriate over $1 billion for what is known as ''Plan Colombia.'' Plan Colombia is an effort by the President of Colombia, Andres Pastrana, to try to take the control of his country away from the guerrillas and the right-wing terrorists, and try to put an end to the narcotrafficking.

The narcotrafficking out of Colombia is primarily cocaine, but it includes heroin. It is now estimated that Colombia supplies 85 to 95 percent of the world's supply of cocaine. How does that affect America? I think we all know very well how it affects America.

In my home State of Illinois, the prison population has dramatically increased over the last few years at great cost to the taxpayers in an effort to reduce drug crime in the streets of my State. That story is repeated over and over in States across the Nation.

So what is happening in the jungles of Colombia in the cultivation of cocaine has a direct impact on the quality of life in America. That is why President Pastrana has called for a coordinated effort by the United States and the European powers as well to bring his country under control and to end the narcotrafficking. It hits quite a resounding note with most Americans.

You would not imagine what it was like yesterday flying over the jungles

of Colombia to look down from a Blackhawk helicopter as a Colombian general pointed out to me all of the coca fields that were under cultivation in the jungle.

If you take a step back, we now have the capacity by satellite to take photographs of Colombia, and we can actually pick out where the cocaine fields are located by satellite imagery. When they produce these maps, which I saw over the weekend, you can see provinces such as Putumayo that are virtually covered with cocaine production.

What is the cocaine production worth to the locals? Some estimate that a given hectare, or 2.2 acres roughly, can produce some 8.6 kilograms of cocaine during the course of a year. That involves about six harvests. A kilogram is a little over 2 pounds. So you are producing about 17 pounds of cocaine on each 1 of these hectares.

What is it worth to the local farmer? He receives about $900 for each kilogram. As you multiply it out, you realize it is a profitable undertaking for many.

Then if you want to understand the true value of the cocaine economics, consider that as it moves up the chain, it becomes more and more expensive. The guerrilla who takes the cocaine out of the fields from the landowner and the farmer is going to turn around and turn it into coca paste, a rough paste. It is now going to increase the value from $900 up to over $1,000.

The next move is to the trafficker who converts it into the white powder, and that will triple the value of it to some $3,000 for 2 pounds.

Now it is headed to the clandestine airstrip where it is going to be shipped to the United States, and in that process maybe go through Mexico, wherever it might be, on its way to the United States. Now it is up from $3,000 to $7,500 for 2 pounds. Then it arrives on the streets of Washington, DC, where it can sell for $60,000—2 pounds of cocaine.

When you look at the economics, you can understand why, starting with the peasant farmer and moving up through the chains of guerrillas, traffickers, and exporters, there is so much money to be made that they are willing to take the risk.

The World Bank estimated last week that the drug trade in Colombia generates some $1 billion a year in revenue to the guerrillas. These are not people living off the land, as we understand guerrillas. These are the folks who are in the narcobusiness big time, and with this money they can afford to literally create towns, which they have done in some of the remote parts of Colombia.

The standing joke, I guess, in Colombia is that if you want to know how well the drug lords are doing, take a look at how sophisticated the discotheque is that they have just created. In one of the towns, one of the most remote jungle areas of Colombia, they created a city and a discotheque with the most sophisticated sound equipment in the world. It was raided, taken over, and closed down. But it shows you the capacity with the money they have.

The question before the United States is, What can we do to address this cultivation of cocaine, as well as the emergence of the guerrilla groups, as well as the right wing terrorist groups who have made extortion and kidnapping and narcodrug trafficking a matter of course in this Nation?

We try to develop these counternarcotic battalions in Colombia that will attack the guerrillas, and go after them and their narcotrafficking. I visited this camp known as Tres Esquinas yesterday and saw 2,000 young Colombians who are being trained to be better soldiers and will be able to fight.

We have a debate going on as to whether we will send them helicopters. It is a big investment. The Blackhawk helicopter, I am told, runs around $10 million, $11 million, $12 million per helicopter. The so-called Huey helicopters, the older models, are slower, slightly smaller, and less expensive. But they don't believe it is up to the task they need to do in Colombia. We will debate sending the helicopters to support those troops to go after the guerrillas supporting this narcotrafficking that sends cocaine to the United States.

We are in this and we are in it big time. I came back from a meeting over the weekend, with the impression that we have to sit down at several levels and say these are the things on which we should insist. First, accountability from the Colombians. Any dollars sent by the United States need to be spent for good cause to put an end to this drug trafficking. We need to ask and demand of the Colombian military that they bring in more reform so that they end corruption. Historically, the Colombian army, in many cases, has been in league with the people who are either on the guerrilla side or the right-wing terrorist side. That is changing. I am glad to see it is changing. The new general in charge, General Tapias, is bringing reform. It is a move in the right direction.

The so-called Leahy amendment, named after Senator PAT LEAHY of Vermont, says no money goes to Colombia unless their army shows progress on human rights. I think we should insist on that as part of any discussion.

In addition, we have to accept the reality that no plan is going to work in Colombia unless it starts with the peasant farmer who is trying to grow something on his land to feed his family. Growing the coca plant and selling it is profitable. We need to talk about alternative agriculture if this is going to work. We talked about the vast expanse of Colombia and that challenge. That has to be part of the program.

In addition, we need to discuss how we eliminate these coca plants. Now we are spraying them. It is called fumigation. This herbicide that is sprayed is roughly comparable to one that we are familiar with in America known as Roundup. It is a basic chemical. Once it hits the leaves of the coca plants, it destroys them. I met yesterday with some of the pilots who are on contract with the United States to destroy these coca plants. It is incredible that they can take the satellite imagery which tells them where the coca fields are, convert it through the global positioning system into exact coordinates so they can fly at night and spray this herbicide on the coca plants, killing them, by spraying within 12 inches. That is the accuracy of the spraying, even taking into consideration wind drift. They are fast at work trying to do this. Imagine a strip of land that is some 300 miles long and 3 miles wide. That is what we are talking about in this one province, the square mileage of coca cultivation, how much spraying has to be done to kill the plants. Sometimes we have to come back the next year and do it again. The farmer tries to get around it again.

There is a lot to be done, a lot of investment to be made. Clearly, from our point of view in the United States, this is something we should take seriously. When we think of the impact of narcotics and drugs on America and what it means to the safety of each one of us in our homes and neighborhoods and communities, the fact that those who are drug addicts, desperate to buy this drug, will do virtually anything, commit any crime, in order to come up with the resources to feed their habit, we can understand why that drug coming out of Colombia has a direct impact on the United States.

Let me talk for a moment about the other side of the equation. It would be naive to believe that this is just a supply side problem, that if we eliminate the supply of cocaine and heroin that America will see an end to drug crimes. We know better. We know there are alternative drugs currently being developed in America, American-grown products that are competing with the traditional drugs. Methamphetamine was started in Mexico, went to California, and now has swept the country. In the rural areas of Illinois, in the small town farming areas of Illinois, they are discovering these methamphetamine labs that can be built with items that are purchased at a local hardware store and can be developed into a drug which is very addictive and destructive.

It is important as we look at the narcotics problem in America to establish that it is not only interdiction and elimination of supply we need to address, but also demand. That takes a lot of effort and a myriad of approaches which have been promulgated by this Senate, the House, and so many different agencies.

We should take into consideration the limited opportunity for drug addicts in this country to have access to rehabilitation. In other words, if you

were a drug addict in this country and decided you were sick and tired of this life and wanted to change and wanted to eliminate your addiction, would you be able to turn someplace for help? Too many times, the answer is no. There is no drug rehab available. The addict stays on the street. He might have had a conversion at one point and wanted to change his life and found there was nowhere to turn.

Let me give an illustration. In my home State of Illinois, in 1987, about 500 people were imprisoned in our State prisons for the possession of a thimble full of cocaine, a tiny amount of cocaine; today in the State of Illinois for possession of the same amount of cocaine, about a thimble full, we have 9,000 prisoners. In 13 years, it went from 500 prisoners to 9,000. It costs roughly $30,000 a year to incarcerate someone in Illinois prisons. We are spending on an annual basis just for those 9,000 prisoners—out of a total prison population of 45,000—we are spending about $270 million a year in the State of Illinois. That story is repeated in every State in the Nation.

When we talk about $1 billion to Colombia for the interdiction of drugs, and it seems like an overwhelming amount, put it in the context of what the drugs are doing in America. Remember, too, as I said earlier, it is not only the supply side; it is the demand side. In my State of Illinois, a person incarcerated for a drug crime serves about 9 months in prison and then they are out again. Half the people in our prison population are released during the course of a year. Those who think we will put them away and throw away the key ought to take a closer look at the statistics. Half the people in prisons are coming out each year. Who are they when they come out? We know when they went in they were criminals. In the case of addicts, we know they came into prison with the drug addiction which led to a crime, which might have led to a theft or something worse, a violent crime, and they went into prison for the average 9-month incarceration. We also know in my State of Illinois, it is very rare, if ever, that the person in the Illinois prison system has any opportunity for drug rehab while he is in prison. So he comes in an addict and he leaves an addict. In the meantime, though, he has joined some fraternities of gang members and veteran criminals who told him how to be a better criminal when he goes back on the street.

That is very shortsighted. What have we achieved? We have brought an addict in and released an addict 9 months later to go out and commit another crime. We have to look not only to the supply side of the equation and interdiction, but also the demand side: How do we start reducing demand in this country for these drugs so we can have a more peaceful and just society?

I am happy I took the weekend to be in Colombia and to learn first hand some of the things we are facing. I certainly hope my colleagues will avail themselves of an opportunity to learn of things that we should be considering as part of a plan with Colombia and as part of our effort to reduce this narcotics dependence in the United States.

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LITHUANIAN INDEPENDENCE

Mr. DURBIN. Mr. President, I am also concerned about another issue which has become very timely. It is related to recent statements by officials in Russia concerning Russia's view of the Baltic countries. I have a personal interest in this. My mother was born in Lithuania, an immigrant to the United States. Over the course of my public career, I have journeyed to the Baltic countries on several occasions and have witnessed the miracle of independence and democracy coming to Lithuania, Latvia, and Estonia. This was something that many of us had prayed for but never believed would happen in our lifetime; that the Soviet empire would come down and that these three countries, which had been subjugated to the Russians and Soviets in the early forties, would have a chance for their own independence and democracy.

In fact, I was able to be there on the day of the first democratic election in Lithuania. My mother was alive at the time, and she and I took great pride that the Lithuanian people had maintained their courage and dignity throughout the years of Soviet occupation and now would be given a chance to have their own country again.

I have met with the leaders of these countries. I am particularly close to the President of Lithuania, Valdas Adamkus. The story of Mr. Adamkus is amazing. He fought the Nazis in World War II and then fought the Soviets and finally decided he had to escape and came to the United States where he went to school and settled in Chicago, became an engineer, went to work for the Environmental Protection Agency, spent a lifetime of civil service, receiving awards from Presidents for his service to our country, and then at the time of his retirement announced that he was going to move back to Lithuania at the age of 70 and run for President. When Mr. Adamkus came to me and suggested that, I thought, well, it is a wonderful dream; surely, it is not going to happen. And he won, much to the surprise of everyone. He is currently the President of Lithuania; he is very popular. He believes, as I do, that the freedom in Lithuania, Latvia, and Estonia is something that we in the West must carefully guard.

Those of us who for 50 years protested the Soviet takeover of these countries cannot ignore the fact they are still in a very vulnerable position. Not one of these countries has a standing army or anything like a missile arsenal or anything like a national defense. Yet they look across the borders to their neighbors in Russia and Belarus and see very highly armed situations—and in many cases very threatening.

That is why the recent statements by Vladimir Putin, the new President in Russia, are so troubling. According to the Washington Post on June 15, Russian President Vladimir Putin made a statement in which he said that fulfilling the aspirations of Estonia, Latvia, and Lithuania for NATO membership would be a reckless act that removed a key buffer zone and posed a major strategic challenge to Moscow that could, in his words, ''destabilize'' Europe.

The Russian Foreign Ministry issued a statement on June 9 of this year that claimed that Lithuania's forceable annexation in 1940 was voluntary.

This is an outrageous rewrite of history. The Soviets were legendary for their rewrites. They would rewrite history and decide that they, in fact, had developed an airplane first, an automobile first, all these affirmations, and Stalin was, in fact, a benevolent leader and was not a ruthless dictator. All of these revisions were used to scoff at the West.

We thought that the end of the Russian empire would be the end of revisionist history. Unfortunately, Mr. Putin and his leadership in Moscow are starting to turn back to the same old ways. By the statements that they have made, they have said, if we went forward with allowing the Baltic States into NATO, it would be an explicit threat to the sovereignty of Russia. And they also go on to say it could destabilize Europe.

Such a threat by the Russian Federation against security in Europe cannot go unchallenged, and that is why I come to the Senate floor today. It is incredible that the Russian President would continue to call the Baltic countries ''buffer States'' that would presumably have no say in their own security in the future and could once again be subjugated with impunity. To suggest that the Baltic nations are somehow pawns to be moved back and forth across the board by leaders in Russia is totally unacceptable. It is unbelievable that the Russian Foreign Ministry could forget the secret Molotov-Ribbentrop pact that carved up Eastern Europe between Hitler and Stalin, that moment in time when the Nazis and Communists in Russia were in alliance, in league with one another, and through respective foreign ministers basically gave away countries.

At that moment in time, the Baltic States were annexed into the Soviet Union against their will, and for more than 50 years we in the United States protested that. It was the so-called Captive Nations Day we celebrated on Capitol Hill and across America to remember that those Baltic States and so many other countries were brought into the Soviet empire against their will. Somehow, Mr. Putin in this new century is suggesting that we did not understand history; the Baltic nations really wanted to be part of the Soviet

Union. That is a ridiculous statement, and it defies history and defies the facts that everyone knows. It is beyond belief that the Russian Foreign Minister would claim that the Red Army troops occupying the Baltic countries in June of 1940 were not the reason that these countries so-called ''joined'' the Soviet Union. Listen to the statement by the Russian Foreign Minister.

The August 3, 1940 decision of USSR Supreme Soviet to admit Lithuania into the Soviet Union was preceded by corresponding appeals from the highest representative bodies of the Baltic States.

Therefore it would be wrong to interpret Lithuania's admission to the USSR as a result of the latter's unilateral actions. All assertions that Lithuanian was ''occupied'' and ''annexed'' by the Soviet Union and related claims of any kind of neglect, political, historical and legal realities therefore are groundless.

This is the statement by the Russian Foreign Minister.

Let me tell you, he not only ignores the history of 1940 which is very clear, but he ignores the fact that in 1991 the Russian Foreign Ministry entered into a treaty with Lithuania in which Russia explicitly admitted that the 1940 Soviet annexation violated Lithuanian sovereignty and that Lithuania, they said, at the time was free to pursue its own security agreements and arrangements. So in 1991, in those enlightened moments as the Soviet empire came down and Russia became a new State with democratic elections, they entered into a treaty with Lithuania and acknowledged the reality that Lithuania was forcibly annexed into the Soviet Union. They said in 1991 Lithuania had the right, as the Baltic States do, to pursue their security arrangements.

Now, when Lithuania, Latvia, and Estonia talk about membership in NATO, the Russian Foreign Minister and Russian President Putin come forward and say unacceptably, it would destabilize Europe; it would eliminate the so-called ''buffer States.'' They still view these countries as vassals, as pawns to be used. They will not acknowledge the sovereignty which should be acknowledged of these countries.

These disturbing statements show clearly why the Baltic countries must be admitted to NATO; that is, to show Russia and any neighboring country that it must give up its territorial ambitions against NATO membership for the Baltic countries, and it would make it critically clear that the West would never again accept ''buffer State'' subjugation of them. The idea that the three tiny Baltic States could threaten the enormous and powerful Russian Federation is laughable. If Russia has no design on the Baltic States, it has nothing to fear from their membership in NATO.

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VICTIMS OF GUN VIOLENCE

Mr. DURBIN. Mr. President, I have spoken about the drug problems in America and this issue of foreign policy. But there is another issue which is a continuing concern across America. It is the fact that this Senate and Congress have failed to act on the problem in America of gun violence. It has been a little over a year since the Columbine tragedy, but still the leadership in this Congress refuses to enact sensible gun safety legislation.

Most will recall that a little over a year ago, we passed in this Chamber, with the tie breaking vote of Vice President GORE, legislation which would allow us to do background checks on people who buy guns at gun shows. If you go to buy a gun here in America, they are going to ask some questions: Do you have a history of committing a crime; a history of violent mental illness; are you old enough to own a gun? That is part of the Brady law. And with that law, we stopped some 500,000 people from buying guns in America who were, in fact, people with a criminal record or a history of violent and mental illness, or children. We stopped it—half a million of them—but there is a big loophole there. If you go to the so-called gun shows which we have in Illinois and States such as Texas and all over the country, these gun bazaars and flea markets do not have any background checks. You do not have to be John Dillinger and the greatest criminal mind to understand if you need a gun, do not go to a gun dealer, go to a gun show. No questions are asked; you can buy it on the spot.

We passed a law. We said we have to close this loophole. If we really want to keep guns out of the hands of people who will misuse them, we need a background check at gun shows. That was part of our bill.

The second part of the bill related to a provision with which Senator KOHL from Wisconsin came forward. It said if you sell a handgun in America, it should have a child safety protection device, or so-called trigger lock. You have seen them. They look like little padlocks. You put them over the trigger so if a child gets his hands on a gun, he or she will not be able to pull the trigger and harm anyone.

Is this important? It is critically important. We read every day in the newspapers about kids being harmed, killing their playmates, and terrible things occurring when they find a handgun. It is naive for any gun owner to believe if they have a gun in the house, they can successfully hide a gun. Children are always going to find Christmas gifts and guns. We have to acknowledge that as parents. If they find Christmas gifts, it is disappointing. If they find guns, it can be tragic.

Those who say they will not have a gun in their house if they have little kids may not have peace of mind if they know their playmates' parents own guns and do not have a trigger lock on them.

We said as a matter of standard safety in America, we want every handgun to be sold with a trigger lock. Is it an inconvenience for the gun owner? Yes, let's concede that fact. Do we face inconveniences every day bringing safety to our country and to our lives? Of course we do. Have you gone through an airport lately? Did you have to put that purse or that briefcase on the conveyor belt? Did you go through the metal detector? It is inconvenient, isn't it? It slowed you down, didn't it? We all do it because we do not want terrorists on airplanes and we want to fly safely.

So the idea of a trigger lock on a handgun I do not believe is a major obstacle to gun ownership or using a gun safely and legally. That was the second part of the bill that passed and went over to the House of Representatives.

The third part is one that is hardly arguable, and that is, we ban the domestic manufacture of high-capacity ammunition clips in this country, clips that can hold up to 100 or more bullets. The belief was nobody needed them. The only people who would need those would be the military or police. The average person has no need for them.

I said time and again that if a person needs an assault weapon or some sort of automatic weapon with a 100-round clip to shoot a deer, they ought to stick to fishing. Sadly, there are people who found if you could not manufacture these high-capacity ammo clips in the United States, you could import them from overseas. The third part of our gun safety legislation said we are going to stop the importation of high-capacity ammo clips which are designed to kill people. They have nothing to do with legitimate sports or hunting.

Three provisions: Background checks at gun shows, trigger locks on handguns when they are sold, and no more importation of high-capacity ammo clips. Do those sound like radical ideas to you? They do not to me. They sound like a commonsense effort to keep guns out of the hands of people who would misuse them.

We barely passed the bill. The National Rifle Association, the gun lobby, opposed it. The bill received 49 votes for, 49 votes against. Vice President AL GORE sat in that chair, as he is entitled under the Constitution, and cast the tie-breaking vote—50–49. The bill went to the House of Representatives—this is after Columbine—and with all this determination, we said: We are finally going to do something to respond to gun violence.

Of course, when it went over to the House of Representatives, the gun lobby, the National Rifle Association, piled it on, and the bill was decimated. There is nothing in it that looks like what I described. Then it went to conference. We are supposed to work out differences between the House and the Senate in conference. They have sat on it for a year, and every day in America, 12 or 13 children are killed by guns. The same number of kids who died at Columbine die each day, not in one place but all across America. They are kids

who commit suicide. They are kids who are gang bangers shooting up innocent people. They are kids who are playing with their playmates.

The gun tragedy continues in America, and this Congress refuses to do anything. Many of us come to the floor of the Senate on a regular basis as a reminder to our colleagues in Congress that this issue will not go away because gun violence is not going away, and we need to do something to make America safer.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, the Democratic leadership in the Senate who supports this gun safety legislation will read some names into the RECORD of those who lost their lives to gun violence in the past year and will continue to do so every day the Senate is in session. In the name of those who have died and their families, we will continue this fight.

The following are the names of just some of the people killed by gunfire 1 year ago on the dates that I mention. On June 19, 1999, these were the gun victims in just some of the States and some of the cities across America:

Milton Coleman, 58, Gary, IN; Darnell Green, 28, Gary, IN; Ronald Hari, 25, Chicago, IL; David Jackson, 23, St. Louis, MO; Andre Johnson, 24, Detroit, MI; Eien Johnson, 19, Detroit, MI; Nakia Johnson, 22, Philadelphia, PA; Lewis Lackey, 47, Baltimore, MD; Malcolm Mitchell, Gary, IN; Mann Murphy, 76 Detroit, MI; Robert Rodriguez, 31, Houston TX; Donnell Roland, 20, Kansas City, MO; Denise Wojciechowski, 33, Chicago, IL; an unidentified male, 36, Long Beach, CA; another unidentified male, 53, Nashville, TN; another unidentified male, 19, Newark, NJ.

In addition, since the Senate was not in session on June 17 or June 18, I ask unanimous consent that the names of those who were killed by gunfire last year on June 17 and June 18 be printed in the RECORD.

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

JUNE 17

Donald R. Gauldin, Pine Bluff, AR; Phillip Martello, 18, New Orleans, LA; Lee Martindale, 14, St. Louis, MO; Marcus D. Miller, 18, Chicago, IL; Larry Mitchell, 19, Dallas, TX; Raymond Reed, 71, Charleston, SC; Molly Roberts, 15, Houston, TX; Norberto Rodriguez, 26, San Antonio, TX; Philip M. Spears, 51, Houston, TX; and Tony Williams, 19, Chicago, IL.

JUNE 18

Warren Cunningham, 33, Charlotte, NC; Barron Howe, 31, Washington, DC; Daniel Metcalf, 31, Washington, DC; Tony Muse, Detroit, MI; Adam W. Newton, 36, Oklahoma City, OK; Nysia Reese, 15, Philadelphia, PA; Jeffrey Rhoads, 37, York, PA; Coartney Robinson, 20, Dallas, TX; Debra Rogers, 45, Dallas, TX; and Damian Santos, 20, Bridgeport, CT.

Mr. DURBIN. Mr. President, the reason these names are being read is to share with my colleagues in the Senate the fact that this is not just another issue. The issue of gun safety and gun violence in America is an ongoing tragedy, a tragedy which we will read about in tomorrow morning's paper and the next morning's paper and every day thereafter until we in this country come forward with a sensible gun safety policy to keep guns out of the hands of those who misuse them.

I have seen the National Rifle Association, Mr. Heston, and all of his claims about second amendment rights to the ownership of guns. I believe people have a right to own guns, so long as they do so safely and legally, but I do not believe there is a single right under our Constitution—not one—that does not carry with it a responsibility.

There is a responsibility on the part of gun owners across America to buy their guns in a way that will keep guns out of the hands of those who would misuse them and to store their guns in a way so they are safely away from children who would use guns and hurt themselves and others, and not to demand guns in America that have no legitimate sport, hunting, or self-defense purpose.

Most Americans agree with what I have just said. I think it is a majority opinion in this country. It is clearly not the feeling of the Republican leadership in the Senate and the House of Representatives. They have continued to bottle up this legislation which would move us closer to the day when we have a safer society and when families and communities across America can breathe a sigh of relief that the crime statistics and gun statistics about which we read are continuing to go down and not up.

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SOCIAL SECURITY AND MEDICARE

Mr. DURBIN. Mr. President, the last item I want to address today is relative to a suggestion by the Vice President of the United States to create what is known as a Medicare lockbox. There have been many suggestions made during the course of this Presidential campaign about Social Security and Medicare. It is no surprise. There are hardly any programs in Washington, DC, that affect so many people and affect the quality of life of so many families across America. I am proud to be a member of the Democratic Party which, under Franklin Roosevelt, created Social Security.

We took a group of Americans—our parents and grandparents, the seniors in America, who were literally one of the most impoverished classes in our society—and said: With Social Security, we will create for you a safety net. With this safety net, when you go into retirement in your senior years, you are going to have some peace of mind that you will not be destitute and poor and have to depend on your children for your livelihood.

Social Security has worked. It has now become a very bipartisan program—and it should. Democrats, Republicans, and Independents alike understand that this safety net for seniors and for disabled people in our country really makes America a better place.

In the 1960s, President Lyndon Johnson—another Democrat—came up with the idea of Medicare. It was not a new one. President Truman had proposed some version of it earlier, and others had talked about it. President Johnson, with his legislative skill, was able to pass Medicare.

In Medicare, we said we would create for America a health insurance program for the elderly. This again was considered socialistic, radical, by its critics. They said America does not need this, that everything will be just fine.

Yet we see what has happened since we introduced and passed the Medicare program. Seniors are living longer. They are more independent. They are healthier. They are active. They are leading great lives because of the combination of Social Security and Medicare.

Many of us want to take care that in the midst of any Presidential debate about these two programs, we do not go on any risky escapade that could endanger the life of these programs. There are too many people who depend on them; and not just the seniors, but their children who expect Social Security and Medicare to be there.

George W. Bush, the Governor of Texas, and soon to be the Republican nominee for President, has proposed changing the Social Security system so that there could be a private investment factor so that individuals could direct the investment of some of their Social Security funds into private investments.

On its face, a lot of people who own stocks and mutual funds across America would say: Goodness, that gives me a chance to increase the amount of money I can put into these types of investments. Perhaps if the stock market continues to do well, I will profit from it. It is a surface reaction you might expect that is positive among some American families. But the real issue is, how would we come up with the same level of protection in Social Security if we started taking money out and letting people direct it as they care to in their own private investments?

The basic benefits on which many elderly depend for almost all of their retirement income could be cut by as much as 40 percent. How can that be, if George Bush is only talking about a few percentage points of investment?

Social Security is a pay-as-you-go program. The amount of money we collect in the payroll taxes goes out to pay today's seniors. When I become a senior citizen, eligible for Social Security—if I live that long—I will be paid by the current wage earners in the payroll tax that is collected from them.

It is a pay-as-you-go system. If at any point in time you want to remove some 2 percent, or whatever the number might be, of the money that workers are paying into Social Security, it

has a direct impact on today's seniors because they do not have the pool of money coming in to sustain today's Social Security needs.

So when there is a proposal made to cut back the amount of contribution by individuals to give them 2 percent of whatever it might be for their own self-directed investment, the obvious question is, Who will pay it? Who will pick up the difference?

The basic Social Security benefit is pretty modest across America, but it is important. For workers with a history of average earnings who retired in 1999 at age 62—most people retire before they reach the age of 62, incidentally—their monthly benefit is $825. For the lower earner, the benefit is $501 a month. Despite these modest amounts, Social Security is the major source of retirement income—50 percent or more—for 63 percent of the older population.

The whole point of having Social Security is to provide workers with a predictable retirement benefit.

Mr. Bush's plan affects these basic retirement benefits in two ways.

First, the program has a long-term deficit of about 2 percent of payroll. The deficit isn't Governor Bush's creation, by any means. It confronts anybody attempting to reform the system. But Governor Bush's proposal makes the problem worse by pledging not to add any new money to the Social Security system.

Vice President GORE has said, let's take the surplus and pay down the national debt by paying off the internal debt of Social Security and Medicare. We collect $1 billion in taxes a day from businesses, families, and individuals to pay interest on our national debt.

I think the most responsible thing we can do, in a time of surplus, is to take the extra dollars and reduce that debt and reduce the interest we pay and our children will pay for things we did many years ago. I know that is conservative. It isn't as flashy as proposing tax cuts. But I think it is sound. We do not know if these surpluses will be there forever, but as long as they are here, let us pay down the debt of this country. That is the position of President Clinton, Vice President GORE, and the Democratic side of the aisle.

On the other side, from Republican Governor Bush, and many Republican leaders, we are told, no, no, no, take this surplus, as it exists, give tax cuts to certain people, and change the Social Security system, and do not address the fundamental concern about this $6 trillion national debt we continue to finance on a daily basis to the tune of $1 billion a day in Federal tax collections.

I hope during the course of this debate on reforming Social Security, whether the proposal is from the Democrats or the Republicans, that families across America will look long and hard at whether these proposals are in fact honest, whether they use real numbers, whether they really affect the future of America in a positive way and can continue this economic growth we have seen, and whether they are in fact the kinds of things which reflect the values of this country.

When we take a look at some of the proposals coming from the candidates in the Presidential race, particularly on Governor Bush's part, I do not think they meet that test.

I am going to close now because I see my colleague from Arkansas has come to the floor.

Mr. President, I yield the floor to Senator LINCOLN.

The PRESIDING OFFICER (Mr. KYL). The Senator from Arkansas.

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THE OLDER AMERICANS ACT AND THE SOCIAL SERVICES BLOCK GRANT

Mrs. LINCOLN. Mr. President, today I rise to call attention to the needs of our Nation's seniors. Although Social Security, Medicare reform and prescription drugs make daily headlines in newspapers across the country and are the topic of Congressional and Presidential debates, there are two other important programs for seniors which do not receive the media attention they deserve. These two programs are the Older Americans Act and the Social Services Block Grant.

As a member of the Senate Special Committee on Aging and a Senator representing the State with the highest poverty rate among seniors, I want to reinforce to my colleagues in the Senate the importance of these two programs, which are lifelines to low-income, homebound and frail seniors.

First, we need to reauthorize the Older Americans Act. It is our country's main vehicle for providing a wide range of social services and nutrition programs to older men and women. Unfortunately, the Older Americans Act has not been reauthorized since 1995—absolutely inexcusable—making this the sixth year without a reauthorization of such a vital program for our Nation's senior. Because this year marks the 35th anniversary of the Older Americans Act, Congress has a unique and timely opportunity to improve the Older Americans Act.

If we don't act, we will be sending the wrong message to our Nation's seniors. We would be telling them that they are not a priority in this Nation. This is absolutely the wrong message to be sending to those who helped create this incredible prosperity in our Nation. I say to my colleagues, we can do better. We must do better.

The South not only has some of the highest poverty rates among seniors, but the South is the home of the majority of seniors in the country. Here are some statistics that might surprise you: Florida, West Virginia and Arkansas rank among the top five States nationally with the highest percentage of seniors over the age of 55; through 2020, the South will see an 81 percent increase in its population of persons age 65 to 84 years of age; and for people age 85 and over, that increase in the South will be 134 percent—phenomenal in terms of what we will see in the South with elderly individuals dependent on programs that the Older Americans Act provides—and over half of all elderly African Americans live in the South.

Based on these compelling statistics and the pending ''age wave'' that is coming to the South, the time to act is now. We must update the formula used to calculate Older Americans Act funds so Southern states receive their fair share of the funds. Currently, 85 percent of Older Americans Act funds are distributed to States based on 1985 numbers. This is neither fair to southern States nor is it good public policy to be using such outdated information. Without a formula update, States like Arkansas, and other southern States, with greater numbers of seniors will continue to be expected to do too much with absolutely too little.

Each year Title III funding provides seniors around the country with hot, nutritious meals in senior centers and other congregate settings. In addition, millions of meals are delivered each year to homebound men and women who rely on this program not only for nutrition, but for companionship and human contact which volunteers provide when they visit the person each day. I have made those rounds with constituents, delivering meals on wheels to our seniors in rural areas. It means so much to have someone bring a nutritous meal and to visit.

For many seniors, the only human contact they have each day is with the person who delivers their meals. During extreme weather conditions, home-delivered meal volunteers are able to check on seniors and make sure they are not ill or suffering from extreme heat or cold.

In Arkansas, we deliver 2 million home meals a year to the elderly and provide another 2 million congregate meals. However, many seniors are still unable to receive meals. About 1,300 frail, homebound elderly men and women are on waiting lists for home-delivered meals. This number only represents a fraction of low-income seniors who need meals but can't get them, because those living in rural areas that are not served by programs like Meals on Wheels are not counted for waiting lists.

Here is a story which was sent to me by an Area Agency on Aging caseworker from Fulton County, AR. She writes about a couple by the name of John and Reba.

John and Reba live in a mobile home near Salem, Arkansas. They started receiving home delivered meals in October 1999. Both of them are physically handicapped and are barely able to get around. John is on oxygen and has severe heart problems. Reba has heart problems and arthritis.

At the time they began receiving meals they were physically and financially burdened and didn't know how they would buy

food for the next meal. Reba said getting the meals had relieved them from a great burden. She said they can hardly wait each day to get their meals. They really look forward to seeing the volunteer and the van coming to their trailer.

Here is another story about an Arkansas senior. Mr. Black is 71 years old and lives alone in an old farmhouse in an isolated, rural area in Van Buren County. In the winter you can feel the wind blow through the house and in the summer the heat is unbearable. Mr. Black does not have any immediate family to check on him. He only has a microwave to cook in. He lives on a fixed income and has no transportation to get into town to purchase groceries on a regular basis.

Mr. Black said this about the home delivered meals he receives, ''They help me out a lot. The meals are better than the food I can buy. I can't buy much on a fixed income.'' Mr. Black has told his case manager on more than one occasion that he does not know what he would do without the meals. It is a real hardship on him if he misses his home delivered meals. One week he missed all of his home delivered meals because of doctors appointments and it was very difficult for him to buy food and prepare meals that week. He just went without.

The Title V senior employment program is one of the best kept secrets in the country. Through this funding mechanism, older Americans who want to work can go to a senior employment agency in their community and learn of available job opportunities.

No matter what type of training seniors need to fill these jobs, training is made available to them. For example, if seniors need training to work in a modern office environment, they learn how to surf the internet, use computers and send faxes. Nationally, over 61,000 seniors a year are employed through senior programs.

Some of Arkansas's finest employment programs for seniors are operated by Green Thumb and other outstanding Area Agencies on Aging. I have met many older workers and listened to them talk with enthusiasm about their jobs. I only hope that when I'm 75, 80, or 85 I will have half of their energy and zest for life!

The senior employment program is a win-win proposition for both sides. Low-income seniors who need additional income to supplement their Social Security checks have an opportunity to find a job placement and any necessary training through a Title V contractor. This not only generates additional income for seniors but a sense of purpose and a chance to stay engaged in their community and make a contribution—something we all want to feel, and that is needed.

The community and employers benefit by hiring honest, loyal and dependable persons who are committed to showing up for work every day and doing a good job. Especially in booming economic times when the job market is tight, seniors can fill jobs that employers otherwise might not be able to fill. The senior employment program makes good economic sense. It also provides for the workers: the quality and guidance of seniors who exemplify a tremendous work ethic and bring a lot to the workplace.

Here is a remarkable story of a woman from Texarkana, AR, whose life was transformed by the Green Thumb program. Olla Mae Germany came to the Green Thumb program at the age of 65. She had been a victim of domestic violence. She had never worked, could barely read and had walked to the interview. She told the coordinator that she was ''dumb, stupid, ugly, ignorant, and no one cared about her.'' During that meeting she also shared her hopes for the future—she wanted to learn to read, achieve a GED, gain clerical and computer skills, and get a job.

Ms. Germany was assigned to the Literacy Council in Texarkana. Her job entailed clerical duties and literacy training. After receiving her first pay check, Ms. Germany told her boss that she bought a new outfit for work and had her hair styled professionally for the first time in her life. She was especially pleased that the people in her office noticed her appearance and told her she looked pretty. With increased self-esteem she became more confident in her abilities. Only 24 weeks after her Green Thumb enrollment, Ms. Germany learned to read and significantly improved her office skills. She began making public speeches on behalf of the local literacy council.

Today, Ms. Germany continues to work toward self-sufficiency. She has a new job with a Texarkana agency that promotes neighborhood revitalization and economic development. She is learning new technology skills. She is also studying for her GED. Recently, Ms. Germany was able to buy her very first car, thanks to the money she has earned from her jobs. With new marketable skills, a confident self-image and dependable transportation, Ms. Germany is well on her way toward achieving her goals for a brighter future and making a contribution to her community.

I know Democrats and Republicans on the Special Committee on Aging disagree over the allocation of Title V monies. I think groups like Green Thumb have proven their ability to train and place older workers successfully in the community and I urge my colleagues to allow the national Title V grantees to continue receiving a majority of Title V funds.

The reauthorization of the Older Americans Act will also include a new authorization for the National Family Caregivers Act. I am an original cosponsor of this bill in the Senate because I believe that our country needs to find a better way to support family members who serve as caregivers. No one wants to leave their home just because they are aging and/or disabled. The inclusion of a National Family Caregivers Act is foreward thinking and family friendly. Baby boomers need support to care for their family members and it is high time that we provide Federal leadership in this area of home care.

Finally, the other program I will focus on is the Social Services Block Grant, better known by its acronym SSBG. States use SSBG funds to support programs for both at-risk children and seniors. In Arkansas, a significant portion of SSBG funds are used to support and operate senior centers, to provide Meals on Wheels for frail, homebound elderly, and to provide transportation for seniors, especially those living in rural areas.

Over the past five years, Congress has cut SSBG funds by $1 billion.

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

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

The PRESIDING OFFICER. We are operating under a consent agreement with the Republican side.

Mrs. LINCOLN. Perhaps the chairman of the Aging Committee will allow me 5 additional minutes.

Mr. GRASSLEY. I ask unanimous consent that we extend for our side as well.

The PRESIDING OFFICER. Without objection, it is so ordered. The Republican side will have 5 additional minutes, and the Democratic side will have 5 additional minutes.

Mrs. LINCOLN. This year alone, the Senate Labor-HHS Subcommittee on Appropriations cut SSBG by $1.1 billion. This translates into a cut of nearly two-thirds. Arkansas will lose over $11 million in FY 2001. This draconian cut comes on the heels of a $134 million cut in FY 2000 in which Arkansas lost $1.3 million.

What does this dramatic funding loss mean to senior services in my home state? Because Arkansas spends a majority of its SSBG funds on senior services, 40 senior centers around the state may have to shut down or dramatically reduce operating hours. In addition to providing social activities and hot, nutritious meals to seniors, senior centers also provide seniors with rides to the doctor's office, the pharmacy and grocery stores. As one Area Agency on Aging administrator in Malvern, Arkansas wrote to me, ''for many of our seniors, the senior center is their lifeline. It provides them with a reason to get up in the morning.''

I would like to read to you what a social services case manager sent me about an aging client in northwest Arkansas.

When Delbert was in his early 50's he suffered a stroke that left him with paralysis on the left side and confined to a wheelchair. He has no children and his only family support comes from a sister and brother-in-law in Atlanta, Georgia. They help him with money management. Case managers and case workers with the Area Agency on Aging helped him find a personal care assistant on a temporary basis through the state's Supplemental Personal Care Program.

In the meantime, Delbert applied for and awaited approval from the Alternatives Program for Adults with Physical Disabilities, a state Medicaid program. Once approval came, he received funding and assistance in having his bathroom retrofitted to be handicapped accessible.

He was also provided with personal care and housekeeping assistance. Delbert also began to receive home delivered meals. Last October, Delbert celebrated his 65th birthday. Because he was confined to a wheelchair and very isolated and lonely, his doctor prescribed socialization and exercise to combat his depression. Now, every Tuesday and Thursday Delbert rides in a handicap accessible van to the Benton County Senior Services Center where he participates in an exercise program.

He now enjoys his newfound friends and enjoys games and other activities at the senior center. Thanks to these aging and disability support services, Delbert lives with dignity and independence. Without this assistance he would, no doubt, have spent the past few years in a long-term care facility at enormous cost to the public.

If SSBG gets cut severely this year, millions of Meals on Wheels to homebound seniors may not be delivered next year to people who rely on them. States are already scaling back congregate and home delivered meal programs because of last year's Federal funding cuts. Although Congress increased Older Americans Act funds for home delivered meals by 31% last year, it simultaneously cut the Social Services Block Grant and the USDA Nutrition Program for the Elderly, which resulted in a net loss of $300,000 in Federal funds to Arkansas. Unless we act, this year's cuts will be even greater.

To put the cost of home delivered meals in perspective, the cost of providing home delivered meals to a senior for one year costs about as much as one day's stay in the hospital for one person. I don't know about you, but I think that is pretty affordable.

The irony of the situation is that these draconian cuts to SSBG come at a time when our budget is experiencing unprecedented surpluses. That is why I respectfully disagree with some of my colleagues who support these crippling SSBG funding cuts. They argue that Governors can offset these cuts with tobacco settlement money or TANF funds, but I think this is unrealistic. Governors are spending most of their tobacco settlement funds on health related initiatives and smoking prevention programs.

I supported an amendment during last year's Labor/HHS/Education appropriations process to restore funding to the SSBG, although it did not pass. Recently I cosponsored legislation by Senators GRAHAM and JEFFORDS to restore SSBG funding. When I was in the House of Representatives and voted for welfare reform, an agreement was made between Congress and the states to decrease SSBG from $2.8 billion to $2.4 billion until welfare reform was firmly established. In FY 03, Congress was to restore funding to the $2.8 billion level. Clearly, Congress has not operated in good faith in honoring this agreement.

I believe that the Older Americans Act and the Social Services Block Grant are vital safety nets for our nation's seniors. I hope the Senate will do the right thing by passing a pro-senior Older Americans Act and restore funds to the Social Services Block Grant.

I don't know about my colleagues, but I do know there is not a day that goes by that I don't think of the contribution of an elderly person in my life.

I would like to close by reading a quote by Senator Hubert Humphrey that you may be familiar with:

> It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the disabled.

I think we have a wonderful opportunity to help the young, the old, the sick, the needy and the disabled by restoring the cuts to the Social Services Block Grant and reauthorizing the Older Americans Act.

Let's get to work!

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Iowa is recognized.

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THE OLDER AMERICANS ACT

Mr. GRASSLEY. Mr. President, I have come to the floor to speak as a member of the Judiciary Committee, but I will back up the Senator from Arkansas on one very key point that I hope can happen in this Congress. I urge, as she has done, that a bill to reauthorize the Older Americans Act come to the floor of the Senate because it has been so long since that law has been reauthorized on a permanent basis. I understand it has been reauthorized on a year-to-year basis, but not on a permanent basis as it ought to be, or at least for a multiyear basis. So I urge that action to be taken at this particular time.

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INTERNET MEDICAL PRIVACY

Mr. GRASSLEY. Mr. President, I come to the floor to speak on the subject of technology. The message on technology is very simple. Technology is moving fast, but somehow Congress does not pass laws that keep up with the technology. I wish to state the proposition that, from the standpoint of the right to privacy, our laws cannot be left behind. Every day, more and more Americans are waking up to what technology can do to improve their lives. Thanks to the hard work of the American people in the technology sector, we live in an amazing time. Congress didn't bring about this revolution, and Congress should not do anything to impede the rapid changes taking place in technology.

However, one of the main threats to the growth of electronic commerce is the risk of a massive erosion of privacy. While the Internet offers tremendous benefits, it also comes with the potential for harm. If we lack confidence that our privacy will be protected online, we won't take full advantage of what the Internet has to offer. The Judiciary Committee is now considering a bill to protect the privacy of Internet users. I want to focus on one particular issue, and that is maintaining privacy of personal health information obtained by web sites.

I happen to believe, as a matter of basic principle, that information about my health is very personal, and nobody else should know that without my permission. So I am pleased to join my colleague from New Jersey, Senator TORRICELLI, in cosponsoring an amendment on this issue before the Judiciary Committee. I think it will be up this week, on Thursday.

The amendment Senator TORRICELLI and I plan to sponsor will give citizens a chance to control any health information that they might provide while surfing the web. None of that will be passed on to others without their explicit permission. Our amendment simply provides that a commercial web site operator must obtain permission from a person before sending health information to another entity. In addition, it would require that individuals be told to whom their medical information will be released if permission is given.

I know to people watching this sounds like a pretty simple, commonsense thing, that there would be no dispute and it ought to be part of the laws of our country under our Constitution that personal information not be sold or used by anybody else without the personal permission of the person who that medical information is about. It sounds pretty simple that it ought to be part of our law. It appears to be such common sense that maybe we should not even have to deal with that; it is just common sense that nobody else should profit from your personal information without telling you about it and without your permission.

It is only fair—it seems to myself and to Senator TORRICELLI—to put that burden on the web site operator and not on the consumer. Medical information can be highly personal, and consumers face serious risk if it becomes a public commodity that can be bought and sold without the individual's consent. If that is allowed, then we are all at risk.

As far as your own personal information being a public commodity that can be sold—outside the fact that it shouldn't be done without your permission, not only to protect your privacy but you ought to know about the information being disseminated and to whom it is going, it is also the fact that personal health information, if it is a commodity, is under your personal, private property rights, and they ought to be protected just as personal property rights are protected under our Constitution.

The Department of Health and Human Services is working on regulations to finalize medical privacy rules this summer. I understand that for the most part those rules would set up a mechanism so individuals would have to opt into the procedure of giving permission for their medical information to be disseminated—opting in meaning that you have to actually say, I give permission for my medical information to be used in such and such a way, as opposed to kind of an opt-out situation where your personal medical information will be disseminated unless you say it can't be disseminated. From that standpoint, the Department of Health and Human Services rules, which they say will actually come out this way, will be in agreement with the goals of our amendment. I see the need to allow the process in the Department of Health and Human Services to finish.

The current draft of our amendment explicitly will not interfere with those rules and the rulemaking process now going on, and it also does not apply to entities subject to those proposed rules, such as health plans and providers.

Our amendment gets at those commercial health web sites to which the protections of Health and Human Services rules will not apply. But having said that, our amendment is pending.

Having made clear that our amendment does not interfere with the Department of Health and Human Services rulemaking now going on, I want to put President Clinton on notice, if it turns out that the final Health and Human Services rules are inadequate from the standpoint of protecting the personal privacy of health information of individuals, having this amendment in the bill as a placeholder will provide those of us in Congress who are concerned about this issue of privacy of medical health information a vehicle to strengthen the HHS rules legislatively in the future if necessary. There should be ample time for that because realistically we all know that more work will have to be done on Internet privacy before final enactment.

Senator TORRICELLI and I are open to ideas on how to improve the amendment. But let me make clear that I am adamant on the point that people should have a basic right to control their medical information, and to control it from the standpoint of making a separate individual decision as to whether that information can be disseminated—not from the opposite point of view that if they fail to say it can't be used it can be legally disseminated. I believe that very strongly.

We all know there are special interests out there that do not agree with us. I happen to think they are wrong. I look forward to having this issue aired fully in the committee. We should protect citizens' most confidential information from those who misuse it. I suppose there is a lot of confidential information other than just medical information about an individual that we ought to be concerned about. But I can't think of anything more personal or that could be more destructive to the individual than medical information.

We should also arm our citizens to make a thoughtful and informed decision on how their health information will be used—even educating them about the possibility that because they use the Internet certain health information about them can be disseminated. I am not so sure that we don't take the use of the Internet and technology so much for granted today that we often don't think about what we are doing and what we are putting into it about ourselves, and who might be making use of that. It is important for us to be informed about the possibilities. Once we have done that, I think the American people can be assured that they can go online without having surrendered their privacy rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

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SECURITY BREACHES AT NATIONAL LABS

Mr. KYL. Mr. President, one of the reasons we have time today is to discuss the breach of security at the National Laboratories. I want to address that subject for a moment this afternoon.

We are all aware of what happened in the last couple of weeks regarding the lost computer disks at the Los Alamos National Lab, and the news that those disks have now been found. But the questions remain about what happened to them during the time they were gone—whether or not they were copied and whether or not in any event our National Laboratories are, in fact, secure.

Let me go back in time to about a year ago when we were debating the Defense authorization bill of last year. One of the portions of that bill was an amendment that I offered, along with Senators DOMENICI and MURKOWSKI, to create a new semiautonomous agency at the Department of Energy, the Department of Energy Reorganization Act. That was in response to the recommendation of one of the President's own commissions, a group called the President's Forward Intelligence Advisory Board, or the so-called PFIAB Act.

Former Senator Rudman chaired the President's Foreign Intelligence Advisory Board and made some recommendations concerning the creation of this semiautonomous agency in response to the effect of the theft of some of our most sensitive nuclear secrets from the Los Alamos Lab a few years ago.

We discovered that the Chinese Government had possession of what were, in effect, the blueprints for some of our Nation's most sophisticated nuclear weapons ever built. We didn't know how those blueprints were obtained by the Chinese Government, but we believe they had to have been obtained from the Los Alamos nuclear lab. We determined that we needed to make some changes in security practices at the laboratory.

It was believed that a scientist there by the name of Wen Ho Lee had taken charge of these documents and had somehow gotten them to someone representing the Chinese Government—a matter that has not yet been proven. We wanted to get to the bottom of it, and to make sure there would never again be a security breach at our National Laboratories.

By way of background, these National Laboratories, two of them—Lawrence Livermore and Los Alamos—are technically run by the University of California at Berkeley. But they do their weapons work under the auspices of the Department of Energy.

The PFIAB reports found that the culture of the laboratories to promote good science and develop all of these new technologies relating to nuclear weapons was such that it would be very difficult to reform from within, for either the Department of Energy or the laboratories themselves to put into place the security measures necessary to protect these secrets.

As a result, the Foreign Intelligence Advisory Board recommended the creation of an autonomous agency, totally separate and apart from the Department of Energy, under which this work is done, or, at a minimum, the creation of a semiautonomous agency within the Department of Energy for this weapons work to be done. Some called it a stovepipe; in other words, an organization within the Department of Energy that was totally enclosed, that would be run by an Under Secretary, and would be very much focused on security at the labs.

The Secretary of Energy, Bill Richardson, didn't like this idea. He wanted to remain in charge. On the debate just about a year ago, my colleagues on both the Democrat and Republican sides of the aisle concluded that the President's own Foreign Intelligence Advisory Board was correct, that we should create a semiautonomous agency and take that out of the Secretary's direct control. The Secretary was so much opposed, he tried to get the President to veto the bill over that, because we passed it in the Senate and the House of Representatives passed it. It became part of the Defense authorization bill for last year. The President signed the bill, and it became the law.

The Secretary continued to fight it, maintaining he should maintain the jurisdiction over this nuclear weapons program, that he could do the job. As a result, the President did not send up the name of this Under Secretary to head this new, semiautonomous agency, and Secretary Richardson did not implement the new law. He did virtually nothing to see that the new law was put into place. He kept maintaining that he was in charge and that so

long as there was not an Under Secretary, he would still personally be in charge.

In fact, he testified last October before the Congress that he would remain in charge until a new person was put in charge. He specifically said: The buck stops with me. He said: The President has asked me to remain in charge until there is a new Under Secretary, and the President will hold me accountable, and I intend to be held accountable.

Senator FITZGERALD asked him a specific question as he said: The buck stops with me. Senator FITZGERALD asked the Secretary: If, God forbid, there should be a security breach at one of the laboratories, you would assume full responsibility, is that correct? And Secretary Richardson said: Yes, I will assume full responsibility.

Now, that was then and this is now. We know there was not an Under Secretary appointed, that Secretary Richardson continued to maintain control over the situation, to take the responsibility for it, to assure the American people that our weapons labs were safe and secure. In fact, he said last year: I can assure the American people that our nuclear laboratories are safe and secure. Because he was in charge.

But what we now know is this past April and May, or presumably during that period, sometime in April, at the Los Alamos Nuclear Laboratory, two hard drive disks containing some very sensitive information relating to both U.S. and other countries' nuclear weapons were taken from the vault, from a portion of Division X of the nuclear program at Los Alamos. They were missing. They were missing for several weeks. They were believed to have been found in the last few days behind a copy machine in Division X. But the FBI has not yet disclosed its findings with respect to how the disks were removed, how they were returned, and what might have happened to them in the interim.

The Secretary said he believes an employee was trying to cover up the fact that he had the disks and that there is no evidence they have been copied. The fact is there is no evidence either way. It is very difficult for the FBI to determine whether or not these hard drive disks were, in fact, copied. We may know more about that in the next several days. Whether they were, whether someone also has that sensitive information or not, there was still a significant security breach and lapse at the laboratories, revealing that they are still not safe and secure; there are still problems. We have to figure out what to do about it.

What would happen if that information had been obtained by someone else? In addition to telling that person or country a lot about our nuclear weapons and how they work, it would have provided an opportunity for them to understand how we intended to dismantle or disable a nuclear weapon because these disks were in the possession of the team we have put in charge of disarming a terrorist nuclear weapon. There is a special kit prepared, and these disks are part of that kit. If we find that there is a nuclear device somewhere in the country, these experts will immediately take that kit to the site and begin to try to dismantle the weapon. The hard drives contain information which is helpful to them in determining how to dismantle the weapon. Obviously, if you have that, you have some ideas about how to prevent the dismantling and how to boobytrap it if you are a terrorist. It is an important piece of information.

What happened from the time Secretary Richardson maintained he was in charge until now?

Finally, last month, the President sent up the name of Gen. John Gordon to become the Under Secretary and head up this agency. But the Senate still hadn't confirmed General Gordon until last month. Why? Because Democrats were still trying to change the underlying law, at Secretary Richardson's request.

A member of the Senate minority had held up the confirmation vote on General Gordon for several weeks, almost a month, trying to get us to make changes in the law that were acceptable to Secretary Richardson. It wasn't until the embarrassment of last week that they finally agreed to have a vote. Of course, when we took the vote, his confirmation was approved 97–0. Presumably, he is on the job as of today. I have a great deal of confidence in General Gordon, if Secretary Richardson will allow him to do his job. That remains the question.

I summarize in the following way: It is clear we still have problems at our national labs. It is clear that General Gordon and his new semiautonomous agency needs to be allowed to get to the bottom of the situation and to put into place protections that will prevent further security breaches at our national labs.

I believe Secretary Richardson should step down from his position for two reasons. First, it was his choice to maintain personal responsibility over this for the last year. We afforded him the opportunity to put somebody else in charge. At one point I said to him: Mr. Secretary, cooperate with us. Let's get an Under Secretary nominated and put into place and let that expert run this semiautonomous agency and give him the responsibility for this. Secretary Richardson, in effect, said: No, I will remain personally responsible because I want to do it my way.

Because he wanted to take personal responsibility, contrary to the law that had been then signed by the President, and because he said he would accept full responsibility, it seems to me we should now take him at his word and allow him to assume full responsibility by taking the blame, rather than passing it on to other people.

The second reason he should step down is that I don't have confidence in him allowing General Gordon to do the job even now. He has ''dual-hatted'' several employees in the Department of Energy, asking that current people be allowed to fill positions we created under this new law, positions we intended to be part of this separate, semiautonomous agency, not employees of the Department of Energy who would wear two hats—their regular Department of Energy hat and fulfill the responsibilities under this new law.

We don't think you can do both. Secretary Richardson didn't want to have separate employees. He wants to use his own employees under his control, and therefore he has been dual-hatting these employees. To this day, I don't know whether he will allow separate employees to be hired, whether he will allow General Gordon to bring his own team, or allow him to do the job as he sees fit, or whether Secretary Richardson will continue to maintain the fixation for personal control of the situation. I have no confidence in that. I call for him to step down and allow General Gordon to do the job. That is what the law provides. That is why the President signed the law. I think the American people want to know that our nuclear weapons laboratories will be secure. This is the only way they will be secure.

Finally, I heard a colleague on television yesterday say, back in his day, President Bush issued a regulation which changed some of the security procedures at the laboratories, as if somehow that had something to do with what has recently occurred. The point is this: If Secretary Richardson was in charge, then he had the full authority to change anything he didn't like, including any directives President Bush may have put into place. But Secretary Richardson's bent is to blame other people rather than accept the responsibility himself. So if he thought there was something wrong with the way President Bush did it, he could have corrected it since. Remember, he was in charge.

My purpose here is not just to point the finger at Secretary Richardson for political purposes but to say that until he steps aside, I don't have any confidence the situation is going to get any better because he has had a year now to correct the situation, and all he has found time to do is to criticize others when he himself had accepted the responsibility.

I am hoping, A, that the FBI will in the next few days get to the bottom of it, tell us exactly what occurred, and hopefully be able to assure us that no secrets have gone to an unauthorized party; B, that the people responsible for the breach in security will be found and will be properly punished; and, C, that General Gordon will be allowed to do his job, as Senator Rudman's commission, the President's advisory commission, and the Congress hoped when we passed the legislation creating his position and this new semiautonomous agency.

The American people deserve to know that our most important nuclear secrets can be kept safe and secure. Especially with the terrorist threat that confronts this country, we need to know we can disarm a terrorist nuclear weapon if we should ever be faced with that particular kind of threat. We need to know our ability to do it has not been compromised.

For that reason, I hope that the Secretary will step down, that General Gordon will be able to do his job, and that from now on our nuclear laboratories can operate in a way that protects the vital information they have been able to develop over these many years.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Wyoming.

Mr. THOMAS. I thank the Chair.

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LEGISLATIVE AND EXECUTIVE RELATIONS

Mr. THOMAS. Mr. President, I thank particularly the Senator from Arizona for his very thorough and accurate description of where we are and where we have been in terms of our nuclear security, in terms specifically of the Los Alamos matter, and more importantly, of course, where we are in terms of overall security, which has to be one of the most important things this Government has to do. The Senator is probably one of the more knowledgeable Members in terms of the military, in terms of intelligence, so I appreciate that very much.

Unfortunately, we have been through this now several times, the matter of having a system upon which we could rely for the security of our nuclear arsenal and secure military information. And even though this is a very trying thing we are involved in now, really the overall system is what is worrisome. If we are having these kinds of difficulties at Los Alamos—there are a number of places in this country where, of course, we are required to have security—and if we have that notion that there is no more security there than there has proven to be, then we have to wonder, of course, about the other facilities in this country which require the same kind of security.

I believe, as the Senator mentioned, the real issue is that we went through this before, not very many months ago. I happen to be on the Energy Committee in which we listened to this a great many times; we listened to the Wen Ho Lee question, and we heard from the Secretary that now we were going to take care of this issue and now you could rest assured we would have security.

The fact is we do not. The fact is that apparently there are some very simple kinds of things that could be done that would have alleviated this problem. It is difficult to understand that in a place such as Los Alamos, where you have secure storage for this kind of information, as someone said, you have less security than Wal-Mart in terms of checking in and out. That is really very scary.

So my point is that we really have to take a long look at the system. As the Senator pointed out, Congress established a while back a semiautonomous unit that was to have responsibility for nuclear security. The Secretary did not approve of that. The President, despite the fact that he signed it, did not approve it either, and therefore it was never inaugurated; it was never put into place. That raises another issue, of course, that is equally troubling to me, and that is that this administration has sort of had the notion that, if we don't agree with what the Congress has done, we simply won't do it, or, if we want to do something the Congress doesn't agree with, we will go ahead and do it.

That is really troublesome to me in that one of the real benefits of freedom, one of the real benefits of the operation of this country over the years, has been the division of power, the constitutional division among the legislative, the executive, and the judiciary. It is so vital, and we need to retain it. We find increasing evidence of the fact that some of it, of course, is in the closing chapters of this administration, but they are determined that if they don't happen to like what the Congress has done or can do something that Congress will not accept, they go ahead and do it. This is not right. This is really very scary.

We have, as you all know, a great many young people who come to visit the Senate, come to visit their Capitol, and I am delighted that they do. People want to see all the buildings, and they want to see the people who are currently filling these offices and in the White House. But the fact is that the Constitution is really the basis for our freedom. That is what other countries do not have, a Constitution and a rule of law to carry it out.

So when we threaten the division of power, then it really is worrisome, and I think we have the great responsibility to make sure that that does not in fact happen. In this instance, I think we have had a pretty patent rejection of the things the Congress has done and put into law and that have not, indeed, been implemented.

There are a number of important matters, of course, that are before us as we enter into what are almost the closing months of this Congress. We have accomplished a number of things that are very useful; we have some tax reform, some welfare reform; we have done some things for the military, to strengthen it. There are a number of items, of course, yet to be done.

One of them, of course, that is imperative is the passage of appropriations, all of which have to be done before the end of September, which is the end of the fiscal year. One of the scary things for the Congress, I believe, again, with this sort of contest sometimes with the executive branch, is if we do not finish these things in time, the President would threaten, of course, as he did before, to shut down the Government and blame the Congress for doing that and use the leverage for the budget to be quite different from what the Congress would like it to be. Therefore, we need to move forward.

I was in Wyoming this weekend, as I am nearly every weekend. There is a good deal of concern about regulatory reform, the idea that, first of all, we have probably excessive regulation in many places. One of the most current examples, I believe, might be in the area of the price of gasoline where, without much consideration of where we were going and its result, we have had more regulations to control diesel fuel and gasoline, which is at least a part of the reason that gas prices are as high as they are, the lack of a policy in energy. We have allowed ourselves to become overly dependent on OPEC and the rest of the world by limiting or restricting, through regulation, our access to energy that could be produced in the United States so at least we were not 60-percent dependent, as we soon will be, on overseas production.

Those are the things with which we ought to be dealing in terms of excessive regulation.

One of the ways to fix that is to have a system whereby once the laws are passed by the legislature and are implemented by the executive branch through regulation, those regulations should come back to the legislative body to ensure the thrust of the legislation is reflected in the regulations.

This happens in most States. Most State legislators have an opportunity to look at the regulations once they have been drafted to ensure it reflects the intent of the legislation.

We passed a law in 1996 to do that. Unfortunately, it has not worked. We have had 12,000 regulations. Very few have come back because they have to go through OMB to be scanned out, first of all. I believe there has been some effort to change five of them, but none of have been changed because the system does not work.

I introduced a bill 3 weeks ago that will give us an opportunity to look at the regulations and accept the responsibility that a legislature has to oversee the implementation of regulations to ensure the laws are carried out properly.

We have a responsibility for energy policy. I mentioned that. This administration does not have an energy policy. We have not dealt with the question of how to encourage and, indeed, should

we encourage the production of domestic petroleum. We have great petroleum reserves in the West and in ANWR. Better ways of exploring and producing resources that are more protective of the environment are being developed. Yet we do not have a policy to do that. We find ourselves at the mercy of OPEC.

We have to deal with the question of coal production. There are ways in which we can use that resource and make it more environmentally friendly. We have to recognize that is a main source of electric production as we find ourselves using more and more electricity and our generating capacity is not growing, partly because of a lack of an energy policy. Interestingly enough, the problem we are having with security also is in the Energy Department. So the Senator's suggestion that perhaps we have some changes there may apply to some other issues as well.

Many of us are very interested in public land management. In the West, in my State, 50 percent of the State belongs to the Federal Government. In most States in the West, it is even higher than that. Nevada is nearly 90 percent federally owned.

The people who live there need a way with which to deal with the question of public land management. I happen to be chairman of the Subcommittee on National Parks. Clearly, the goal is to maintain those resources. They are great natural resources. They are national treasures.

At the same time, as we maintain those facilities and resources they ought to be available to their owners—the taxpayers—to visit. This administration is seeking to limit access in a number of ways, such as a nationwide rule automatically designating 40 million acres roadless. I have no objection to looking at roadless areas. We have roadless areas, and we ought to manage those. It ought to be done on the basis of forest plans for each individual forest instead of one plan.

I see the Forest Service is proud of all the meetings they have been having to have input. I attended some of those meetings. The fact is, people have very little information available to them when they go to the meetings and cannot respond. Sometimes they are not asked to respond but only to listen to a broad description of where it is going. There was great discussion in the House about the Antiquities Act which is an old law. Theodore Roosevelt used it years ago. Most of us have no problem with the concept that the President can, through Executive order, change their lands and change their designation. This is limitless and has been used more over the last few months by this administration than at any time in memory without involvement of the local people.

All these things go together. Now we are faced with a proposition to take $1 billion a year to acquire more Federal land without any recognition of the fact that the States in the West are already heavily federally owned.

These are some issues about which we need to be talking. My friend on the other side of the aisle in the previous hour was talking about Social Security. He was very critical of the idea of allowing Social Security payers to take a portion of their Social Security and invest it in equities in the marketplace so that the return will be four or five times what it is now.

Unfortunately, for young people, such as these pages, when they make their first dollars, 12.5 percent of it will be put into Social Security. If things do not change, there is very little chance they will have any benefits for them.

How do we change that? Raise taxes? I do not think people are interested in that. We can reduce benefits; I do not think many are interested in that.

One alternative is to take those dollars now invested under law in Government securities and return 1 percent on investment and allow 2 percent of the 12 percent to be invested in personal accounts. The account belongs to the payer and will be invested on their behalf as they direct, whether it is in equities, bonds, or a combination of the two. If they should be unfortunate enough to pass away before they ever get the benefits, it will go to their estate.

There is great criticism about that on the other side of the aisle without a good alternative as to how we are going to provide benefits for young Social Security payers as they enter into the program. I should mention, one of the safety factors is that no one over 50 or 55 will be impacted or affected. Their Social Security will not change.

These are a few of the things with which we ought to be dealing.

Tax relief: We seem to be greatly concerned about what we do with excess money that will appear in this year's budget. Certainly, there are some things we ought to do. One of them, of course, is to adequately fund Government programs. I understand people have different ideas about that, but we can do that and there would still be substantial excess dollars available.

The next priority is to make sure Social Security is there and those Social Security dollars are not spent for operations, which is something we have done over years, until the last couple of years. That ought to be set aside so it does not happen. We ought to be dealing with Medicare making sure those dollars are set aside as well and not spent for operations so those benefits will be available.

Frankly—and I realize there are different views and that is what the Senate is about—but there are those generally on that side of the aisle whose idea—and it is legitimate—is that the Federal Government ought to be spending more, doing more; the Federal Government ought to undertake to solve all these problems. I do not happen to agree with that. I happen to think we ought to have a limited Federal Government; that, indeed, we ought to do those things the Federal Government ought to be doing, but it should not be involved in all of our lives. That is what the private sector is for. That is what local governments are for. That is what State governments are for.

Of course, that is the philosophical argument with which we are all faced. One of the elements of that is tax relief. We have passed one tax relief bill this year. We passed the marriage penalty tax which is more of a fairness issue than anything. It deals with the fact that a man and woman, earning a certain amount of money, unmarried pay a certain amount in taxes. These two same people get married, earning the same amount of money and pay more income taxes. It is wrong. We passed a bill in both Houses. Now we need to make sure the President signs it.

The estate tax is another one that takes away over 50 percent of an estate above a certain level.

We ought to make that more fair. Tax relief is certainly one of the things that we ought to be doing, that we ought to be talking about. Unfortunately, what we are faced with now is that we find ourselves in a position where I think many in the body are more interested in creating issues than they are in finding solutions. We find the same issues being brought up time after time after time. For example, my friend again talked about gun control this morning. He talked about additional laws, when the fact is, clearly, what is really important is the enforcement of the laws that we have now.

In the Colorado incident, there were 22 laws broken. Do we need more laws? Probably not. What we need to do is enforce them. The General Accounting Office did an audit of the effectiveness of the national instant criminal background check. As of September of 1999, the ATF headquarters staff had screened 70,000 denials and concluded that only 22,000 had merit. Only 1 percent of those denials were ever pursued as to if the person trying to buy a gun was, in fact, legally allowed to. Clearly, that issue has been talked about here. It basically has been resolved.

We keep talking about the Patients' Bill of Rights. We passed it in both Houses. The question now is whether, when you need an appeal from your HMO, you go to the court or physicians in an appeal position, whether you want to take a year and a half to go to court, or whether you want an automatic and quick response from professionals in the medical profession who say: Yes, do it. That is where we are.

You hear in the media that the Senate defeated the Patients' Bill of Rights. That is not true. The Patients' Bill of Rights has been passed by this Congress in both Houses. We need now to put it together. Indeed, it is in conference.

We find ourselves debating education. We find ourselves having to pull away from the elementary and secondary

education bill in which the Federal Government participates—not heavily. The Federal Government's role in funding elementary and secondary education is about 7 percent of the total expenditure. But the argument is whether the decisions are made in Washington as to how that 7 percent is used before it is sent down to the school districts or whether we send down the 7 percent and let the States and the school districts decide, which is what our position is on this side.

I spoke at a graduation a couple weeks ago in Chugwater, WY. The graduating class was 12. You can see that is a pretty small school. The things they need in Chugwater, WY, are quite different than what you need in Pittsburgh or Philadelphia or Washington, DC. So if you are going to really be able to help all different kinds of schools and have the flexibility to do that, clearly, you have to transport those decisions to State and local government.

These are some of the things in which we find ourselves involved. I am hopeful we can move forward. I do not expect everyone to agree. Certainly, that is not why we are here. But we ought to have a system where, No. 1, after we have dealt with an issue, we can move on to the next issue, and not have it continuously brought up as nongermane amendments, which is happening all the time. We ought to be able to say, we have a system where we can participate. But we have a system that can hold everything up, which is being used now in not allowing us to move forward as we should.

As you can imagine, it gets just a little bit nerve-racking from time to time when you think of all the things that we could be doing, and need to be doing, but find it difficult to do.

Finally, there is something, it seems to me, that would be most helpful if we could do it a little more. We are talking now about the reregulation of electricity, trying to make it competitive so there would be better opportunity for people to choose their supplier, so there would be a better opportunity for people to invest in generation, and do all those things. But we really have not decided where we want to go and where we want to be.

One of the things that seems to be difficult for us to do in governance is, first of all, to decide what we want to accomplish and then talk about how we get there. It sounds like a fairly simple routine, but it is not really happening. It would be good if we could do that, if we could say, for example, in terms of the Patients' Bill of Rights: All right, what do we want the result to be? What is our goal? What do we want to accomplish? and see if we could not define that, and then make the rules, make the regulations, pass the laws that would implement that decision. But instead, if we do not have that clearly defined, it seems that we continue to go around and around.

I am sometimes reminded by children of Alice in Wonderland. She fell through the hole in the Earth and was lost, and she talked to people to try to get some directions. None of them were very useful. She finally came to the Cheshire cat who was sitting up in a tree at a fork in the road.

She said: Mr. Cat, which road should I take?

He said: Where do you want to go?

She said: I don't know.

He said: Then it doesn't make any difference which road you take.

That is kind of where we are in some of the things we do. In any event, we are going to make some progress. I hope that we move forward and get our appropriations finished. I hope we can do something on national security. We need to have a system that works to decide what it is we want to accomplish, how we best accomplish that, and put it into place.

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UNANIMOUS-CONSENT AGREEMENT—AMENDMENT TO S. 2549

Mr. THOMAS. Madam President, I have a unanimous consent request. I ask unanimous consent that notwithstanding the current unanimous consent agreement, Senator HATCH be recognized at 4 p.m. to offer his amendment regarding hate crimes.

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

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

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

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CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

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NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2549, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Smith of New Hampshire amendment No. 3210, to prohibit granting security clearances to felons.

McCain amendment No. 3214, to amendment No. 3210, to require the disclosure of expenditures and contributions by certain political organizations.

Mr. WARNER. Madam President, if my recollection serves me, the senior Senator from Massachusetts was to offer an amendment which would be the subject of debate for some period of time. That would be followed by the senior Senator from Utah, Mr. HATCH, who likewise will offer an amendment that would be the subject of debate. I see my distinguished colleague. I yield to him for any clarification he wishes to make of my statement.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I am here in part today to offer Senator KENNEDY's amendment on his behalf and to speak in support of it. If the good Senator from Virginia is ready and wishes to do that, we could perhaps go through some of the cleared amendments on the authorization bill. I am happy to do it either way, to join with him in offering those amendments now for a few minutes and then to introduce the Kennedy amendment, if he would like.

The PRESIDING OFFICER. The Chair wishes to inform both Senators that the unanimous consent request was modified a brief time ago to provide for the Senator from Utah to offer his amendment at 4 o'clock.

Mr. WARNER. Madam President, I am glad to be informed of that.

The PRESIDING OFFICER. It did not affect the positioning of the amendment of the Senator from Massachusetts, which the Chair believes is to be offered first.

Mr. LEVIN. 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. WARNER. 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. WARNER. At this time, Senator LEVIN and I will act on some cleared amendments.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, so we keep this clear, there is a unanimous consent agreement that is currently in place, as modified, so that immediately following the introduction of the Kennedy amendment and Senators speaking thereon, at 4 o'clock Senator HATCH would then introduce his amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. Madam President, I ask unanimous consent that we maintain that unanimous consent agreement in place without modification, exempt that prior to my offering the Kennedy amendment, it be in order for the Senator from Virginia to proceed with the cleared amendments, as he has indicated. I further ask unanimous consent that immediately following my introduction of the Kennedy amendment

and speaking thereon, the Senator from Minnesota be recognized to speak in support of the Kennedy amendment.

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

The Senator from Virginia.

AMENDMENT NO. 3458

(Purpose: To clarify the duty of the Department of Veterans Affairs to assist claimants for benefits)

Mr. WARNER. Madam President, on behalf of Senator MCCAIN, I offer an amendment that would clarify that the Secretary of Veterans Affairs must assist claimants in developing claims for VA benefits.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. McCain, proposes an amendment numbered 3458.

The amendment is as follows:

On page 239, following line 22, add the following:

SEC. 656. CLARIFICATION OF DEPARTMENT OF VETERANS AFFAIRS DUTY TO ASSIST.

(a) IN GENERAL.—Section 5107 of title 38, United States Code, is amended to read as follows:

''§ 5107 Assistance to claimants; benefit of the doubt; burden of proof

''(a) The Secretary shall assist a claimant in developing all facts pertinent to a claim for benefits under this title. Such assistance shall include requesting information as described in section 5106 of this title. The Secretary shall provide a medical examination when such examination may substantiate entitlement to the benefits sought. The Secretary may decide a claim without providing assistance under this subsection when no reasonable possibility exists that such assistance will aid in the establishment of entitlement.

''(b) The Secretary shall consider all evidence and material of record in a case before the Department with respect to benefits under laws administered by the Secretary and shall give the claimant the benefit of the doubt when there is an approximate balance of positive and negative evidence regarding any issue material to the determination of the matter.

''(c) Except when otherwise provided by this title or by the Secretary in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Secretary shall have the burden of proof.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of that title is amended by striking the item relating to section 5017 and inserting the following new item:

''5107 Assistance to claimants; benefit of the doubt; burden of proof.''.

Mr. LEVIN. Madam President, this amendment has been cleared. We support it.

Mr. WARNER. I urge adoption of the amendment.

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

The amendment (No. 3458) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3459

(Purpose: To authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or otherwise commemorate, certain individuals)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. DODD, proposes an amendment numbered 3459.

The amendment is as follows:

On page 415, between lines 2 and 3, insert the following:

SEC. 1061. AUTHORITY TO PROVIDE HEADSTONES OR MARKERS FOR MARKED GRAVES OR OTHERWISE COMMEMORATE CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 2306 of title 38, United States Code, is amended—

(1) in subsections (a) and (e)(1), by striking ''the unmarked graves of''; and

(2) by adding at the end the following:

''(f) A headstone or marker furnished under subsection (a) shall be furnished, upon request, for the marked grave or unmarked grave of the individual or at another area appropriate for the purpose of commemorating the individual.''.

(b) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendment to subsection (a) of section 2306 of title 38, United States Code, made by subsection (a) of this section, and subsection (f) of such section 2306, as added by subsection (a) of this section, shall apply with respect to burials occurring before, on, or after the date of the enactment of this Act.

(2) The amendments referred to in paragraph (1) shall not apply in the case of the grave for any individual who died before November 1, 1990, for which the Administrator of Veterans' Affairs provided reimbursement in lieu of furnishing a headstone or marker under subsection (d) of section 906 of title 38, United States Code, as such subsection was in effect after September 30, 1978, and before November 1, 1990.

Mr. LEVIN. Madam President, this amendment would authorize the Secretary of Veterans Affairs to furnish headstones or markers for certain individuals. I believe the amendment has been cleared on both sides.

Mr. WARNER. That is correct.

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

The amendment (No. 3459) was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3460

(Purpose: To add $30,000,000 for the Navy for the procurement of Gun Mount modifications; and to offset the increase by reducing by $30,000,000 the amount authorized to be appropriated for the Navy for procurement for aircraft ($13,100,000 from the amount for the block modification upgrade program for P–3 aircraft, $9,000,000 from the amount for the H–1 series to reclaim and convert aircraft from the aerospace maintenance and regeneration center, and $7,900,000 from the amount for procurement of SH–60R aircraft)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. WARNER, proposes an amendment numbered 3460.

The amendment is as follows:

On page 17, line 7, strike ''$1,479,950,000'' and insert ''$1,509,950,000''.

On page 17, line 5, strike ''$8,745,958,000'' and insert ''$8,715,958,000''.

Mr. LEVIN. This amendment authorizes modifications for gun mounts for surface ships.

Mr. WARNER. This amendment has been cleared by both sides.

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

The amendment (No. 3460) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3461

(Purpose: To provide, with an offset, $8,000,000 for research, development, test, and evaluation for the Air Force for Electronic Warfare Development (PE604270F) for the Precision Location and Identification Program (PLAID)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. CLELAND, for himself and Mr. COVERDELL, proposes an amendment numbered 3461.

The amendment is as follows:

On page 48, between lines 20 and 21, insert the following:

SEC. 222. PRECISION LOCATION AND IDENTIFICATION PROGRAM (PLAID).

(a) INCREASE IN AMOUNT.—(1) The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $8,000,000.

(2) Of the amount authorized to be appropriated by section 201(3), as increased by paragraph (1), the amount available for Electronic Warfare Development (PE604270F) is hereby increased by $8,000,000, with the amount of such increase available for the Precision Location and Identification Program (PLAID).

(b) OFFSET.—The amount authorized to be appropriated by section 201(1) for research,

development, test, and evaluation for the Army is hereby decreased by $8,000,000, with the amount of the reduction applied to Electronic Warfare Development (PE604270A).

Mr. LEVIN. Madam President, this amendment would add $8 million for research, development, test, and evaluation for the Air Force for Electronic Warfare Development for the Precision Location and Identification Program. I believe the amendment has been cleared by the other side.

Mr. WARNER. That is correct.

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

The amendment (No. 3461) was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3462

(Purpose: To add $30,000,000 for the Navy for the procurement of CIWS MODS for block 1B modifications; and to offset the increase by reducing by $30,000,000 the amount authorized to be appropriated for the Navy for procurement for the block modification upgrade program for the P–3 aircraft)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3462.

The amendment is as follows:

On page 17, line 7, strike ''$1,479,950,000'' and insert ''$1,509,950,000''.

On page 17, line 5, strike ''$8,745,958,000'' and insert ''$8,715,958,000''.

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

The amendment (No. 3462) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3463

(Purpose: To require a report on submarine rescue support vessels)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Ms. LANDRIEU, proposes an amendment numbered 3463.

The amendment is as follows:

On page 378, between lines 19 and 20, insert the following:

SEC. 1027. REPORT ON SUBMARINE RESCUE SUPPORT VESSELS.

(a) REQUIREMENT.—The Secretary of the Navy shall submit to Congress, together with the submission of the budget of the President for fiscal year 2002 under section 1105 of title 31, United States Code, a report on the plan of the Navy for providing for submarine rescue support vessels through fiscal year 2007.

(b) CONTENT.—The report shall include a discussion of the following:

(1) The requirement for submarine rescue support vessels through fiscal year 2007, including experience in changing from the provision of such vessels from dedicated platforms to the provision of such vessels through vessel of opportunity services and charter vessels.

(2) The resources required, the risks to submariners, and the operational impacts of the following:

(A) Chartering submarine rescue support vessels for terms of up to five years, with options to extend the charters for two additional five-year periods.

(B) Providing submarine rescue support vessels using vessel of opportunity services.

(C) Providing submarine rescue support services through other means considered by the Navy.

Mr. LEVIN. Madam President, this amendment requires the Secretary of the Navy to submit a report on the submarine rescue support vessels. I believe it has been cleared by the other side.

Mr. WARNER. That is correct.

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

The amendment (No. 3463) was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3464

(Purpose: To require a GAO-convened independent study of the OMB Circular A–76 process)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3464.

The amendment is as follows:

On page 303, between lines 6 and 7, insert the following:

SEC. 814. STUDY OF OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76 PROCESS.

(a) GAO-CONVENED PANEL.—The Comptroller General shall convene a panel of experts to study rules, and the administration of the rules, governing the selection of sources for the performance of commercial or industrial functions for the Federal Government from between public and private sector sources, including public-private competitions pursuant to the Office of Management and Budget Circular A–76. The Comptroller General shall be the chairman of the panel.

(b) COMPOSITION OF PANEL.—(1) The Comptroller General shall appoint highly qualified and knowledgeable persons to serve on the panel and shall ensure that the following groups receive fair representation on the panel:

(A) Officers and employees of the United States.

(B) Persons in private industry.

(C) Federal labor organizations.

(2) For the purposes of the requirement for fair representation under paragraph (1), persons serving on the panel under subparagraph (C) of that paragraph shall not be counted as persons serving on the panel under subparagraph (A) or (B) of that paragraph.

(c) PARTICIPATION BY OTHER INTERESTED PARTIES.—The Comptroller General shall ensure that the opportunity to submit information and views on the Office of Management and Budget Circular A–76 process to the panel for the purposes of the study is accorded to all interested parties, including officers and employees of the United States not serving on the panel and entities in private industry and representatives of federal labor organizations not represented on the panel.

(d) INFORMATION FROM AGENCIES.—The panel may secure directly from any department or agency of the United States any information that the panel considers necessary to carry out a meaningful study of administration of the rules described in subsection (a), including the Office of Management and Budget Circular A–76 process. Upon the request of the Chairman of the panel, the head of such department or agency shall furnish the requested information to the panel.

(e) REPORT.—The Comptroller General shall submit a report on the results of the study to Congress.

(f) DEFINITION.—In this section, the term ''federal labor organization'' has the meaning given the term ''labor organization'' in section 7103(a)(4) of title 5, United States Code.

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

The amendment (No. 3464) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3465

(Purpose: To authorize a land conveyance, Los Angeles Air Force Base, California)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mrs. FEINSTEIN, proposes an amendment numbered 3465.

The amendment is as follows:

On page 543, strike line 20 and insert the following:

Part III—Air Force Conveyances

SEC. 2861. LAND CONVEYANCE, LOS ANGELES AIR FORCE BASE, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, by sale or lease upon such terms as the Secretary considers appropriate, all or any portion of the following parcels of real property, including improvements thereon, at Los Angeles Air Force Base, California:

(1) Approximately 42 acres in El Segundo, California, commonly known as Area A.

(2) Approximately 52 acres in El Segundo, California, commonly known as Area B.

(3) Approximately 13 acres in Hawthorne, California, commonly known as the Lawndale Annex.

(4) Approximately 3.7 acres in Sun Valley, California, commonly known as the Armed Forces Radio and Television Service Broadcast Center.

(b) CONSIDERATION.—As consideration for the conveyance of real property under subsection (a), the recipient of the property

shall provide for the design and construction on real property acceptable to the Secretary of one or more facilities to consolidate the mission and support functions at Los Angeles Air Force Base. Any such facility must comply with the seismic and safety design standards for Los Angeles County, California, in effect at the time the Secretary takes possession of the facility.

(c) LEASEBACK AUTHORITY.—If the fair market value of a facility to be provided as consideration for the conveyance of real property under subsection (a) exceeds the fair market value of the conveyed property, the Secretary may enter into a lease for the facility for a period not to exceed 10 years. Rental payments under the lease shall be established at the rate necessary to permit the lessor to recover, by the end of the lease term, the difference between the fair market value of a facility and the fair market value of the conveyed property. At the end of the lease, all right, title, and interest in the facility shall vest in the United States.

(d) APPRAISAL OF PROPERTY.—The Secretary shall obtain an appraisal of the fair market value of all property and facilities to be sold, leased, or acquired under this section. An appraisal shall be made by a qualified appraiser familiar with the type of property to be appraised. The Secretary shall consider the appraisals in determining whether a proposed conveyance accomplishes the purpose of this section and is in the interest of the United States. Appraisal reports shall not be released outside of the Federal Government, other than the other party to a conveyance.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of real property to be conveyed under subsection (a) or acquired under subsection (b) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the recipient of the property.

(f) EXEMPTION.—Section 2696 of title 10, United States Code, does not apply to the conveyance authorized by subsection (a).

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under subsection (a) or a lease under subsection (c) as the Secretary considers appropriate to protect the interests of the United States.

Part IV—Defense Agencies Conveyances

Mr. WARNER. Madam President, I would like to highlight the work of Congressman STEVE KUYKENDALL concerning this important amendment to the National Defense Authorization Act for Fiscal Year 2001. His tireless efforts over the past several months ensured this legislation was not only included in the chairman's mark during the House Armed Services Committee markup of H.R. 4205, but also that it remained unchanged during the debate on the House floor. Although I am confident that we could have resolved this issue in conference, there is always some risk when the House and Senate do not have identical legislation provisions. As a thorough legislator unwilling to take this risk, Mr. KUYKENDALL immediately sought my assistance after the House had acted on the bill to include the proposal in the Senate's defense authorization legislation. By ensuring that the land-for-building swap language is included in both the House and Senate authorization bills, Mr. KUYKENDALL has guaranteed that this innovative solution will appear in the final defense authorization legislation sent to the President for signature. I was glad to work with my colleague from the house to include his language in our bill, and appreciate Senator FEINSTEIN's support on this effort.

Mr. LEVIN. Madam President, this amendment would authorize the Secretary of the Air Force to convey a fair market value of approximately 110 acres at the Los Angeles Air Force Base. I believe this amendment has been cleared.

Mr. WARNER. That is correct.

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

The amendment (No. 3465) was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3466

(Purpose: To provide an additional amount of $92,000,000 for the procurement of remanufactured AV–8B aircraft for the Navy; and to offset the increase by reducing the amount provided for the procurement of UC–35 aircraft for the Navy by $33,400,000, by reducing the amount provided for the procurement of automatic flight control systems for EA–6B aircraft by $17,700,000, and by reducing the amount provided for engineering change proposal 583 for FA–18 aircraft for the Navy by $40,900,000)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SANTORUM, proposes an amendment numbered 3466.

The amendment is as follows

On page 31, between lines 18 and 19, insert the following:

SEC. 126. REMANUFACTURED AV–8B AIRCRAFT.

Of the amount authorized to be appropriated by section 102(a)(1)—

(1) $318,646,000 is available for the procurement of remanufactured AV–8B aircraft;

(2) $15,200,000 is available for the procurement of UC–35 aircraft;

(3) $3,300,000 is available for the procurement of automatic flight control systems for EA–6B aircraft; and

(4) $46,000,000 is available for engineering change proposal 583 for FA–18 aircraft.

Mr. WARNER. This amendment has been cleared on both sides. I urge its adoption.

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

The amendment (No. 3466) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3467

(Purpose: To make available, with an offset, $5,000,000 for research, development, test, and evaluation for the Navy for the Information Technology Center and Human Resource Enterprise Strategy)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Ms. LANDRIEU, proposes an amendment numbered 3467.

The amendment is as follows

On page 48, between lines 20 and 21, insert the following:

SEC. 222. NAVY INFORMATION TECHNOLOGY CENTER AND HUMAN RESOURCE ENTERPRISE STRATEGY.

(a) AVAILABILITY OF INCREASED AMOUNT.—(1) Of the amount authorized to be appropriated by section 201(2), for research, development, test, and evaluation for the Navy, $5,000,000 shall be available for the Navy Program Executive Office for Information Technology for purposes of the Information Technology Center and for the Human Resource Enterprise Strategy implemented under section 8147 of the Department of Defense Appropriations Act, 1999 (Public Law 105–262; 112 Stat. 2341; 10 U.S.C. 113 note).

(2) Amounts made available under paragraph (1) for the purposes specified in that paragraph are in addition to any other amounts made available under this Act for such purposes.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(2), the amount available for Marine Corps Assault Vehicles (PE603611M) is hereby reduced by $5,000,000.

Mr. LEVIN. Madam President, this amendment adds $5 million to the authorization of the Navy's Information Technology Center. I believe this amendment has been cleared.

Mr. WARNER. That is correct.

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

The amendment (No. 3467) was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3468

(Purpose: To increase the authorization of appropriations for the Marine Corps for procurement by $2,000,000 for night vision (M203 tilting brackets), by $2,000,000 for 5/4T truck high mobility multipurpose wheeled vehicles (including $1,500,000 for recruiter vehicles), and by $6,000,000 for the mobile electronic warfare support system; and to offset the total amount of the increase by reducing the authorization of appropriations for the Army for other procurement for the family of medium tactical vehicles by $10,000,000)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3468.

The amendment is as follows:

On page 17, line 13, strike ''$1,181,035,000'' and insert ''$1,191,035,000''.

On page 16, line 22, strike ''$4,068,570,000'' and insert ''$4,058,570,000''.

Mr. WARNER. This amendment would increase Marine Corps procurement accounts $10 million for various items. It has been cleared on both sides.

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

The amendment (No. 3468) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3469 TO AMENDMENT NO. 3383

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. KENNEDY, proposes an amendment numbered 3469.

The amendment is as follows:

On page 2, strike line 24 and all that follows through page 3, line 3, and insert the following:

(d) OFFSET.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide is hereby decreased by $5,000,000, with the amount of such decrease applied to computing systems and communications technology (PE602301E).

Mr. LEVIN. Madam President, this is a technical amendment to amendment No. 3383. I believe this has been cleared.

Mr. WARNER. That is correct.

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

The amendment (No. 3469) to amendment No. 3383 was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3470

(Purpose: To modify the management and per diem requirements for members subject to lengthy or numerous deployments; and to authorize extensions of TRICARE managed care support contacts)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. HUTCHINSON and Mr. CLELAND, proposes an amendment numbered 3470.

The amendment is as follows:

On page 200, after line 23, insert the following:

SEC. 566. MANAGEMENT AND PER DIEM REQUIREMENTS FOR MEMBERS SUBJECT TO LENGTHY OR NUMEROUS DEPLOYMENTS.

(a) MANAGEMENT OF DEPLOYMENTS OF MEMBERS.—Section 586(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 637) is amended in the text of section 991 of title 10, United States Code, set forth in such section 586(a)—

(1) in subsection (a), by striking ''an officer in the grade of general or admiral'' in the second sentence and inserting ''the designated component commander for the member's armed force''; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''or homeport, as the case may'' before the period at the end;

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following new paragraph (2):

''(2) In the case of a member of a reserve component performing active service, the member shall be considered deployed or in a deployment for the purposes of paragraph (1) on any day on which, pursuant to orders that do not establish a permanent change of station, the member is performing the active service at a location that—

''(A) is not the member's permanent training site; and

''(B) is—

''(i) at least 100 miles from the member's permanent residence; or

''(ii) a lesser distance from the member's permanent residence that, under the circumstances applicable to the member's travel, is a distance that requires at least three hours of travel to traverse.''; and

(D) in paragraph (3), as redesignated by subparagraph (B) of this paragraph—

(i) by striking ''or'' at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting ''; or''; and

(iii) by adding at the end the following:

''(C) unavailable solely because of—

''(i) a hospitalization of the member at the member's permanent duty station or homeport or in the immediate vicinity of the member's permanent residence; or

''(ii) a disciplinary action taken against the member.''.

(b) ASSOCIATED PER DIEM ALLOWANCE.—Section 586(b) of that Act (113 Stat. 638) is amended in the text of section 435 of title 37, United States Code, set forth in such section 586(b)—

(1) in subsection (a), by striking ''251 days or more out of the preceding 365 days'' and inserting ''501 or more days out of the preceding 730 days''; and

(2) in subsection (b), by striking ''prescribed under paragraph (3)'' and inserting ''prescribed under paragraph (4)''.

(c) REVIEW OF MANAGEMENT OF DEPLOYMENTS OF INDIVIDUAL MEMBERS.— Not later than March 31, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of section 991 of title 10, United States Code (as added by section 586(a) of the National Defense Authorization Act for Fiscal Year 2000), during the first year that such section 991 is in effect. The report shall include—

(1) a discussion of the experience in tracking and recording the deployments of members of the Armed Forces; and

(2) any recommendations for revision of such section 991 that the Secretary considers appropriate.

SEC. 567. EXTENSION OF TRICARE MANAGED CARE SUPPORT CONTRACTS.

(a) AUTHORITY.—Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 1999, may be extended for four years, subject to subsection (b).

(b) CONDITIONS.—Any extension of a contract under paragraph (1)—

(1) may be made only if the Secretary of Defense determines that it is in the best interest of the Government to do so; and

(2) shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Government.

Mr. WARNER. Madam President, this amendment would modify the management and per diem requirements for the military service members subject to lengthy deployments and to authorize extensions of TRICARE management care support contracts. This has been cleared on both sides.

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

The amendment (No. 3470) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3471

(Purpose: To require reports on the progress of the Federal Government in developing information assurance strategies)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. SCHUMER and Mr. BENNETT, proposes an amendment numbered 3471.

The amendment is as follows:

On page 378, between lines 19 and 20, insert the following:

SEC. 1027. REPORTS ON FEDERAL GOVERNMENT PROGRESS IN DEVELOPING INFORMATION ASSURANCE STRATEGIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The protection of our Nation's critical infrastructure is of paramount importance to the security of the United States.

(2) The vulnerability of our Nation's critical sectors—such as financial services, transportation, communications, and energy and water supply—has increased dramatically in recent years as our economy and society have become ever more dependent on interconnected computer systems.

(3) Threats to our Nation's critical infrastructure will continue to grow as foreign governments, terrorist groups, and cyber-criminals increasingly focus on information warfare as a method of achieving their aims.

(4) Addressing the computer-based risks to our Nation's critical infrastructure requires extensive coordination and cooperation within and between Federal agencies and the private sector.

(5) Presidential Decision Directive No. 63 (PDD–63) identifies 12 areas critical to the functioning of the United States and requires certain Federal agencies, and encourages private sector industries, to develop and comply with strategies intended to enhance the Nation's ability to protect its critical infrastructure.

(6) PDD–63 requires lead Federal agencies to work with their counterparts in the private sector to create early warning information sharing systems and other cyber-security strategies.

(7) PDD–63 further requires that key Federal agencies develop their own internal information assurance plans, and that these

plans be fully operational not later than May 2003.

(b) REPORT REQUIREMENTS.—(1) Not later than July 1, 2001, the President shall submit to Congress a comprehensive report detailing the specific steps taken by the Federal Government as of the date of the report to develop infrastructure assurance strategies as outlined by Presidential Decision Directive No. 63 (PDD–63). The report shall include the following:

(A) A detailed summary of the progress of each Federal agency in developing an internal information assurance plan.

(B) The progress of Federal agencies in establishing partnerships with relevant private sector industries.

(2) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a detailed report on the roles and responsibilities of the Department of Defense in defending against attacks on critical infrastructure and critical information-based systems. The report shall include the following:

(A) A description of the current role of the Department of Defense in implementing Presidential Decision Directive No. 63 (PDD–63).

(B) A description of the manner in which the Department is integrating its various capabilities and assets (including the Army Land Information Warfare Activity (LIWA), the Joint Task Force on Computer Network Defense (JTF-CND), and the National Communications System) into an indications and warning architecture.

(C) A description of Department work with the intelligence community to identify, detect, and counter the threat of information warfare programs by potentially hostile foreign national governments and sub-national groups.

(D) A definitions of the terms ''nationally significant cyber event'' and ''cyber reconstitution''.

(E) A description of the organization of Department to protect its foreign-based infrastructure and networks.

(F) An identification of the elements of a defense against an information warfare attack, including the integration of the Computer Network Attack Capability of the United States Space Command into the overall cyber-defense of the United States.

Mr. LEVIN. This amendment provides for reports on the progress of the Federal Government in developing information assurance strategies. I believe this has also been cleared.

Mr. WARNER. That is correct.

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

The amendment (No. 3471) was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3472

(Purpose: To reform Government information security by strengthening information security practices throughout the Federal Government)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THOMPSON, for himself, Mr. LIEBERMAN, Mr. AKAKA, Mr. CLELAND, Mr. HELMS, Mr. VOINOVICH, Mr. ABRAHAM, and Ms. COLLINS, proposes an amendment numbered 3472.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. THOMPSON. Madam President, I offer this amendment on behalf of myself as chairman of the Governmental Affairs Committee and Senator LIEBERMAN, the committee's ranking minority member. This amendment deals with the important issue of information security at the Department of Defense and other Federal agencies. The amendment is essentially the same as S. 1993, a bill reported by our committee this past April.

Senator LIEBERMAN and I introduced the original S. 1993 last November as the result of the considerable time spent by the Governmental Affairs Committee last Congress examining the state of Federal government information systems. Numerous Governmental Affairs Committee hearings and General Accounting Office reports uncovered and identified systemic failures of government information systems which highlighted our nation's vulnerability to computer attacks—from international and domestic terrorists to crime rings to everyday hackers.

Report after report, agency after agency, we learned that our nation's underlying information infrastructure is riddled with vulnerabilities which represent severe security flaws and risks to our national security, public safety and personal privacy.

In fact, GAO believes the problems in the government's information technology systems to be so severe that it has put government-wide information security on its list of ''high-risk'' government programs—programs which are most vulnerable to waste, fraud, abuse and mismanagement.

For example, GAO told us:

That unknown and unauthorized individuals were gaining access to highly sensitive unclassified information at the Department of Defense;

That weaknesses in IRS computer security controls continue to place IRS systems and taxpayer data ''at serious risk to both internal and external attack'';

That ''pervasive, serious weaknesses jeopardize State Department operations'';

That ''many NASA mission-critical systems face serious risks'';

That flight safety is jeopardized by weak computer security practices at FAA; and

That, based on the most recent review of the government's 24 largest agencies, computer security weaknesses place critical government operations, such as national defense, tax collection, law enforcement and benefit distribution, at risk.

At our hearings, we learned from the Director of Central Intelligence, George Tenet, that information warfare or cyberterrorism has the potential to deal a crippling blow to our national security if strong measures are not taken to counter it. Potential threats range from national intelligence and military organizations, terrorists, criminals, industrial competitors, hackers, and disgruntled or disloyal insiders.

Director Tenet stated that several countries, including Russia and China, have government-sponsored information warfare programs with both offensive and defensive applications. These countries see information warfare as a way of leveling the playing field against a stronger military power, such as the U.S.

We learned from the Director of the National Security Agency, General Minihan, that severe deficiencies exist in our ability to respond to a coordinated attack on our national infrastructure and information systems.

We heard from agents of the Social Security Administration's Office of Inspector General who described how computer crimes were committed by SSA employees. This demonstrated the danger of the ''inside threat'' to agencies that do not adequately monitor and limit access to computer information by their own employees.

And finally, we heard from reformed hacker, Kevin Mitnick, and learned of his ability to crack into systems without ever touching a computer. He told us that, even if we did everything else right, without strong personnel security, nothing is safe. He described how he successfully tricked the employees of a multi-national company into giving him pass codes to the company's security access devices. He said ''The human side of computer security is easily exploited and constantly overlooked.''

And, yet, even with evidence from all of these various experts on how information systems should be managed to prevent against attacks, year after year, we continue to receive reports detailing significant security breaches at Federal agencies.

The one thing that came through loud and clear is that at the core of the government problems is the absence of effective management. GAO told us ''Poor security program planning and management continue to be fundamental problems . . . What needs to emerge is a coordinated and comprehensive management strategy.''

To identify potential management solutions, we asked GAO to study the management practices of organizations known for their superior security programs. When GAO looked at eight organizations—most of which were private companies—GAO found that these organizations implemented information security policies on an ongoing basis through a coordinated management framework.

Agencies clearly must do more than establish programs and set management goals—agencies and the people responsible for managing information

systems in those agencies must be held accountable for their actions.

That is what Senator LIEBERMAN and I intend with this amendment. The primary objective of the amendment is to address the management challenges associated with operating in the current interdependent computing environment. It will provide a coordinated and comprehensive management approach to protecting information.

For example, the bill would:

Vest overall government accountability within the highest levels of the Executive Branch [Deputy Director for Management at the Office of Management and Budget];

Create specific management rules for agency heads, such as requiring agency-wide security programs;

Require agencies to have an annual independent evaluation of their information security programs and practices;

Focus on the importance of training programs and government-wide incident response handling.

Our amendment reflects changes made to S. 1993 based on comments received from our colleagues in the Senate and working with the Department of Defense and others in the intelligence community, the Office of Management and Budget, the agency Inspectors General, and industry.

We urge support of our amendment and believe that, through continued vigorous oversight, we will drive the Federal government to focus on improving its computer security deficiencies. I look forward to working with my colleagues to ensure that government information technology systems are secure and that the information within those systems is protected from further attacks.

Mr. LIEBERMAN. Madam President, I want to thank Chairman WARNER and Ranking Member LEVIN for their foresight in accepting the amended text of S. 1993, the Government Information Security Act, which was unanimously reported out of the Government Affairs Committee.

We are now far enough into the digital age to understand both its promise and its pitfalls. Our booming economy is driven in large part by the dot.com entrepreneurs who are providing goods and services faster and more cost-effectively than ever before in our history. But we are also experiencing threats to our privacy, to the integrity of our digitized information, and even to our ability to use our computers freely.

We know there will be trade-offs for the benefits government will reap in the digital age. But, I offer this sincere warning now: information security cannot be one of them. With this amendment, we would lay the groundwork for securing much of the government's electronic information. Above all else, protecting the integrity, the availability and the confidentiality of information stored on federal computers is central to serving taxpayers in the digital age. And we must be vigilant about it.

Like the rest of the nation, the government is ever more dependent on automated information systems to store information and perform tasks. At hearings before the Government Affairs Committee last Congress, however, witnesses testified that such increased reliance has not been met by an equivalent strengthening of the security of those systems. It is chilling to think of less than perfect security in the context, for example, of tax and wage information the Internet Revenue Service maintains, troop movements monitored by the Defense Department, or public health threats analyzed by the Centers of Disease Control. Without proper security, government's dependence on computers would expose to exploitation all of this information—and much more.

Indeed, some of this information may be in jeopardy right now. A series of General Accounting Office (GAO) studies found government computer security so lax that GAO put the entire apparatus on its list of ''high risk'' government programs. GAO reported in September 1998 that inadequate controls over information systems at the Veterans Administration exposed many of its service delivery and management systems to disruption or misuse. In May 1998, the GAO gained unauthorized access to State Department networks, enabling the GAO, had it tried, to modify, delete or download data and shut down services. In May 1999, GAO reported that one of its test teams gained access to mission critical computer systems at NASA, which would have allowed the team to control spacecraft or alter scientific data returned from space.

Our problem is not simply a technical one. It is also a cultural one. The federal government can purchase and implement the most advanced security programs it can afford but unless top government officials acknowledge that our future depends on information security, those programs will be meaningless. But even high-level attention to and responsibility for security will mean little unless everyone and anyone who uses a computer—which, these days, must include practically every government worker—does their part to ensure the security of the system on which they work. This amendment, therefore, focuses on good management practices to ensure secure government information systems.

Had this amendment been in place earlier this year when the ''Love Bug'' and successive, mutating viruses wreaked havoc on the world's computers, government would have been better prepared to withstand the attack. I hope that government employees would have been more aware of the need to upgrade their systems' security software to ensure that such ''worms,'' as they are called, were barred from the system. And this amendment's training provisions would have helped to ensure that employees were versed in the dangers of opening attachments from unknown senders.

The cornerstone of this amendment is the plan each agency must develop to protect sensitive federal information systems. Agency chief information officers (CIOs) would be responsible for developing and implementing the security programs, which must undergo annual evaluations and be subject to the approval of the Office of Management and Budget (OMB).

Because we need to change our cultural attitudes toward information security, the OMB also would be responsible for establishing government-wide policies promoting security as a central part of each agency's operation. And we intend to hold agency heads accountable for implementing those policies. This amendment requires high-level accountability for the management of agency systems beginning with the Director of OMB and agency heads. Each agency's plan must reflect an understanding that computer security is an integral part of the development process for any new system. Agencies now tend to develop a system and consider security issues only as the system is about to go online.

This amendment establishes an ongoing, periodic reporting, testing and evaluation process to gauge the effectiveness of agencies' policies and procedures. This would be accomplished through reviews of agency budgets, program performance and financial management. And the amendment requires an independent, annual evaluation of all information security practices and programs to be conducted by the agency's Inspector General, GAO or an independent external auditor. I hope that the IGs will use their limited resources wisely and use their discretion in targeting those areas of their agencies' programs which require the most attention. In addition, I hope that agency heads will work with their IGs, especially when it comes to sharing information on potential threats to agencies' systems.

Our amendment requires that agencies report unauthorized intrusions into government systems. GSA currently has a program for reporting and responding to such incidents. The amendment requires agencies to use this reporting and monitoring system.

The amendment requires that the national security and classified systems adhere to the same management structure as every other government system under our bill. This means they must develop a plan addressing security upgrades, although the plan need not be approved by OMB. To address particular concerns raised by the defense and intelligence communities, the amendment allows the heads of agencies with national security and classified systems to designate their own independent evaluators in the interest of protecting sensitive information and system vulnerabilities. And the Secretary of Defense, the Director of Central Intelligence, and other agency heads, as designated by the President, may develop their own procedures for

detecting, reporting and responding to security incidents.

Finally, President Clinton has proposed a very creative idea known as the Federal Cyber Service designed to strengthen the government's cadre of information security professionals. Our amendment authorizes this program and gives agencies the flexibility they need to implement it. The program includes scholarships in exchange for government service, retraining computer information specialists and, as part of our campaign to influence cultural behavior, proposals to promote cyber-security awareness among Federal workers and high school and secondary school students.

Since Senator THOMPSON and I introduced S. 1993 last November, we have worked closely with the Administration, the Department of Defense, the National Security Agency, the Department of Energy, the CIO Council, the Inspector General community, and interested parties outside government. We have made changes to address the concerns that have been raised and I am very pleased that the administration strongly supports the provisions.

Witnesses testifying at the Governmental Affairs Committee hearing on S. 1993 were also very supportive of the bill. Jack Brock, Director of GAO's Governmentwide and Defense Information Systems Group in the Accounting and Information Management Division testified that ''the bill, in fact, incorporates the basic tenets of good security management found in our report on security practices of leading organizations. . . . '' He also said that ''the key to this process is recognizing that information security is not a technical matter of locking down systems, but rather a management problem. . . . Thus, it is highly appropriate that S. 1993 requires a risk management approach that incorporates these elements.''

Roberta Gross, the Inspector General at the National Aeronautics and Space Administration testified that ''. . . S. 1993 is a very positive step in highlighting the importance of centralized oversight and coordination in responding to risks and threats to IT [information technology] security.'' S. 1993 ''. . . importantly recognizes that IT security is one of the most important issues in shaping future Federal planning and investment . . . the Act makes it clear that each agency must be far more vigilant and involved than current practices.''

Another witness, James Adams, Chief Executive Officer of Defense, a security consulting firm, testified that S. 1993 is ''. . . thoughtful and badly needed legislation . . .'' which ''. . . takes a crucial step forward.'' Ken Watson of Cisco Systems noted hat S. 1993 is consistent with what industry has already been encouraging, that is that ''. . . security must be promoted as an integral component of each agency's business operations, and information technology security training is essential. . . .''

Mr. President, it is my hope that, if enacted, this amendment will improve our computer security to the point where the operations of government in the digital age are performed with the privacy and well-being of the American public in mind. Again, I am pleased the leadership of the Armed Services Committee has accepted this amendment because, in the digital age, there is no such thing as moving too quickly.

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

The amendment (No. 3472) was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Madam President, I believe we will proceed in accordance with the order.

Madam President, I rise this afternoon—14 days since the Senate first turned to consideration of the Fiscal Year 2001 Defense Authorization Bill—to, once again, emphasize the importance of the Senate passing this critical legislation. Our troops deployed around the world, many in harm's way, their families here at home, and all those who have answered the call to duty before them are waiting on the Senate to act.

Since June 6 when the Senate first began consideration of the Defense Authorization bill we have had productive debate and dialogue. The Senate has spent four days debating and voting on this legislation, and the Committee has done a great deal of work during the ''down time''—when the Senate was considering various appropriations bills—in clearing many of the amendments that are in order on the authorization bill. We now have a Unanimous Consent agreement for the next day and a half to deal with several pending amendments. In my view, there is perhaps an additional day's worth of debate and votes on the remaining amendments which we believe will be offered to this bill. I urge my colleagues to work with the Committee on any remaining amendments so that we can pass this bill in the Senate and send a strong signal of support to our troops.

Mr. President, I think it is useful to remind my colleagues of the amount of hard work that goes into the annual defense authorization bill. This year alone, the Armed Services Committee has conducted 50 hearings related to the defense budget, and spent four days—15 hours—in marking up the bill which is before the Senate.

This bill, which we reported out of the Senate Armed Services Committee on May 12th with bipartisan support, is a good bill which will have a positive impact on our nation's security, and on the welfare of the men and women of the Armed Forces and their families. It is a fair bill. It provides a $4.5 billion increase in defense spending—consistent with the congressional budget resolution. But, the real beneficiaries of this legislation are our servicemen and women who will not only have better tools and equipment to do their jobs, but an enhanced quality of life for themselves and their families. We must show our support for these brave men and women all of whom make great sacrifices for our country and many of whom are in harm's way on a daily basis by passing this important legislation.

I am privileged to have been associated with the Senate Armed Services Committee and the development of a defense authorization bill every year of my modest career here in the Senate—a career quickly approaching 22 years. The Senate has passed a defense authorization bill each and everyone of those years. In fact, the Senate has passed a defense authorization bill each year since 1961—since the beginning of the current authorization process. This year, the House passed its version of the defense authorization bill by an overwhelming vote of 353–63. It is now the Senate's duty to fulfill its responsibilities on this important legislation.

But our responsibility to consider and pass the annual defense authorization bill goes beyond statutory requirements and historical precedent. We must also be aware of the importance of this measure to our men and women in uniform around the world.

U.S. military forces are involved in overseas deployments at an unprecedented rate. Currently, our troops are involved in over 10 contingency operations around the globe. Over the past decade, our active duty manpower has been reduced by nearly a third, active Army divisions have been reduced by almost 50 percent, and the number of Navy ships has been reduced from 567 to 316. During this same period, our troops have been involved in 50 military operations worldwide. By comparison, from the end of the Vietnam War in 1975 until 1989, U.S. military forces were engaged in only 20 such military deployments.

In an all-volunteer force, where increasing deployments and operations challenge the capabilities of our military to effectively meet those commitments, as well as challenge the efforts of our military to recruit and retain quality military personnel, we must embrace every opportunity to demonstrate our commitment to our military personnel. The National Defense Authorization Bill for Fiscal Year 2001 sends this important message.

Mr. President, I would like to take a moment to make my colleagues well aware of the impact of NOT passing The National Defense Authorization Bill for Fiscal Year 2001.

With respect to personnel policy, the committee included legislation in the defense authorization bill for fiscal year 2001 to continue to support initiatives to address critical recruiting and retention shortfalls. In this regard, the committee increased compensation

benefits and focused on improving military health care for our active duty and retired personnel and their families.

Without this bill, there will be:

No extension of TRICARE benefits to active duty family members in remote locations;

No elimination of health care co-pays for active duty family members in TRICARE Prime;

No Thrift Savings Plan for military personnel;

No stipend for military families to eliminate their need to rely on food stamps McCain amendment);

No five year pilot program to permit the Army to test several innovative approaches to recruiting; and

No transit pass benefit for Defense Department commuters in the Washington area.

Without this bill, almost every bonus and special pay incentive designed to recruit and retain service members will expire December 31, 2000, including:

Special pay for health professionals in critically short wartime specialities;

Special pay for nuclear-qualified officers who extend their service commitment;

Aviation officer retention bonus;

Nuclear accession bonus;

Nuclear career annual incentive bonus;

Selected Reserve enlistment bonus;

Selected Reserve re-enlistment bonus;

Special pay for service members assigned to high priority reserve units;

Selected Reserve affiliation bonus;

Ready Reserve enlistment and re-enlistment bonuses;

Loan repayment program for health professionals who serve in the Selected Reserve;

Nurse officer candidate accession program;

Accession bonus for registered nurses;

Incentive pay for nurse anesthetists;

Re-enlistment bonus for active duty personnel;

Enlistment bonus for critical active duty specialities; and

Army enlistment bonuses and the extension of this bonus to the other services.

And, Mr. President, without this bill, the Congress will not meet it's commitment to our miliary retirees and their families to provide a comprehensive lifetime health care benefit, including full pharmacy services. Without this bill, military health care system benefits will continue to be denied to retirees and their dependents who reach age 65 and become Medicare eligible. Military beneficiaries will lose the earned military health care benefit that this bill finally restores to them.

The committee has carefully studied the recruiting and retention problems in our military. We have worked hard to develop this package to increase compensation and benefits. We believe it will go a long way to recruit new servicemembers and to provide the necessary incentives to retain mid-career personnel who are critical to the force.

Mr. President, on many occasions I have shared my concerns about the threats posed to our military personnel and our citizens, both at home and abroad, by weapons of mass destruction: chemical, biological, radiological and cyber warfare. Whether these weapons are used on the battlefield or by a terrorist within the United States, we, as a nation, must be prepared.

Without this bill, efforts by the committee to continue to ensure that the DOD is adequately funded and structured to deter and defeat the efforts of those intent on using weapons of mass destruction or mass disruption would not be implemented. Efforts that would not go forward without this bill include:

Establishing a single point of contact for overall policy and budgeting oversight of the DOD activities for combating terrorism;

Fully deploying 32 WMD–CST (formerly RAID) teams by the end of fiscal year 2001;

Establishing an Information Security Scholarship Program to encourage the recruitment and retention of Department of Defense personnel with computer and network security skills; and

Creating an Institute for Defense Computer Security and Information Protection to conduct research and critical technology development and to facilitate the exchange of information between the government and the private sector.

Mr. President, I would like to briefly highlight some of the other major initiatives in this bill that would be at risk without the defense authorization bill:

Without this bill, multi-year, cost-saving spending authority for the Bradley Fighting Vehicle and UH–60 ''Blackhawk'' helicopter would cease.

Without this bill, there would not be a block buy for Virginia Class submarines. Without the block buy, there would be fewer opportunities to save taxpayer dollars by buying components—in a cost-effective manner—for the submarines.

All military construction projects require both authorization as well as appropriations. Without this bill, over 360 military construction projects and 25 housing projects involving hundreds of critical family housing units would not be started.

The Military Housing Privatization Initiative would expire in February 2001. Without this bill, the program would not be extended for an additional three years, as planned. The military services would not be able to privatize thousands of housing units and correct a serious housing shortage within the Department of Defense.

Mr. President, it has been said that, ''Example is the best General Order.'' The Senate needs to take charge, move out, and pass the National Defense Authorization Bill for Fiscal Year 2001. This legislation is important to the nation and to demonstrate to the men and women in uniform, their families and those who have gone before them, our current and continuing support and commitment to them on behalf of a grateful nation.

MILITARY INSTALLATIONS

Mr. COVERDELL. First, I would like to thank Senator WARNER and Senator LEVIN for their continued leadership on the Senate Armed Services Committee. Your efforts have helped reverse fourteen consecutive years of real decline in defense spending—a decline that has affected all aspects of our military, from morale to readiness. Our troops and our Nation are grateful for your leadership in stopping this decline.

I would like to take a moment to engage the chairman in a colloquy on one particular area within this bill—military construction.

Mr. WARNER. I thank the Senator for his kind words and would be glad to indulge him in a colloquy on this subject.

Mr. COVERDELL. Of course, we are all appreciative of what the committee has done for our bases across the Nation. As the chairman knows, Georgia has a proud military tradition. Currently it is home to thirteen military installations representing all branches of our military and housing some of our armed service's most vital missions. As is the case at military installations across the country most of the bases in Georgia are in need of new infrastructure.

Through my travels to Georgia's bases, I was struck in particular with the condition of the buildings at Fort Stewart in Hinesville, Georgia, home of the 3rd Infantry Division. As the chairman and ranking member know, the 3rd I.D. is the heavy division of the Army's Contingency Corps. It is ready to go at a moment's notice and is part of our Army's ''tip of the spear'' force.

Despite this crucial mission, it is my understanding that Fort Stewart is the only major FORSCOM installation that still performs corps functions in World War II wooden buildings.

Mr. WARNER. The Senator is correct.

Mr. COVERDELL. It is clear to me that Fort Stewart needs more military construction dollars. However, I also understand that the committee and the Pentagon have certain parameters within they work to determine military construction dollars. I understand that one of the reasons Fort Stewart is not gaining authorization for military construction projects is that the projects I requested were not in the Pentagon's FYDP and that the committee uses the FYDP as its guide for authorizing military construction dollars. Is that correct?

Mr. WARNER. The Senator from Georgia is correct. We see many projects that need funding. However, in distributing scarce resources we must work with the Pentagon's priorities. While base commanders may have different views of what their bases need, if those priorities do not correspond with the Pentagon's priorities then it is different for us to assess the military value of the various projects.

Mr. COVERDELL. I thank the chairman. I have relayed similar views to

Fort Stewart and will work with our other Georgia bases to ensure that they understand this process. I would like to ask the chairman how the committee views the situation at Fort Stewart.

Mr. WARNER. We agree that Fort Stewart needs new construction dollars and worked very hard this year to do what we could to help. We are committed to Fort Stewart's future and look forward to working with you, the base and the Pentagon to help it in the future.

Mr. COVERDELL. I thank the chairman for his remarks and look forward to working with him on this matter in the future.

Mr. CLELAND. I would like to join my distinguished colleague, the senior Senator from Georgia, Senator COVERDELL, in highlighting the critical needs of Fort Stewart in Georgia. I would also like to note my appreciation for the remarks of Chairman WARNER and his recognition of Fort Stewart.

I too would like to highlight the importance of Fort Stewart. Since its birth in 1940, Fort Stewart has seen a flurry of activity. Its original mission began as an anti-aircraft artillery training center and later evolved into a helicopter training facility, and is now home to 3rd Infantry Division. Fort Stewart has shown its importance during the Korean war, Vietnam war, the Persian Gulf war, and even during the Cuban missile crisis. Through the years, Fort Stewart has adapted to the changing landscape of our military missions. Despite this glorious history, Fort Stewart needs our attention. Fort Stewart has important military construction needs to provide the critical infrastructure to fulfill its mission. It is my hope that through increased attention from the Department of the Army, the Pentagon, and the Congress, Fort Stewart's needs can be addressed. I thank my colleagues for engaging in this colloquy regarding such a vital facility.

AMENDMENT NO. 3473

(Purpose: To enhance Federal enforcement of hate crimes and for other purposes)

Mr. LEVIN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself and Senator KENNEDY, proposes an amendment numbered 3473.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LEVIN. Madam President, the Kennedy proposal has two major provisions. First, it strengthens current law as it relates to hate crimes based on race, religion and nation origin. Second, it broadens the definition of hate crimes to include gender, sexual orientation, and disability.

The two major provisions in the Kennedy amendment address specific loopholes in our current federal civil rights statute. Under current law, the federal government is limited in its ability to intervene in case unless it can be proved that the victim was engaged in one of six narrowly defined ''federally protected activities,'' such as enrolling in a public school, participating in a state or local program or activity, applying for or enjoying employment, serving as a juror, traveling in or using interstate commerce, and enjoying certain places of public accommodation.

The other unduly severe limitation under current law is this: federal prosecution is limited to those crimes motivated by race, color, religion and national origin and does not allow for federal intervention in crimes motivated by a person's sexual orientation, gender, or disability.

The Senate has the ability and the responsibility to pass the Kennedy amendment and send a clear message that America is an all-inclusive nation—one that does not tolerate acts of violence based on bigotry and discrimination.

Hate crimes are a special threat in a society founded on ''liberty and justice for all.'' Too many acts of violence and bigotry in the last years have put our nation's commitment to diversity in jeopardy. When Matthew Shepard, a gay student was severely beaten and left for dead or James Byrd, Jr. was dragged to death behind a pick-up truck, it was not only destructive for the victims and their families, but damaging to the victims' communities, and to our American ideals.

When a member of the Aryan Nations walked into a Jewish Community Center day school and fired more than 70 rounds from his Uzi submachine gun, then killed a Filipino-American federal worker because he was considered a ''target of opportunity,'' it not only affected the families of the victims but all those who share the traits of the targeted individuals.

In a united voice, we must not only condemn these acts of violence that terrorize Americans every day, but act against them. America's agenda will remain unfinished so long as incidents like those occur and statistics like the following threaten our people. According to the FBI Uniform Crime Reports, at least one hate crime occurs each hour. These are often acts of violence, not threats, verbal-abuse or hate speech, but criminal offenses.

In 1998, there were 7,755 incidents involving 9,722 victims. Of those incidents, approximately 56 percent were motivated by racial bias; 18 percent by religious bias; 16 percent by sexual-orientation bias; and the remainder by ethnicity/national origin bias, disability and multiple biases, and prejudices and hate.

In my own home state of Michigan, according to the State Police, there were 578 hate crimes in the same year. According to Donald Cohen, director of Michigan's Anti-Defamation League, racist, anti-gay and anti-Semitic activity is on the rise. In October of 1998, Cohen, who monitors hate crimes for his organization said ''I can say I have seen more hate-group material circulated . . . in the last few months than I have seen in the prior two years.''

As a result, civil rights and law enforcement officials, who were concerned about the rise of hate crimes in Michigan moved to counter them by founding the Michigan Alliance Against Hate Crimes. The Alliance is a statewide coalition working to provide support to victims of hate crimes and to identify, combat and eliminate such crimes.

The group was already in place last September, when this crime was committed in Grand Rapids, Michigan: a 30-year-old white man, Charles Raab, beat unconscious an African-American man, Willie Jarrett, ran him over with a car three times and dragged him with the car for 80 feet, before he dislodged the victim and fled the scene. Witnesses said that during the scene, the attacker used racial slurs to describe his victim—who suffered wounds to his back, hands, chest, and shoulders, and had half of his ear torn off.

The Michigan Alliance Against Hate Crimes immediately assembled a ''rapid response team'' and worked with the local prosecutor to charge Raab, the attacker, under the Ethnic Intimidation Act—Michigan's hate crime law. In the end, Raab pleaded guilty to the charges against him and was sentenced to seven to twenty-five years in prison for the attack.

The city of Grand Rapids, along with the Michigan Alliance Against Hate Crimes, made sure that the perpetrator of this heinous hate crime was prosecuted to the extent of the law. Unfortunately, not all hate crimes are prosecuted so successfully. There are several states without such Alliances and hate crimes are not prosecuted with success either because state or local authorities do not have adequate resources or personnel; state and local authorities aren't as incensed as they should be or decline to act for other reasons.

In some cases, state or local authorities simply don't have jurisdiction to prosecute hate crime cases: 42 states have hate crime statutes but only 21 cover sexual orientation and disability and 22 cover gender. Michigan's Ethnic Intimidation Act, for example, is limited to crimes incited by a person's race, color, religion, gender or national origin, and does not include crimes motivated by a person's sexual orientation or disability.

The FBI Statistics show that the number of reported hate crimes based on sexual orientation is third only to those based on racial bias and religious bias.

My home state of Michigan has had its share of hate crimes based on sexual

orientation. Last summer, an 18-year-old boy leaving a gay nightclub in Grand Rapids, Michigan was met by an attacker who was waiting outside the club in a car. The assailant jumped the young man and slashed his face with a razor blade hospitalizing him for over a week. His face is permanently scarred.

A few weeks ago in Detroit, a gay man was buying cigarettes at a gas station late at night and a car full of men pulled up, accosted him and asked if he was gay. When he just walked away the men became infuriated and beat him badly, shattering his skull and putting him in a coma for several days. The assailants have not been arrested.

A gay man driving in Royal Oak, Michigan was allegedly harassed and intimidated by four other motorists in a nearby car. The assailants were screaming anti-gay epithets and succeeded in running him off the road and destroying his car. The assailants then screamed at the man, spit on him, and kicked in his window.

The police officer investigating the case allegedly asked multiple questions about the driver's sexual orientation and sexual activity rather than the details of the accident. The four assailants were never charged and despite the fact that witnesses and crime specialists reconstructed the scene as told by the driver, the driver was convicted of reckless driving. Local media and community leaders were outraged and called it a miscarriage of justice.

This and other such stories are examples of crimes that not only affect the fundamental rights of the victim, but deprive that victim of a sense of security and self worth. These crimes are just as damaging as those motivated by race or religion, but state authorities are limited in their ability to respond because Michigan's hate crimes statute is inadequate.

Congress has the opportunity to take action against these and other hate crimes, which go unprosecuted at the state level, with the passage of the Kennedy hate crimes amendment. This amendment would expand the federal definition of hate crimes to include crime motivated by a person's sexual orientation, gender or disability adding to the current list of attacks motivated by race, color, religion or national origin.

The Kennedy amendment would also broaden the federal government's authority to prosecute any hate crime based on race, color, religion or national origin. Currently, federal prosecution of hate crimes is limited and U.S. attorneys have had difficulties prosecuting cases—that state authorities are unwilling or unable to prosecute—because of the need to prove that the victim of a hate crime was also targeted because of his participation in one of six specified federally protected activities. The statute's severe restrictions has prevented the federal government from prosecuting perpetrators of some of the most egregious hate crimes.

For example, in recent years a jury acquitted three white supremacists who had assaulted African-Americans. After the trial, some of the jurors revealed that they felt racial animus had been established but did not believe there was sufficient evidence to show that the defendants intended to prevent the victims from engaging in a narrowly defined federally protected activity that the statute had provided.

The Kennedy amendment will not make every hate crime a federal crime. Almost all hate crimes will remain the primary responsibility of sate and local law enforcement agencies. For these cases, broadening federal authority will permit joint federal-state investigations and may be useful to state and local authorities who will be able to rely on investigatory and prosecutorial assiatnce from the Department of Justice. The Kennedy amendment makes grants of up to $100,000 available to state and local law enforcement agencies who have incurred extraordinary expenses associated with investigating and prosecuting hate crimes.

For the few hate crimes that the Justice Department does act to make federal crimes, the Department will be required to use its authority sparingly, as is required with the existing authority to prosecute crimes motivated by racial or religious hatred. Prior to federally indicting someone, the Justice Department must certify and there is reasonable cause to believe that the crime was motivitated by bias and the U.S. attorney has consulted with the state or local law enforcement officials and determined one of the following situations is present, under the Kennedy amendment, to show we are not creating under this amendment a situation where the Federal Government is going to be prosecuting every hate crime. There are still restrictions built in here to rely more heavily on State and local law enforcement. If one of the following situations is present, then the U.S. attorney, under certain circumstances at least, would be authorized to proceed:

No. 1, the state does not have jurisdiction or does not intend to exercise jurisdiction;

No. 2, the state has requested that the federal government assume jurisdiction;

No. 3, the state does not object to the federal government assuming jurisdiction;

No. 4, or the state has completed prosecution and the verdict or sentence obtained under state law left demonstratively unvindicated the federal interest in eradicating bias-motivated violence.

In addition, for crimes based on the three new categories—gender, sexual orientation, and disability, and in some instances, for crimes based on religion and national origin—the Kennedy amendment provides that the Federal Government must prove an interstate commerce connection showing that:

No. 1, the defendant or the victim traveled across state lines;

No. 2, the defendant or the victim used a channel, facility, or instrumentality of commerce;

No. 3, the defendant used a firearm, explosive, incendiary device or other weapon that has traveled in commerce, or

No. 4, the conduct interferes with commercial or other economic activity in which the victim is engaged at the time of conduct.

Stated simply, the Kennedy hate crimes amendment will allow for more effective and just prosecutions of hate crimes. The alternative, the Hatch proposal, which will be before the Senate, neither addresses the problems with existing law—that the victim must be engaged in a narrowly specified federally protected activity; nor does it address the limited definition of a hate crime—which excludes sexual orientation, disability, and gender.

More than 175 law enforcement, civil rights, civic and religious groups as well as 22 State Attorneys General support the Kennedy amendment, and the role it gives the federal government to prosecute individuals who have committed violent acts resulting from racist, anti-Semitic or homophobic motives. This legislation is also supported by the Justice Department, and is compliant with the recent Supreme Court decision United States v. Morrison. In a June 13, 2000 letter to Senator KENNEDY, the Justice Department stated clearly that the amendment ''would be constitutional under governing Supreme Court precedents''

Passage of this amendment will send the message that we are a country that treasures equality and tolerance. We will not condone the hate crimes that have plagued our nation and have had such a devastating impact on the families of Matthew Shepard, James Byrd, Jr. and too many others. I hope my colleagues will support the Kennedy amendment. This amendment will bring us closer to the time when all Americans have equal opportunities, and perpetrators of hate crimes receive swift and vigorous prosecution.

I believe there is a unanimous consent order relative to the next speaker, but before the Senator from Minnesota speaks, I see the Senator from Oregon on the floor and I want to express my gratitude to him for the article that was in this morning's paper. It was an extremely beautifully written, heartfelt article. I hope every Member of this body has an opportunity to read it. I know the Senator from Oregon is too modest to do so. Therefore, I ask unanimous consent that article be printed in the RECORD.

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

[From the Washington Post, June 19, 2000]

NATIONALLY: WHY HATE CRIMES ARE DIFFERENT

(By Gordon H. Smith)

On June 7, 1998, James Byrd Jr. was dragged to death along a dusty Texas road. On Oct. 12, 1998, Matthew Shepard was beaten and left to die on a lonely Wyoming fence.

They were murdered not for their property, but for who they were—one black, the other gay.

Their brutal murders shocked the nation and spurred a national debate over what can be done to prevent further hate crimes and to ensure that perpetrators of such crimes are brought to justice.

The Senate soon will consider the Hate Crimes Prevention Act of 2000. This act would authorize federal law enforcement officers to aid and assist state and local police in the pursuit and prosecution of hate crimes—even if state lines have not been crossed.

The act is controversial. Some believe that all crime is hateful, and that by providing federal resources for hate crimes we would be telling the victims of crimes committed for other motives that they are not as important. I believe, however, that hate crimes are different. While perpetrated upon an individual, the violence is directed at a community.

The most controversial element in this legislation is that in addition to categories of race, religion, gender and disability, it contains a category for sexual orientation. Many in the Senate will oppose the legislation because they feel that to legislate protections for gays and lesbians is to legitimize homosexuality.

I once shared that feeling, but no longer. One needn't agree with all the goals of the gay community to help it achieve fair treatment within our society. It is possible, for example, to oppose gay marriage on religious and policy grounds but to protect gays and lesbians against violence on the same grounds. There is a biblical example and a present duty to protect anyone in the public square who would be stoned by the sanctimonious or the politically powerful.

As a member of the Senate Foreign Relations Committee, I have spoken against hate crimes of many kinds and in many lands. For that reason, I cannot be silent at home. I cannot forget the testimony given at a recent hearing by Elie Wiesel:

''To hate is to deny the other person's humanity. It is to see in 'the other' a reason to inspire not pride but disdain, not solidarity, but exclusion. It is to choose simplistic phraseology instead of ideas. It is to allow its carrier to feel stronger than 'the other,' and thus superior to 'the other.' The hater . . . is vain, arrogant. He believes that he alone possesses the key to truth and justice. He alone has God's ear.''

I often have told those who attempt to wield the sword of morality against others that if they want to talk about sin, go with me to church, but if they want to talk about policy, go with me to the Senate. That is the separation of church and state.

At times, the law can and should be a teacher—and this is one of them. Yes, in many ways, passage of the Hate Crimes Prevention Act would be nothing more than a symbol. But it is a symbol that can be filled with substance by changing hearts and minds and by better protecting all our citizens, be they disabled, female, black or gay. They are Americans all.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is to be recognized.

Mr. WELLSTONE. Madam President, I say to my colleague, I will be very brief on this amendment. I will try to take less than 10 minutes because Senator SMITH has taken a major leadership role. I know Senator HATCH will be speaking, and I am sure my colleague from Oregon will want to be here for that debate. The only reason I am taking this time right now is I won't be able to stay beyond the next 10 or 15 minutes. I will be brief. Then the country will have a chance to hear from the Senator from Oregon. I have not read the piece, but I thank the Senator very much for his leadership.

I am not a lawyer, but I want to try to briefly summarize what this bill is about. Senator LEVIN always does a more masterful job of that than I can. Then I will talk about why I think this piece of legislation is so important for Minnesota and people in the country.

When it comes to hate crimes based on race, religion, or national origin, this legislation essentially moves beyond the very restrictive language we have right now where we can't prosecute people who have committed violent crimes against someone unless that person was involved in some kind of federally protected activity. That is way too narrow a definition. We want to be in a position as a nation where the Federal Government can prosecute, for example, those who murdered James Byrd. It is that simple.

We don't want to have such narrowly restrictive laws and language—and this is where the amendment of the Senator from Utah doesn't do us any good at all—we don't want to have such a narrow definition that we can't prosecute people when they murder a James Byrd. I think it is that simple.

Secondly, we further define the hate crime legislation applied to gender, disability, and sexual orientation when there is an interstate commerce nexus. And in this particular case what we want to make sure of is that as a national community, as the Senate, as the House of Representatives, we care deeply when a Matthew Shepard is murdered, and, indeed, the Federal Government can play a role, and those who commit such a murder because of someone's sexual orientation will be prosecuted, that they will pay the price.

I know there have been some arguments made against this legislation. I am sure my colleague from Oregon will take up those arguments and deal with them in more depth, but as to the argument that somehow this takes on freedom of speech, we are not talking about freedom of speech. We are not talking about somebody in the pulpit saying whatever they want to say about people because of their sexual orientation, as much as I would be in disagreement with what I think would be prejudice or, I would argue, ignorance. But we are talking about an action; we are talking about when there is an act of violence perpetrated against someone because of their sexual orientation. I am not talking about speech. I am talking about violent action.

I believe strongly in this amendment and am proud to support it because I think hate crimes are very special. I came to the human rights rally in Washington, DC—it seems as though it was yesterday; maybe it was a couple months ago—I wanted to speak, and I had an opportunity to introduce Judy and Dennis Shepard. That was, for me, a much greater honor than actually giving a long speech or speaking at all. I wanted to introduce them. I have seen them at so many gatherings where they have been willing, as the parents of Matthew Shepard, who was murdered because of his sexual orientation, to go around the country and support other people and speak out and try to do everything they can in memory of their son, to make sure that this never happens again. I guess we cannot make sure it never happens again, but we can do everything possible to make sure that it never happens again.

That is what this hate crimes amendment is all about—basically, what happens when there is an act of violence against someone because of the color of their skin or their religion. I am sensitive to this. My father was a Jewish immigrant born in the Ukraine, lived in Russia, fled persecution, and came to the United States of America because of religious persecution. When you have this kind of violence against someone because of their religion or their national origin or their gender or their disability or their race or their sexual orientation, it is terrorism because what you are saying to a whole lot of other people is it could happen to you, too. That is the purpose of a lot of these crimes. You are saying to other people who are gay and lesbian, you are saying to other people because of their religion, sometimes you are saying to other people because they are white—not that long ago I think it was in Pittsburgh we saw people murdered just because of the color of their skin; they were white—what you are saying with these kinds of hate crimes is: other people, you could be next.

What you are doing is you are creating a whole second class of citizens who have to live their lives in terror. What you are doing is dehumanizing people. That is what these hate crimes are about.

Now, we should have a high threshold—I am not a lawyer, but we should have a high threshold. We want to make sure that truly these are hate crimes. And believe me, that will have to be proven in our court system. But, colleagues, in all due respect, you have an amendment here that does a good job of getting beyond the very narrow definition so that, indeed, we have a definition of a hate crime that applies to the murder of a James Byrd; we have a definition of a hate crime that applies to the murder of a Matthew Shepard, and I don't know how Senators can vote against it. It is long past time that we passed such a law. We must and I hope we will.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of OREGON. Madam President, I wish to say what is in my heart and why I as a Republican stand here in support of a Kennedy amendment on hate crimes.

On June 7, 1998, when James Byrd, Jr., was dragged to death on a dusty Texas road, something happened to me. I was horrified beyond my ability to express it.

On October 12, 1998, when Matthew Shepard was beaten to death on a Wyoming prairie, hung to a fence to die, something happened to me. I, again, had no ability to express the outrage and horror that I felt of such conduct and wondered: What is it in the heart of humankind that could perpetrate such an action upon a fellow human being?

These were people who were murdered not for their property. They were murdered because of who they were. One was a black man and the other was a gay man. I think much of America felt the shock and revulsion that I did. Many of us began to look around and ask: What can I do in my sphere of influence? How can I help to see that this never happens again in my country?

So I was attracted to the whole issue of hate crimes. This is a very controversial thing with many Senators. It is controversial because, frankly, of one clause. It is controversial because it includes a new category: ''. . . or sexual orientation.'' And many of my friends in the Senate believe that disqualifies it from consideration. But it seems to me that our duty as public officials is to help Americans help human beings however we find them; no matter what we may believe their sins are because all of us are sinful.

Many will say that to legislate favorably towards a gay man is to legitimize homosexuality for our society. I used to have that feeling myself, but I do not any longer. I truly believe it is possible to object to a gay marriage and yet come to the defense of a gay person when it comes to violence. And I believe we have a duty to show up to work in the Federal Government when it comes to the issue of hate crimes. Some people believe that, well, all crime is hateful; don't designate some types of crime. But I tell you that I have come to realize that hate crimes are different in this respect. Hate crimes are visited upon one person, but they are really directed at an entire community—in one case, a black man in the African American community, and in the other case, a gay man in the gay and lesbian community. We need to help, and I believe the Kennedy amendment actually helps.

Some see this as controversial because they will stand behind the argument of States rights; that we cannot defend these people at the Federal level because there are State officials and local officials where most police actions and prosecutions occur; that we should leave that to them. I had that feeling until I was visited by a group of conservative Republican law enforcement officers from Wyoming who said, in the case of Matthew Shepard: It would have helped a great deal had the Federal Government shown up with resources and support to help in the prosecution of this horrible tragedy.

The Kennedy amendment allows this to happen, and I support it for that reason, because I believe we need to show up to work.

As a member of the Foreign Relations Committee, I have spoken all over the globe against hate crimes of all kinds. Because of that, I cannot in good conscience remain silent about hate crimes in my own country. It is time to speak out, and it is time to vote on something that will actually make a difference.

In my Subcommittee on European Affairs, I recently held a hearing on the issue of antisemitism. One of the most remarkable witnesses I have ever listened to in the Senate came to testify in that hearing. He is the Nobel Laureate Elie Wiesel. I will never forget what he said to our committee that day. He said:

> To hate is to deny the other person's humanity. It is to see in ''the other'' a reason to inspire not pride, but disdain; not solidarity, but exclusion. It is to choose simplistic phraseology instead of ideas. It is to allow its carrier to feel stronger than ''the other,'' and thus superior to ''the other.'' The hater . . . is vain, arrogant. He believes that he alone possesses the key to truth and justice. He alone has God's ear.

I am afraid there are some like that not just in Nazi Germany about which he was speaking, there are some like that today in Bosnia, in Yugoslavia, Kosovo, in Africa. There are haters still, and there are haters in our own country as well. We are trying to say, once and for all, that when it comes to hate and hate crimes that are directed at these minority communities who live among us as Americans: Your Federal Government cares, too. The Federal Government will show up to work. The Federal Government will try to use the law as well to teach the American people that there is no room for hate, and if you commit a hate crime, we will come after you with the full force of the law at the local, the State, and the Federal level, because while many will say this is just symbolism, I grant you it is in part, but it is symbolism that can be made substance if we change some hearts and minds. In that sense, the law can be a teacher.

That is why I support the Kennedy amendment, because I think we need to change some hearts and minds, as well as some laws, so that the Federal Government can show up to work.

I am going to do something I do not suppose is commonly done here, but I want to speak using a Scripture. I do this because I need to reach out, not to change the minds necessarily of some in my own political base who are the conservative Christians. They are my friends, and many of their views are views I hold. But on this issue, I believe we can care enough to change some hearts and minds. I believe that the God of Christianity, the God whom I worship, said on this Earth that by this shall all men know that ye are my disciples—if you have love one for another. He showed that in a remarkable episode, and I want to share it. I share it with my friends in the Christian community because we need to remember this story when we think somehow that we should not help a community because of what we think their sins may be.

This is the story. It comes from the 8th Chapter of John:

> Jesus went unto the mount of Olives.
>
> And early in the morning he came again into the temple, and all the people came unto him; and he sat down, and taught them.
>
> And the scribes and Pharisees brought unto him a woman taken in adultery; and when they had set her in the midst,
>
> They say unto him, Master, this woman was taken in adultery, in the very act.
>
> Now Moses in the law commanded us, that such should be stoned: but what sayest thou?
>
> This they said, tempting him, that they might have to accuse him. But Jesus stooped down, and with his finger wrote on the ground, as though he heard them not.
>
> So when they continued asking him, he lifted up himself, and said unto them, He that is without sin among you, let him first cast a stone at her.
>
> And again he stooped down, and wrote on the ground.
>
> And they which heard it, being convicted by their own conscience, went out one by one, beginning at the eldest, even unto the last: and Jesus was left alone, and the woman standing in the midst.
>
> When Jesus had lifted up himself, and saw none but the woman, he said unto her, Woman, where are those thine accusers? hath no man condemned thee?
>
> She said, No man, Lord. And Jesus said unto her, Neither do I condemn thee: go, and sin no more.

This happened in a public square. This was a wonderful example of mercy and compassion. It was a wonderful occasion in which, in my view, the greatest of all stood up against violence, violence that was later visited upon Him with hatred.

I point out that if you care about the American family and you perceive homosexuality as a threat to that family institution, remember that adultery, if you want to talk about sins, is a far greater threat to the American family than homosexuality.

What I say to fellow Christians everywhere is, it is time to help. It is time to remember a story and an example. It is time to say to the gay community: I do not agree with you on everything, but I can help you on many things. And particularly when it comes to violence, particularly when it comes to dragging a man to death, particularly when it comes to seeing someone beaten to death on a fence, I would be ashamed if we did not act as the Federal Government to say: We can show up to work, we can help, we can teach, we can change hearts and minds, and we can turn the symbolism into substance by letting Federal authorities bring resources and help make a difference.

I know I may not be in large numbers on my side of the aisle, but I hope they will consider what I have just said. All of the excuses that will be offered today—are we prosecuting people for their thoughts? No, we are prosecuting people for their actions that kill people.

Some will say: There are limitations in the bill so that every hate crime is not a Federal crime. There are limitations that will trigger the Federal response. We will defer to the States.

Some will say: What business is it of ours to put hate crimes on the Defense authorization bill? Some of the most horrible hate crimes I have read about have occurred within the military. It is our business to put it here if that is what it takes to pass it here.

Some will say: Isn't every act of domestic violence or rape a hate crime? I say, it may well be. It may trigger Federal involvement. But just because it includes sexual orientation does not make those victims less American.

Some will say: The Kennedy amendment is not constitutional. I believe it is constitutional. I believe it is OK to say we will help Americans—how we find them—whether they are black, whether they are disabled, or whether they are gay.

So my remarks today, Madam President, are about having a bigger heart and making the Federal law big enough to include communities that are the most vulnerable among us.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Under the previous order, the hour of 4 o'clock having arrived, the Senator from Utah is recognized to offer his amendment.

AMENDMENT NO. 3474

(Purpose: To authorize a comprehensive study and to provide assistance to State and local law enforcement)

Mr. HATCH. Madam President, our Nation's recent history has been marred by some horrific crimes committed because the victim was a member of a particular class or group. The beating death of Matthew Shepard in Laramie, WY, and then the dragging death of James Byrd, Jr. in Jasper TX. These two spring readily to mind. I firmly believe that such hate-motivated violence is to be abhorred and that the Senate must raise its voice and lead on this issue.

During the last 30 years, Congress has been the engine of progress in protecting civil rights and in driving us as a society increasingly closer to the goal of equal rights for all under the law.

Historians will conclude, I have little doubt, that many of America's greatest strides in civil rights progress took place just before this present moment on history's grand timeline: Congress protected Americans from employment discrimination on the basis of race, sex, color, religion and national origin with the passage of the Civil Rights Act of 1964; Congress protected Americans from gender-based discrimination in rates of pay for equal work with the Equal Pay Act of 1963, and from age discrimination with the passage of the Age Discrimination in Employment Act of 1967; Congress extended protections to immigration status with the Immigration Reform and Control Act in 1986, and to the disabled with the passage of the Americans with Disabilities Act in 1990. And the list goes on and on.

Yet despite our best efforts, discrimination continues to persist in so many forms in this country, but most sadly in the rudimentary and malicious form of violence against individuals because of their membership in a particular class or group. Let me state, unequivocally, that this is America's fight. As much as we condemn all crime, crimes manifesting an animus for someone's race, religion or other characteristics can be more sinister than other crimes.

A crime committed not just to harm an individual, but out of the motive of sending a message of malice to an entire community—oftentimes a community that has historically been the subject of discrimination—is appropriately punished more harshly, or in a different manner, than other crimes.

This is in keeping with the longstanding principle of criminal justice—as recognized by the Supreme Court in its unanimous 1993 decision in Wisconsin versus Mitchell upholding Wisconsin's sentencing enhancement for crimes of animus—that the worse a criminal defendant's motive, the worse the crime.

Moreover, crimes of animus are more likely to provoke retaliatory crimes; they inflict deep, lasting and distinct injuries—some of which never heal—on victims and their family members; they incite community unrest; and, ultimately, they are downright un-American.

The melting pot of America is the most successful multiethnic, multiracial, and multifaith country in all recorded history. This is something to ponder as we consider the atrocities so routinely sanctioned in other countries—like Serbia or Rwanda—committed against persons entirely on the basis of their racial, ethnic or religious identity.

I am resolute in my view that the Federal Government can play a valuable role in responding to crimes of malice and hate. One example here is my sponsorship of the Hate Crime Statistics Act of 1990, a law which instituted a data collection system to assess the extent of hate crime activity, and which now has thousands of voluntary law enforcement agency participants.

Another, more recent example, is the passage in 1996 of the Church Arson Protection Act, which, among other things, criminalized the destruction of any church, synagogue, mosque or other place of religious worship because of the race, color, or ethnic characteristics of an individual associated with that property.

To be sure, however, any Federal response—to be a meaningful one—must abide by the constitutional limitations imposed on Congress, and be cognizant of the limitations on Congress's enumerated powers that are routinely enforced by the courts.

This is more true today than it would have been even a mere decade ago, given the significant revival by the U.S. Supreme Court of the federalism doctrine in a string of decisions beginning in 1992. Those decisions must make us particularly vigilant in respecting the courts' restrictions on Congress's powers to legislate under section 5 of the 14th amendment, and under the commerce clause.

We therefore need to arrive at a Federal response to this matter that is not only as effective as possible, but that carefully navigates the rocky shoals of these court decisions. To that end, I have prepared an approach that I believe will be not only an effective one, but one that would avoid altogether the constitutional risks that attach to other possible Federal Responses that have been raised.

Indeed, Deputy Attorney General Eric Holder testified before the Senate Judiciary Committee that States and localities should continue to be responsible for prosecuting the overwhelming majority of hate crimes, and that no legislation is worthwhile if it is invalidated as unconstitutional. This is worth repeating. Deputy Attorney General Eric Holder testified before the Senate Judiciary Committee that States and localities should continue to be responsible for prosecuting the overwhelming majority of hate crimes, and that no legislation is worthwhile if it is invalidated as unconstitutional.

There are two principal components to my approach:

First my amendment creates a meaningful partnership between the Federal Government and the States in combating hate crime by establishing within the Justice Department a grant program to assist State and local authorities in investigating and prosecuting hate crimes.

Much of the cited justification given by those who advocate broad Federal jurisdiction over these hate-motivated crimes is a lack of adequate resources at the State and local level. Accordingly, before we take the step of making a Federal offense of every crime motivated by a hatred of someone's membership in a particular class or group, it is imperative that we equip States and localities with the resources necessary so that they can undertake these criminal investigations and prosecutions on their own.

Second, my approach undertakes a comprehensive analysis of the raw data that has been collected pursuant to the 28 U.S.C. 534, the law requiring the collection of data on these crimes—a bill that I worked very hard to pass. The Federal Government has been collecting this data for years, but we have yet to analyze it. A comparison of the records of different jurisdictions—some with hate crimes, others without—to determine whether there is, in fact, a problem in certain States' prosecution of hate crimes also is provided for in my amendment.

Before we make all hate crimes Federal offenses, I believe we should provide assistance to the States and analyze whether our assumptions about

what the States are doing, or are not doing, are valid.

It is no answer for the Senate to sit by silently while these crimes are being committed. The ugly, bigoted, and violent underside of some in our country that is reflected by the commission of hate crimes must be combated at all levels of government.

For supporters of the Kennedy amendment, Federal leadership necessitates Federal control. I do not subscribe to this view, especially when it comes to this problem. Thus, I oppose Senator KENNEDY's amendment. It proposes that to combat hate crimes Congress should enact a new tier of far-reaching Federal criminal legislation. That approach strays from the foundations of our constitutional structure—namely, the first principles of federalism that for more than two centuries have vested States with primary responsibility for prosecuting crimes committed within their boundaries.

As important as this issue is, there is little evidence that a broad federalization of hate crimes is warranted. Indeed, it may be that national enforcement of hate crimes could decrease if States are told the Federal Government has assumed primary responsibility over hate crime enforcement.

In addition, serious constitutional questions exist regarding the Kennedy hate crimes amendment. First, the Kennedy amendment, if adopted, would not be a valid exercise of congressional authority under section 5 of the 14th amendment. The Supreme Court has made clear in recent years that legislation enacted by Congress pursuant to section 5 of the 14th amendment may only criminalize action taken by a State. Just last month, the Supreme Court in the recent United States v. Morrison case re-emphasized the State-action requirement that limits Congress' authority to enact legislation under the 14th amendment. The Court stated:

> Foremost among these limitations [on Congressional power] is the time-honored principle that the Fourteenth Amendment, by its very terms, prohibits only state action. The principle has become firmly embedded in our constitutional law that the action inhibited by the . . . Fourteenth Amendment is only such action as may fairly be said to be that of the States. That Amendment erects no shield against merely private conduct, however, discriminatory or wrongful.

The Kennedy amendment, however, seeks to prohibit private conduct—crimes of violence committed by private individuals against minorities, religious practitioners, women, homosexuals, or the disabled. It therefore is very similar to the provision of the Violence Against Women Act—a bill I worked very hard to pass, called the Biden-Hatch Act—that sought to prohibit crimes of violence committed by private individuals against women. The Supreme Court in Morrison held that that provision of the Violence Against Women Act was not a valid exercise of congressional power under section 5 of the 14th amendment.

To be sure, Congress can regulate purely private conduct under its commerce clause authority. But the Kennedy amendment likely would not be a valid exercise of congressional authority under the commerce clause either. The Supreme Court's 1995 decision in United States v. Lopez, and especially its recent Morrison decision, set forth the scope of Congress' commerce clause power. The Morrison opinion, in particular, changed the legal landscape regarding congressional power in relation to the States. Thus, legislation that was perfectly fine only 2 months ago now raises serious constitutional questions. The Kennedy amendment is not consistent with Lopez and Morrison.

Both Lopez and Morrison require that the conduct regulated by Congress pursuant to its commerce clause power be ''some sort of economic endeavor.'' The Court has held that a statute that is ''a criminal statute that by its terms has nothing to do with 'commerce' or any sort of economic enterprise, however broadly one might define those terms,'' does not meet constitutional muster. Here, the conduct sought to be regulated—hate crimes—is in no sense economic or commercial, but instead, by its very terms, is non-economic and criminal in nature, just like the conduct Congress sought to regulate in the Gun Free Schools Zones Act and the Violence Against Women Act—statutes that were held to be unconstitutional in Lopez and Morrison.

In light of the Morrison decision, the Kennedy amendment makes an effort to require a direct link to interstate commerce before the Federal government can prosecute a hate crime based on sexual orientation, gender, or disability. It permits Federal hate crimes prosecution in four broad circumstances: No. 1, where the hate crime occurred in relation to interstate travel by the defendant or the victim; No. 2, where the defendant used a ''channel, facility or instrumentality'' of interstate commerce to commit the hate crime; No. 3, where the defendant committed the hate crime by using a firearm or other weapon that has traveled in interstate commerce; and No. 4, where the hate crime interferes with commercial or economic activity of the victim. None of these circumstances provides an appropriate interstate nexus that would make the legislation constitutional.

First, the interstate travel requirement of the Kennedy amendment's first circumstance where Federal prosecution would be appropriate does nothing to change the criminal, non-economic nature of the hate crime.

The requirement of the second circumstance, that the defendant commit the hate crime by using a channel, facility or instrumentality of interstate commerce, may provide a interstate nexus, but it is unclear precisely what hate crimes that would encompass: hijacking a plane or blowing up a rail line in connection with a hate crime?

The third circumstance's requirement that the defendant have used a weapon that traveled in interstate commerce would blow a hole in the commerce clause; Congress could then federalize essentially all State crimes where a firearm or other weapon is used; for example, most homicides.

Finally, the fourth circumstance's requirement that the victim be working and that the hate crime interfere with his or her work is analogous to the reasoning the Court rejected in Morrison; that is, that violence against women harms our national economy. In the case of the Kennedy hate crimes amendment, the argument would be that hate crimes harm our national economy and therefore they have a nexus to interstate commerce. The Court in Morrison and in Lopez rejected those ''costs of crime'' and ''national productivity'' arguments because ''they would permit Congress to regulate not only all violent crime, but all activities that might lead to violent crime, regardless of how tenuously they relate to interstate commerce.'' Finally, the Kennedy amendment's catch-all provision, that the Federal government may prosecute a hate crime only if the crime ''otherwise affects interstate or foreign commerce,'' not only merely restates the constitutional test, it misstates the constitutional test. To be constitutional, the conduct must ''substantially affect'' interstate commerce.

In addition to its constitutional problems, the Kennedy amendment has other deficiencies. The amendment provides that where the hate crime is a murder, the perpetrator ''shall be imprisoned for any term of years or for life.'' It does not authorize the death penalty for even the most heinous hate crimes. Accordingly, the horrific dragging death of James Byrd, Jr. on a back road in Jasper, TX, for example, under the Kennedy amendment, would provide only for a life sentence. In the Byrd case, however, State prosecutors tried the case as a capital case and obtained death sentences for the defendants. The Kennedy amendment, then, which purports to provide Federal leadership in the prosecution of hate crimes, would not even provide for the ultimate sentence permitted under duly enacted Texas law.

When we asked the Justice Department what type of proof they had that the States are not doing the job, they promised to provide us evidence. I haven't seen it yet.

That was quite a while ago. There may be, in the eyes of some, and in my eyes, a great reason to try to make Senator KENNEDY's amendment constitutional, and that is what I tried to do in my amendment in order to do something about this if the States are not doing the job. But to this day, I have not had any information indicating that they are not doing the job. And in the Byrd case, they certainly have. In the Shepard case, they certainly have, just to mention a couple of them.

I feel as deeply about hate crimes as Senator KENNEDY or anybody else in

this Chamber. But I want to abide by the Constitution. I recall Justice Scalia's admonition that there should be a presumption that Congress want to enact constitutional legislation, but because of some of the things we are doing, maybe that presumption is unjustified

Supporters of the Kennedy amendment have claimed that it will create a partnership with State and local law enforcement. They have delicately described the legislation as being deferential to State and local authorities as to when the Justice Department will exercise jurisdiction over a particular hate crime. This is hogwash. The amendment does not defer to State or local authorities at all. It would leave the Justice Department free to insert itself in a local hate crime prosecution at the beginning, middle or end of the prosecution, even after the local prosecutor has obtained a guilty verdict. Even if the Justice Department does not formally insert itself into the particular case, it nevertheless will be empowered by the legislation to exert enormous pressure on local prosecutors regarding the manner in which they handle the case—from charging decisions the plea bargaining decisions to sentencing decisions. The Kennedy hate crimes amendment, pure and simple, would expand federal jurisdiction and federalize what currently are State crimes.

By contrast, my amendment would address the issue of hate crimes in a responsible, constitutional way—by assisting States and local authorities in their efforts to investigate and prosecute hate crimes. It provides for a study of this issue to see if there really are States and local governments out there who, for whatever reason, are not investigating and prosecuting hate crimes. And, it would provide resources to State and local governments that are trying to combat hate crimes but lack the resources to do so.

In summary, we must lead—but lead responsibly—recognizing that we live in a country of governments of shared and divided responsibilities. In confronting a world of prejudice greater than any of us can now imagine, President Abraham Lincoln said to Congress in 1862 that the ''dogmas of the quiet past'' were ''inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise—with the occasion. As our case is new, so we must think anew, and act anew.''

In that very spirit, I encourage this body to question the dogma that federal leadership must include federal control, and I encourage this body to act anew by supporting a proposal that seeks to stem hate-motivated crime, while at the same time respecting the primacy states traditionally have enjoyed under our Constitution in prosecuting crimes committed within their boundaries.

Ultimately, I believe the approach I have set forth is a principled way to accommodate our twin aims—our well-intentioned desire to investigate, prosecute, and, hopefully, end these vicious crimes; and our unequivocal duty to respect the constitutional boundaries governing any legislative action we take.

My proposal should unite all of us on the one point about which we should most fervently agree—that the Senate must speak firmly and meaningfully in denouncing as wrong in all respects those actions we have increasingly come to know as hate crimes. Our continued progress in fighting to protect Americans' civil rights demands no less.

Madam President, what the Hatch amendment does in comparison to the Kennedy amendment—and look, like I say, I feel as deeply about this as Senator KENNEDY does, and I respect him for how he feels, and I also respect Senator SMITH from Oregon and the distinguished Senator from Illinois. We are all trying to do the same thing, and that is make sure that hate crimes are prosecuted in our society today. I am very concerned about it, but I am also concerned about meeting the requisites of the Constitution as well. I believe my amendment would do that. I believe it would do it in a far more responsible way than the way the Kennedy amendment does.

What the Hatch amendment does is provide for a comprehensive study so we can find out once and for all—we have the Hate Crimes Statistics Act giving us the statistics; it is something that I helped to do years ago along with Senator KENNEDY. That study would help us to find out just what is happening in our society and whether or not the State and local governments are inadequate or incapable or unwilling to investigate and prosecute hate crimes.

Two, we would provide for an intergovernmental assistance program. We provide technical, forensic, prosecutorial, or other assistance in the criminal investigation or the prosecution of crimes that, one, constitute a crime of violence; two, are a felony under relevant State law; and three, are motivated by animus against the victim by reason of the victim's membership in a particular class or group.

My amendment would provide for Federal grants. We authorize the Attorney General, in cases where special circumstances exist, to make grants of up to $100,000 to States and local entities to assist in the investigation and prosecution of hate crimes. We require grant recipients to certify that the State or local entity lack the resources necessary to investigate or prosecute such crimes. And, we require that the Attorney General shall approve or disapprove grant applications within 10 days of receiving the application. We provide that the Attorney General shall report to Congress on the effectiveness of the program and conduct an audit to assure that the grants awarded are used properly.

What we do not do is we do not create a new Federal crime. We do not give the Justice Department jurisdiction over crimes that are motivated because of a person's membership in a particular class or group; that is, the Hatch amendment does not Federalize crimes motivated because of a person's race, gender, religion, sexual orientation, or disability.

To enact such a broad federalization of hate-motivated crimes would raise serious constitutional concerns. In addition, the Kennedy amendment would federalize all rapes and sexual assaults and, in so doing, would severely burden Federal law enforcement agencies, Federal prosecutors, and Federal courts. My amendment does not authorize Federal interference with State and local investigations and prosecutions. It is not our job to second-guess the investigation and prosecution and sentencing decisions of State and local authorities in cases involving hate crimes. As such, my amendment recognizes the significant efforts of State and local law enforcement in investigating and prosecuting all violent crimes, including hate crimes.

In other words, my amendment would provide the analysis, study, and data to determine whether or not the States are failing or refusing to combat these horrible crimes. It provides the Government assistance to be able to help the State and local people do their job in these areas. Of course, we provide various other kinds of assistance that could be helpful in this matter.

Madam President, I have taken enough time. Parliamentary inquiry. Is it time to send the amendment to the desk?

The PRESIDING OFFICER. The Senator can send his amendment to the desk.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 3474.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE STUDY AND SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) STUDIES.—

(1) COLLECTION OF DATA.—

(A) DEFINITION OF RELEVANT OFFENSE.—In this paragraph, the term ''relevant offense'' means a crime described in subsection (b)(1) of the first section of Public Law 101–275 (28 U.S.C. 534 note) and a crime that manifests evidence of prejudice based on gender or age.

(B) COLLECTION FROM CROSS-SECTION OF STATES.—Not later than 120 days after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the National Governors' Association, shall select 10 jurisdictions with

laws classifying certain types of offenses as relevant offenses and 10 jurisdictions without such laws from which to collect the data described in subparagraph (C) over a 12-month period.

(C) DATA TO BE COLLECTED.—The data described in this paragraph are—

(i) the number of relevant offenses that are reported and investigated in the jurisdiction;

(ii) the percentage of relevant offenses that are prosecuted and the percentage that result in conviction;

(iii) the duration of the sentences imposed for crimes classified as relevant offenses in the jurisdiction, compared with the length of sentences imposed for similar crimes committed in jurisdictions with no laws relating to relevant offenses; and

(iv) references to and descriptions of the laws under which the offenders were punished.

(D) COSTS.—Participating jurisdictions shall be reimbursed for the reasonable and necessary costs of compiling data collected under this paragraph.

(2) STUDY OF RELEVANT OFFENSE ACTIVITY.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall complete a study and submit to Congress a report that analyzes the data collected under paragraph (1) and under section 534 of title 28, United States Code, to determine the extent of relevant offense activity throughout the United States and the success of State and local officials in combating that activity.

(B) IDENTIFICATION OF TRENDS.—In the study conducted under subparagraph (A), the Comptroller General of the United States shall identify any trends in the commission of relevant offenses specifically by—

(i) geographic region;

(ii) type of crime committed; and

(iii) the number and percentage of relevant offenses that are prosecuted and the number for which convictions are obtained.

(b) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—At the request of a law enforcement official of a State or a political subdivision of a State, the Attorney General, acting through the Director of the Federal Bureau of Investigation and in cases where the Attorney General determines special circumstances exist, may provide technical, forensic, prosecutorial, or any other assistance in the criminal investigation or prosecution of any crime that—

(1) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(2) constitutes a felony under the laws of the State; and

(3) is motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(c) GRANTS.—

(1) IN GENERAL.—The Attorney General may, in cases where the Attorney General determines special circumstances exist, make grants to States and local subdivisions of States to assist those entities in the investigation and prosecution of crimes motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(2) ELIGIBILITY.—A State or political subdivision of a State applying for assistance under this subsection shall—

(A) describe the purposes for which the grant is needed; and

(B) certify that the State or political subdivision lacks the resources necessary to investigate or prosecute a crime motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(3) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 10 days after the application is submitted.

(4) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single case.

(5) REPORT AND AUDIT.—Not later than December 31, 2001, the Attorney General, in consultation with the National Governors' Association, shall—

(A) submit to Congress a report describing the applications made for grants under this subsection, the award of such grants, and the effectiveness of the grant funds awarded; and

(B) conduct an audit of the grants awarded under this subsection to ensure that such grants are used for the purposes provided in this subsection.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 2001 and 2002 to carry out this section.

Mr. HATCH. Madam President, I respect my colleagues. I think we are all here to try to get at the same problem. I respect Senator KENNEDY for his sincere effort to try to do what is right with regard to civil rights matters generally, and with regard to hate crimes in particular.

I feel very much the same way. This is a great country. It is the greatest in the world. We ought to set an example. We ought to do the things that really need to be done. But I think we have to have the facts before we act. I don't think we should federalize crimes. I think this amendment is too broad.

We are approaching this in two different ways. I hope we can somehow or other get together to solve this matter in a way that will make sense—that respects the principles of federalism, that respects the States in their efforts to combat hate crimes. Right now, we are not sure there are any States or local jurisdictions out there that are failing or refusing to investigate and prosecute hate crimes. You can cite the James Byrd and Matthew Shepard cases as two illustrations where State authorities have done a tremendous job in prosecuting horrific, hate-motivated crimes.

I don't think anybody should have to suffer from hate crime activity. I think my amendment does not go as far as Senator KENNEDY's, but I think it will certainly handle the problem in a way that respects federalism, respects the Constitution, and respects the nine decisions of the Supreme Court over the last 8 years that have reinforced the principle of federalism. In the end, I think my amendment will do what all of us here on the floor would like to see done—promote the investigation and prosecution of hate crimes—in a way that is constitutionally sound.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, let me say at the outset to my colleague and friend, the Senator from Utah, Mr. HATCH, that it was my honor to serve on the Judiciary Committee when he was chairman and I was a member of that committee. I hope someday to return. It is an interesting and exciting assignment. Occasionally we even agreed. They were rare moments, but there were those moments. I never, at any moment in time, lost any respect for the Senator from Utah and the values he espouses. I believe he is a person of good faith who will genuinely try to find a common ground. I sincerely hope he will.

I listened to his explanation of his amendment on this issue, and I really think it comes down to a classic debate, which has been on the floor of this Senate many times in its history, when we were discussing whether or not African Americans were to become full citizens of the United States with all of their rights and responsibilities. There were those on the floor who said: It is not a Federal issue; let the States decide; the Federal Government should not get involved in this.

There have been issues involving religious persecution—whether it is people of the Senator's faith, or my faith, or many others. There have been those who said this a State-and-local matter to decide, it should not be a Federal issue.

The same thing was true when it came to elevating women in America from their status in the Constitution—which we revere, but a Constitution which, frankly, did not give the women the right to vote when it was initially drafted. When the debate came on about the rights of women, it was usually couched in terms of federalism: Should the Federal Government get involved in this; or, this is a State issue.

We can remember the hot debates over the equal rights amendment and all that entailed. The same thing has been true throughout history, the way I read it—whether we are talking about blacks, women, or people of a certain faith, or whether we are talking about people who have certain disabilities. We have always come down to this debate: Is this issue any business of the Federal Government?

I respectfully disagree with my colleague and friend, the Senator from Utah. I think when it comes to hate crimes, this is an issue for the Nation to solve. To leave it to individual States to make the decisions is in fact to subject some Americans to less protection than others when it comes to being victims of hate crimes.

Mr. HATCH. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. HATCH. Madam President, I haven't said this isn't an issue for the Federal Government. I think it may be. But the point is, we ought to get the facts, and we ought to find out if State and local authorities are failing or refusing to investigate and prosecute hate crimes. We ought first to find out whether State and local authorities are, in fact, denying individuals the equal protection of the laws. So far, the Justice Department has produced precious little evidence to the Judiciary Committee that would indicate

that State and local authorities are abdicating their responsibility to combat hate-motivated crimes. And we asked for the Justice Department to get us this information, if there is any, a long time ago.

Yet we have had actually nine decisions by the Supreme Court over the last 8 years reinforcing the principle of federalism—the principle that State governments and the federal government have distinct areas of responsibility. It is true that these Court decisions are, in many instances, 5–4 decisions, which shows again how important the Supreme Court really is in all of our lives.

I am a proud cosponsor of the Violence Against Women Act. I remember the passion when we passed it. There were real concerns whether it would be upheld by the Supreme Court. Part of it was not upheld by the Supreme Court, the part that I was concerned about. But up to that point, I thought there was a chance.

But with the Morrison decision, I don't think there is a chance that the Kennedy amendment, as it currently is written, will survive a constitutional challenge. And I think that we ought to at least make an attempt to abide by the Constitution, if nothing else. This is not a matter of States rights. I think there may be a role for the Federal Government. But right now, let's at least get the facts. In the process, we can lend assistance, both financial and otherwise, to the States to help them with these serious problems.

I am very grateful for my distinguished colleague and his respectful remarks. They mean a lot to me because I happen to believe he is one of the most articulate Members of this body. I believe he is very sincere. It is true that we agree on much more than just a few things.

But I just want to make it clear that my amendment offers a different approach—an approach that I think is constitutional, that will get us there without going through another 2 or 3 years and then having it overruled as unconstitutional and having to start all over again. I know that the amendment I have offered is constitutional. I know we can implement it from day one, without any fear that it will be struck down by the Supreme Court as violative of the Constitution. And I know it will make an impact and really do something about hate crimes, rather than just make political points on the floor.

I thank my colleague.

Mr. DURBIN. I thank the Senator from Utah.

Let me say first how proud I am to cosponsor the legislation that has been introduced by the Senator from Massachusetts, Mr. KENNEDY, and the Senator from the State of Oregon, Mr. SMITH. It is bipartisan legislation. Senator CARL LEVIN of Michigan is also one of the lead sponsors of it as well.

The difference, as I understand it, between the proposal of the Senator from Utah and the proposal of Senators KENNEDY and SMITH really comes down to one basic point. As I understand it, the Senator from Utah is looking to, first, provide grants to States and localities so they can prosecute these crimes when they are found deserving; and, second, to study the issue to determine whether or not there is a need for Federal legislation.

As I understand the amendment before us by Senators KENNEDY and SMITH, it basically creates a Federal cause of action, expanding on what we now have in current law in terms of hate crimes, and expanding the categories of activities that would be covered by this hate crime legislation.

I say to the Senator from Utah, if he is on the floor, I believe the Senator from Massachusetts will provide ample evidence of the need for this legislation. I believe the statistics are not only there but they are overwhelming in terms of the reason he is introducing this amendment and why we need this national cause of action.

Second, during the course of my remarks I would like to address squarely the issue raised by the Senator from Utah, an issue that has been raised by the Supreme Court. It is, frankly, whether or not we have the authority to create this cause of action.

The Senator uses recent Supreme Court decisions relating to the commerce clause. When it came to the Violence Against Women Act, it is my understanding the Supreme Court ruled that they could not find the necessary connection between the Violence Against Women Act and the commerce clause to justify Federal activity in this area.

If the Senator from Utah will follow this debate, I think he will find that the Senator from Massachusetts and the Senator from Oregon are taking a different approach. They are using the 13th amendment as a basis for this legislation. They also establish an option of the commerce clause. But they are grounding it on a 13th amendment principle of law and Federal jurisdiction, which our Department of Justice agrees would overcome the arguments that have been raised in the Supreme Court under its current composition of overextension of the commerce clause.

I hope as the Senator from Utah reflects on this debate, the information provided by the Senator from Massachusetts, and the new constitutional approach to this, that he may reconsider offering this amendment. As good as it is to study the problem further and to provide additional funds, it doesn't address the bottom line; that is, to make sure there will at least be the option of a Federal cause of action in every jurisdiction in America.

I would be happy to yield to the Senator from Utah for a question.

Mr. HATCH. I thank my colleague.

If I could comment, I believe the distinguished Senator from Massachusetts can show that there are hate crimes in our society. I think that he will have a difficult time, however, showing that that State and local prosecutors are unwilling to investigate and prosecute hate-motivated crimes. That is why I asked the Justice Department to provide to us data and information on the specific instances where State and local authorities failed or refused to investigate and prosecute hate crimes.

Years ago, under the leadership of Senator KENNEDY and myself, the Senate passed the Hate Crime Statistics Act to collect data on the incidence of hate crimes. We have statistics. I am sure there are hate crimes, but I am not sure there is any evidence to show that these hate crimes are not being prosecuted in the respective States. I'm just not sure. That is one reason I think we should cautiously approach this, rather than approach it in a way that I believe would be unconstitutional.

I thank my colleague.

Mr. DURBIN. If the Senator will look closely at the Kennedy-Smith amendment, he will find before the Federal cause of action can be initiated—as I understand it, but I defer to either of the major sponsors—before there can be a Federal indictment under this proposed hate crime, the Department of Justice must certify two things: First, reasonable cause to believe that the crime was motivated by bias; second, addressing the very issue raised by the Senator from Utah, the U.S. attorney has to certify that he has consulted with State or local law enforcement officials and determined one of the following situations is present, and he lists four situations.

First, the State does not have jurisdiction or does not intend to exercise jurisdiction; second, the State has requested that the Justice Department assume jurisdiction; third, the State doesn't object to the Justice Department assuming jurisdiction; or fourth, the State has completed prosecution and the Justice Department wants to initiate a subsequent prosecution.

When the Senator from Utah suggests that the Kennedy-Smith amendment will necessitate Federal control, I think, frankly, that when you look at the certification required by the Federal Government before the action can be undertaken, we clearly have a situation where the State has either no jurisdiction, or has invited the Justice Department to initiate the prosecution, or they have completed their prosecution.

In this amendment, the first option is clearly being given to the States. If they have the authority and exercise it, clearly they will not be preempted by this Federal cause of action, as I understand it. If that is the case, I think it addresses the major concern raised by the Senator from Utah.

Why do we need this new law? We have a 30-year-old Federal statute which says when it comes to hate crimes, we have to find a specific federally protected activity. Congress, in the past, tried to ''prophesize,'' if you will, the types of activities

that might be involved in a hate crime. We came up with six activities: Enrolling in or attending a public school or private college; No. 2, participating in a service or action provided by State or local government; No. 3, applying for employment or actually working; No. 4, service on a jury in State or Federal court; No. 5, traveling in interstate commerce or using a facility of interstate commerce; and No. 6, enjoying the goods and services of certain places of public accommodation.

We have said over the years if this activity is involved and there is evidence of a hate crime, then the Federal prosecutors can step in.

I believe—and I don't want to put words in their mouths —Senators KENNEDY and SMITH have said we have found too many cases arising which do not fall within the four corners of these six federally protected activities. Therefore, they are offering an amendment which gives Federal prosecutors more opportunity to consider the possibility of prosecution.

I am wearing a button today that says ''Remember Matthew.'' Matthew, of course, is Matthew Shepard. Two years ago, Matthew Shepard, an openly gay college student in Wyoming, was brutally beaten. He was burned, he was tied to a wooden fence in a remote area, and left to die in freezing temperatures from exposure.

Despite this heinous act which we all read about, no Federal prosecution was even possible under the Shepard case. The existing State crime law and federally protected activities that are defined in it did not include what happened to Matthew Shepard. The current Federal statute does not include hate crimes based on a victim's sexual orientation, gender, or disability. The Kennedy-Smith amendment, which I am cosponsoring, corrects that very grievous omission.

I think the Senator from Utah would concede that when we are talking about hate crimes, we should certainly include crimes based on sexual orientation, gender, or disability. The Matthew Shepard case would not have been included, as I understand it. That is why the Kennedy-Smith amendment is so important.

Mr. HATCH. If the Senator will yield, I am having a little bit of difficulty, so I ask how the 13th amendment applies. As I read the 13th amendment, it says, in section 1:

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

In section 2:

> Congress shall have power to enforce this article by appropriate legislation.

How does the Kennedy amendment qualify under the 13th amendment? As I made clear, it doesn't qualify under the 14th amendment because of the arguments I made, pure Supreme Court arguments, that are recent in decision. I missed something on the 13th amendment because that is the amendment that abolished slavery.

Mr. DURBIN. Let me reply.

Mr. HATCH. Please tell me. This is a sincere question.

Mr. DURBIN. I am happy to defer to the sponsors of the amendment to respond and yield time if they desire.

The information I have been given is this: Under the 13th amendment, Congress may prohibit hate crimes based on actual or perceived race, color, religion, or national origin, pursuant to that amendment. Under the 13th amendment, Congress has the authority not only to prevent the ''actual imposition of slavery or involuntary servitude'' but to ensure that none of the ''badges and incidents'' of slavery or involuntary servitude exist in the United States.

What the Justice Department and what the sponsors of this amendment have concluded is that the 13th amendment gives the appropriate Federal jurisdiction and nexus to pursue this matter under the question of whether or not this is a badge or incident of that form of discrimination.

I don't want to go any further. I am sure the Senator from Massachusetts will explain this in more detail, but this 13th amendment nexus, I think, overcomes the concern of the Senator from Utah about the interpretations recently handed down.

Mr. HATCH. I don't mean to keep interrupting, but as I read that, I can see if what the Senator is after is a hate crime of keeping somebody involuntarily in servitude, but I don't know of many of those today. I am sure that may happen. We are talking about all kinds of hate crimes that certainly don't fit within the 13th amendment. If that is the way we are going to get at it, I think that is a very poor way of getting at a resolution for a hate crime problem.

Reading again, section 1:

> Neither slavery—

And I don't know of many instances of slavery in this day and age; in fact, I don't know of any, but there may be some. But we can get them constitutionally, right now, if they do that —

> nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

Section 2:

> Congress shall have power to enforce this article by appropriate legislation.

If there is such a thing, if there is such a hate crime today as slavery, or involuntary servitude not required because of a due conviction, then we have the absolute power today, federally, to go in and prosecute under the Constitution itself under the 13th amendment.

Maybe I am missing something, or maybe I just haven't thought it through or I am too tired. I can't see how the 13th amendment provides a nexus whereby the Kennedy amendment becomes constitutional. It doesn't. In some ways, I wish the Kennedy amendment were constitutional. I worked hard back in those days to pass the Violence Against Women Act. I am working hard right now to pass it again in a form that is constitutional. We thought it was constitutional. I have to say, I had my qualms about it and my qualms proved to be accurate.

Today, we know what the Court has said. It has been the principle debate in this country since the beginning. The Court has said that Congress' power in relation to the States is limited. They are 5–4 decisions that are valid and are constitutional. For us to fly in the face of those just because we want to federalize hate crime activity, is, I think, constitutionally improper. That is what worries me.

These Supreme Court cases outlining the limits of congressional power under the principle of federalism are quite recent decisions. They are not old-time decisions that have been disqualified or overly criticized. They are decisions that basically advise us of the law right now.

I just wanted to make that point because I am concerned: How do you make the Kennedy amendment constitutional? I don't think you can under current law.

Now let's face it. If another Court comes in and reverses the nine major federalism decisions that the Supreme Court has handed down in the last few years, and ignores the principle of stare decisis and ignores the principle of federalism, I suppose that at that point you could enact the Kennedy legislation with impunity. But right now, I don't see how you do it if we, as Members of Congress, are trying to exert our influence and our obligation and our oath to uphold the Constitution of the United States.

I am sorry to interrupt.

Mr. DURBIN. I am happy to yield to the Senator from Utah. Let me say parenthetically I think there is more value to this dialog and exchange than many monologs we hear on the Senate floor.

I thank the Senator for his interest and staying to question me, and I am sure we will question him during the course of this debate.

I know there are other Members seeking recognition at this point. I will try to wrap up.

I do not want to in any way misrepresent the amendment that is been offered by Senators KENNEDY and SMITH. I think the statements I have made to date are accurate. The Local Law Enforcement Enhancement Act that is before us, the Kennedy-Smith amendment, was drafted carefully and modified to assure its constitutionality under current Supreme Court precedents, as has been referred to by the Senator from Utah. It has been reexamined in light of the Morrison decision. Moreover, the Department of Justice and constitutional scholars have examined this bill and have confidently

determined that the Local Law Enforcement Act will stand up to constitutional scrutiny.

Congress may prohibit hate based on race, color, religion, or national origin pursuant to its power to enforce the 13th amendment to the U.S. Constitution because under the 13th amendment Congress has the authority not only to prevent the actual imposition of slavery or involuntary servitude but to ensure that none of the ''badges and incidents'' of slavery or involuntary servitude exists in the United States, which goes to the very point of the Senator from Utah. He reads the 13th amendment and says this goes far beyond prohibiting slavery. But I might say the Supreme Court, in interpreting congressional authority under the 13th amendment, said it could reach beyond the simple question of prohibiting slavery or involuntary servitude. By using the language ''badges and incidents,'' it opened up the opportunity for Congress to consider this authority and for this amendment to be introduced.

None of the Supreme Court's recent Federalism decisions casts doubt on Congress' powers under the 13th amendment to eliminate the badges and incidents of slavery. United States v. Morrison involved legislation that was found to exceed Congress' powers under the 14th amendment. The Court in Morrison, for example, found Congress lacked the power to enact the civil remedy of the Violence Against Women Act pursuant to the 14th amendment because the amendment's equal protection guarantee extends only to ''state action.'' The Senator from Utah, who was one of the proponents of this and deserves high praise for it, makes this point in his opening statement on his amendment.

Since the Violence Against Women Act was interpreted by this Court to go beyond State action—that is, Government action—the Court struck it down. We are trying our best to reinstate it, but that is the standard.

The 13th amendment, however, not the 14th amendment, which they used to strike down the Violence Against Women Act, plainly reaches private conduct as well as Government conduct, and Congress thus is authorized to prohibit private action that constitutes a badge, incident, or relic of slavery.

Moreover, this hate crimes amendment would not only apply except where there is an explicit and discrete connection between the prescribed conduct and interstate or foreign commerce, a connection that the Government would be required to allege and prove in each case. This is consistent with Morrison. Like the prohibition of gun possession in the statute at issue in the Lopez case, the Violence Against Women Act civil remedy required no proof of connection between the specific conduct prohibited and interstate commerce. This amendment requires that a nexus exist between the prohibited conduct and interstate or foreign commerce.

Madam President, there are many who believe that a hate crime prevention statute is unnecessary. I don't put the Senator from Utah in that category. He has made it clear he is opposed to hate crimes, and I trust his word. I believe he is genuine when he says it. The question is, Who will have the power to enforce it? If the Senate neither has the authority nor wants the authority, if the State does not want to prosecute a hate crime, and yet it has been committed and truly there is a victim, the Kennedy-Smith amendment says we will create the opportunity for a Federal cause of action.

We are not forcing the Federal cause of action, but only in the instance where the State either doesn't have authority or has not exercised the authority or in fact defers to the Federal Government or in fact has completed its prosecution and left open the opportunity for such a Federal cause of action.

I wish we did not even have to debate hate crimes legislation. Alan Bruce of my staff has been a person I have turned to many times on issues of this magnitude on this subject. He was the one who gave me this button to wear in the Chamber and can remember Matthew Shepard. It is a grim reminder that there are still people in America who will not accept tolerance as the norm, and if we think it is rare, we only have to go to our new technology of the Internet to find the hate being spewed on so many web sites, efforts by small-minded people in this democratic society to turn our anger against our brothers and sisters who live in America, who happen to be a different color, of a different sexual orientation, a different religion, a different gender. This amendment really tries to address it and say that America as a nation will make it clear that we will not tolerate this sort of hateful, spiteful conduct when it results in violence against one of our brothers and sisters.

How many times have we read these harrowing details: Jasper, TX, with James Byrd, Jr., 2 years ago dragged to his death when he was hooked by a chain to the back of a pickup truck. They literally found this African-American's body in pieces.

The brutal hate-motivated deaths of James Byrd and Mathew Shepard received national attention. Since their deaths, our Nation has thought long and hard about whether this is an America we can tolerate. I think it is not.

Madam President, I bring your attention to two crimes in my own State of Illinois just in the last year.

April 5, 1999: Naoki Kamijima, 48 years old, a Japanese American shopowner was shot to death in Crystal Lake, IL, right outside of Chicago. The gunman was allegedly searching stores for employees of certain ethnic groups before finding and shooting Mr. Kamijima. Reportedly, the gunman said to employees he left behind after questioning them on their ethnic background, ''This is your lucky day.'' Hours later, Mr. Kamijima was shot dead, leaving a wife and two teenage children. His crime? He was an Asian-American. A Korean neighbor of the gunman said he used to chase her car when she drove through the neighborhood.

On the Fourth of July, 1999, a time of celebration across America, a shadow was cast over Illinois. Benjamin Smith, an individual associated with a racist, antisemitic organization, killed an African-American man, Ricky Birdsong, the former basketball coach at Northwestern University. Then he went on, this same Benjamin Smith, to wound six Orthodox Jews in Chicago. I met the father of one of the young boys whose son was terrorized that night. His life will never be the same. His only crime in the eyes of Benjamin Smith? He did not practice the right religion. Then Benjamin Smith went on to kill a Korean student in Bloomington, IN.

Sadly, these incidents are only the tip of the iceberg. There are so many other incidents of hate violence in my State and around the Nation. Since 1991, 70,000 hate crime offenses have been reported in our country. Launching a comprehensive Government analysis of currently available hate crime data would likely be time consuming and not bring us any closer to solving the real problem of hate violence in this Nation.

Mr. President, the Local Law Enforcement Act offers a sensible approach to help deter this kind of discriminatory violence. This legislation has bipartisan support: Senator GORDON SMITH, Senator TED KENNEDY, Senator CARL LEVIN, and so many others. It is supported by law enforcement, civil rights and civic groups, and religious organizations. I am proud to cosponsor this legislation. I urge my colleagues to support its passage.

I yield the floor.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Louisiana.

Mr. BREAUX. Mr. President, I start by commending the distinguished chairman of the Judiciary Committee for his important observations about this legislation; also, to commend the principal sponsors of this legislation, Senator KENNEDY and Senator SMITH, for bringing this matter to the attention of our colleagues and seeking our support for this legislation.

I do not think this is that complicated an issue, quite frankly. I do not think the issues are so complex that they call for an extended psychological discourse on the makeup of the American population. Quite frankly, the issues are fairly simple. America stands for the constitutional principle that all men and women are created equal and that we are all guaranteed the rights of life, liberty, and the pursuit of happiness regardless of who we are or where we are from or what we think, what our political views are, or what is the essence of our makeup as a

human being. That is a right that is guaranteed to all Americans in the Constitution. I think no one really questions that.

That principle does not mean everyone in America has to agree with everybody else. In fact, I think that, far from it, we are a nation that certainly encourages diversity of thinking, differences among competing ideas, and differences among the respected beliefs of all the people who make up our great Nation.

That constitutional principle does not even mean that we have to like each other. Certainly there are instances when Catholics do not like Protestants, and Protestants do not like Jews, and Jews do not like Muslims, and Cajun Americans may have differences with British Americans. For that reason alone they do not particularly care for each other; they do not like each other; they do not want to associate with each other. That also is their constitutional right, I suggest, in this country to take that opinion of people with whom they disagree. But our constitutional principles do, in fact, guarantee clearly that we as Americans cannot do violence or do harm to other people in our country, especially when that violence or harm is based solely on whom these other people might be.

To do violence solely because of someone's religious beliefs, their personal ideas, or concepts about what is right and what is wrong, or because of their religion or where they are from is especially repugnant to all of us as Americans. You do not have to like everybody, but you certainly cannot harm anybody, and especially you cannot harm anybody solely for whom they happen to be or who they are.

This legislation then is aimed at adding crimes that are motivated by a bias against people solely because of their gender or solely because of their sexual preference or perhaps because of some disability they might have. I, therefore, think this legislation which the authors bring to the Senate is appropriate and should be supported. It will send a clear message throughout this country that these types of activities in this country will not be tolerated.

Again, in America, our right to not embrace or befriend someone with whom we do not want to be associated, for whatever reason, is guaranteed. But what is also guaranteed is their right under the Constitution of the United States to be protected against violence and harm that others might do unto them solely because of who they are.

As Americans, we certainly should be proud of our multicultural and multiethnic heritage. We are a diverse nation and when we look at other nations that are having problems because of their heritage or their diversity, we can be proud in this country that we, in fact, are a different nation than many others. Therefore, this legislation sends a strong and clear message that domestic terrorism and violence against people in our country based merely on who they are or what they believe is something that deserves national protection, and Federal legislation is, in fact, important.

A hate crime against any American is a crime against all Americans, and this legislation saying that is a Federal right upon which we will insist is appropriate and proper and deserves our support.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise this afternoon to speak for this legislation and commend Senator KENNEDY for his sponsorship, along with my colleagues, of this legislation. Senator KENNEDY has long been an advocate for a society in which individuals reach out not with hate but with fellowship. I am pleased to see other supporters, like Senator SMITH, who are also in the vanguard of this great effort.

This afternoon we are here because of the murders of James Byrd and Matthew Shepard and others—because these acts of violence tear at the very fabric of our society.

Unfortunately, over the past 2 years, we have seen far too many cases of these types of crimes of violence, motivated strictly by prejudice and hatred of people, not because of their character but because of some perception of their failings in the eyes of others.

In my own State of Rhode Island, in May 1998 a group of seven to ten men stomped and battered a Cranston bartender and an acquaintance as they were coming out of a Providence night club, while laughing and screaming anti-gay epithets. The waiter suffered fractured bones in his jaw, head and collarbone, cracked ribs, and a puncture wound to his chest caused by a broken bottle. The acquaintance suffered a fractured eye socket and bruises.

According to Providence, Rhode Island city officials, the number of hate crimes reported in Providence has grown in recent years. In 1998, 25 such crimes were reported, and, last year, 32 were reported.

In February 1999, in an incident which took place in Pawtucket, Rhode Island, two men were walking home with a female friend from a church function and were assaulted by a third man. While yelling obscenities and anti-homosexual slurs, the third man hit one of the men over the head with a full wine bottle, and then jumped on top of him and punched him repeatedly in the face and head. He then threw him up against a brick wall and continued to hit him while yelling anti-gay epithets.

In California, three men pled guilty to racial terrorism for burning a swastika outside a Latino couple's residence.

In Florida, a Puerto Rican man was allegedly beaten by three white men who yelled racial slurs.

In Ohio, a 23-year-old Hispanic male was gunned down by three assailants. Police reported it as a racially motivated incident. The list goes on and on.

This amendment would simply extend the current definition of Federal hate crimes to include crimes committed on the basis of someone's gender, sexual orientation, or disability. It would allow the Federal Government to prosecute an alleged perpetrator who commits a violent crime against someone just because that person is gay, blind, or female.

This amendment basically brings our civil rights statutes in line with the most recent definition of hate crimes promulgated by this Congress.

This amendment also eliminates the restrictions that have prevented Federal involvement in many cases in which individuals were killed or injured because of bias or prejudice.

It also supports State and local efforts to prosecute hate crimes by providing Federal aid to local law enforcement officials. In particular, it authorizes the Justice Department to issue grants of up to $100,000 to State, local, and Indian law enforcement agencies that have incurred extraordinary expenses associated with investigating and prosecuting hate crimes.

This amendment does not federalize all violent hate crimes. It provides for Federal involvement only in the most serious incidents of bodily injury or death, and only after consultation with State and local officials, a policy that is explicitly reflected in a memorandum of understanding entered into by the Department of Justice with the National Association of District Attorneys last July.

Finally, the Department of Justice has reviewed this amendment and believes it does meet the constitutional standards recently articulated in Supreme Court cases. For crimes based on gender, sexual orientation, disability, religion, and national origin, the amendment has been carefully drafted to apply only to violent conduct in cases that have an ''explicit connection with or effect on interstate commerce.''

This amendment has attracted broad bipartisan support from 42 Senators, 191 Members of the House of Representatives, 22 State attorneys general, and more than 175 law enforcement, civil rights, and religious organizations. This demonstrates the huge support (for strengthening Federal hate crimes legislation, support) which cuts across party lines and which reaffirms a fundamental belief and tenet of our country: That people should be able to be individuals, to be themselves without fear of being attacked for their individuality, for their personhood, for their very essence.

These hate crimes are very real offenses. They combine uncontrolled bigotry with vicious acts. These crimes not only inflict personal wounds, they wreak havoc on the emotional well-being of people throughout this country, because they attack a person's identity as well as his or her body. Although bodies heal, the scars left by

these attacks on the minds of the victims are deep and often endure for many years.

There is no better way for us to reaffirm our commitment to the most basic of American values: the dignity of the individual and the right of that individual to be himself or herself. We can do that by voting in favor of this amendment. I believe it is our duty. I am pleased to join this great debate and lend my support to this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise today to support the Hate Crimes Prevention Act. I applaud Senators KENNEDY and SMITH of Oregon, and others for providing us an amendment on the Department of Defense authorization bill which will be of great assistance in the prosecution of hate crimes.

This legislation will provide the Federal Government a needed tool to combat the destructive impact of hate crimes on our society. The amendment also recognizes that hate crimes are not just limited to crimes committed because of race, color, religion, or national origin, but are also directed at individuals because of their gender, sexual orientation, or disability.

Any crime hurts our society, but crimes motivated by hate are especially harmful. Hate crimes not only target individuals but are also directed to send a message to the community as a whole. The adoption of this amendment would help our State and local authorities in pursuing and prosecuting the perpetrators of hate crimes.

Many States, including the State of Vermont, have already passed strong hate crimes laws. I applaud them for their endeavor. An important principle of this amendment is that it allows for Federal prosecution of hate crimes without impeding the rights of States to prosecute these crimes.

Under this amendment, Federal prosecutions would still be subject to the current provision of law that requires the Attorney General or another senior official of the Justice Department to certify that a Federal prosecution is necessary to secure substantial justice. Such a requirement under current law has ensured that the States are the primary adjudicators of the perpetrators of hate crimes, not the Federal Government. Additionally, Federal authorities will consult with the State and local law enforcement officials before initiating an investigation or prosecution. Both of these are important provisions to ensure that we are not infringing on the rights of States to prosecute these crimes.

Senate adoption of this amendment will be an important step forward in ensuring that the perpetrators of these harmful crimes are brought to justice. I urge my colleagues to take a strong stand against hate crimes by supporting this important legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Has the Senator from Vermont completed his statement?

Mr. JEFFORDS. Yes. I have yielded the floor.

Mr. REID. Mr. President, in Las Vegas a gay man was shot to death because he was gay. In Reno, someone went to a city park with the specific purpose to find someone who was gay, found him, and killed him. These types of incidents have happened not once, not twice, but numerous times in Nevada, and thousands of times around this country.

I only mention two of the occasions where someone's son, someone's brother was killed. They were human beings. These people were killed not because of wanting to steal from them, not because of wanting to do anything other than to kill them because of who they were. They were killed because someone hated them.

Mr. President, I rise today in support of the Local Law Enforcement Act of 2000. I am an original cosponsor of the freestanding legislation authored by the senior Senator from Massachusetts, Mr. KENNEDY. I commend Senator KENNEDY for his tireless efforts to ensure that the Senate consider and pass this important and much-needed measure. This is important legislation, and I am very happy that we are now at a point where this legislation can be debated in the Senate.

Hate crimes legislation is needed because, according to the FBI, nearly 60,000 hate crimes incidents have been reported in the last 8 years. In 1998, the latest year for which FBI figures are available, nearly 8,000 hate crimes incidents were reported. But these figures are more frightening when we ponder how many hate crimes are not reported to law enforcement authorities.

Unfortunately, the Federal statutes currently used to prosecute hate-based violence need to be updated. That is what Senator KENNEDY is doing. These Federal laws, many of which were passed during the Reconstruction era as a response to widespread violence against former slaves, do not cover incidents of hate-based crimes based upon a person's sexual orientation, gender, or disability. In 1998, again, the last year for which statistics are available, there were 1,260 hate crimes incidents based on sexual orientation reported to law enforcement. Many more took place. These are only the ones that were reported. This figure, which represents about 16 percent of all hate crimes reported in 1998, demonstrates that current law must be changed to include sexual orientation under the definition of hate crimes.

I have listened to the debate on the floor today. I think we all have some remembrance of the terrible series of events which occurred in Jasper, TX, a couple years ago. On June 7, the country paused to remember the second anniversary of James Byrd, Jr.'s horrific death, when he was dragged along a rural back road in Texas. This man was just walking along the road when certain people, because of the color of his skin, grabbed him, beat him, and if that wasn't enough, they tied him, while he was still alive, to the back of their pickup and dragged him until he died.

Due to the race-based nature of the Byrd murder, Federal authorities were able to offer significant assistance, including Federal dollars, to aid in the investigation and prosecution of that case to ensure that justice was served.

Unfortunately, the same cannot be said about another case that has already been talked about here on the floor today; the case of Matthew Shepard. He was a very small man. In spite of his small size, two men, assisted by one or both of their girlfriends, took this man from a bar because he was gay, and, among other things, tied him to a fencepost and killed him.

This was gruesome. It was a terrible beating and murder of this student from the University of Wyoming. But, what makes this case even more disturbing is that Wyoming authorities did not have enough money to prosecute the case. They did, of course, but in order to finalize the prosecution of that case, they had to lay off five of their law enforcement employees. The local authorities could not get any Federal resources because current hate crimes legislation does not extend to victims of hate crimes based upon sexual orientation.

If there were no other reason in the world that we pass this legislation than the Matthew Shepard case, we should do it. I have great respect for those people in Wyoming who went to great sacrifice to prosecute that case.

The hate crimes legislation being offered to the Defense Authorization bill is a sensible approach to combat these crimes based upon hate. The measure would extend basic hate crimes protections to all Americans, in all communities, by adding real or perceived sexual orientation, gender, or disability categories to be covered.

The amendment would also remove limitations under current law which require that victims of hate crimes be engaged in a federally protected activity.

There may be those who are listening to this debate and wondering why we need to protect those people who are handicapped or disabled? We need only look back at some of the genocide of the Second World War and recognize that Hitler was totally opposed to anyone who was not, in his opinion, quite right. He went after people who had disabilities.

So there are people, as sad as it may seem, who not only are hateful of people who are of a different color, a different religion, a different sexual orientation, but also someone who does not have all their physical or mental capacities.

We must give law enforcement the tools they need to combat this kind of

violence, to help ensure that every American can live in an environment free of terror brought on by hatred and violence.

As Senator KENNEDY will say, this amendment has been carefully drafted and modified to assure its constitutionality under current Supreme Court precedents and has been reexamined in light of the recent Morrison decision which invalidated the civil rights remedy in the Violence Against Women Act. I appreciate the work done by Senator KENNEDY and the Judiciary Committee for taking such a close look at this legislation.

I have shared with my colleagues two incidents in Nevada. There are many, many others. There are incidents in all 50 States and the District of Columbia of people who have been kidnaped, beaten, raped, and murdered as a result of their sexual orientation. Court records reveal that in each of these cases, with rare exception, there is hate that spews out of these people's mouths before the act takes place, derogatory names and slurs as they are taking people to their deaths, brutal sadistic murders.

These victims are someone's son, someone's daughter, someone's brother, someone's sister, someone's loved one. People should not be killed because they are different; they should not be killed because someone has a certain, misguided standard of how someone else should be. People should not be killed because of hate.

We live in America, the land of freedom and opportunity. We should make sure we stand for morality based upon people's accomplishments, not because of their race, color, creed, or sexual orientation.

I extend my congratulations to Senator KENNEDY for the work he has done. I hope these two men, Senators HATCH and KENNEDY, who have worked so closely on legislation over the years, will see that this important aspect of the law which needs to be revised is revised in such a way that we can all hold our heads high and say: When these crimes take place in the future, authorities in States such as Wyoming will not have to lay off five law enforcement officers to prosecute the crime.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank all of our colleagues for addressing this issue on this Monday afternoon. We generally, on Monday afternoons as well as on Friday afternoons, have less heavy matters before our body.

This afternoon we have had a very impressive series of statements that have urged us to take the action on tomorrow to move ahead and pass strong hate crimes legislation. I listened earlier to a number of our colleagues. I thought there were many excellent statements, which I am hopeful our Members will have a chance to review in the early morning in the CONGRESSIONAL RECORD. These statements have been absolutely superb. We have had a wide variety of different Members from different backgrounds and experiences, different political viewpoints, speak on this issue. That is the way it should be because we are talking about a matter of fundamental importance for our society and our country. We are talking about what our country is really about, what steps we are prepared to take to make America, America.

We have shown that over a period of time, certainly since the end of the Civil War, this Congress has taken steps to guarantee the protection of constitutional rights, going back to 1866. In the more modern time, we enacted civil rights legislation in the early 1960s, after the extraordinary presence of Dr. King who awakened the conscience of our Nation in the latter part of the 1950s and early part of the 1960s. We went ahead and took action in 1964 on what was known as the Public Accommodation Act. We were asked: Will the kinds of enforcement mechanisms stand up under constitutional challenge? And they did.

Then, in 1965, we took action in order to preserve the right to vote for our citizens. Now it seems almost extraordinary that a large number of Americans were denied the right to vote. At that time, it was debated for some time. We took strong steps to ensure that America was going to be America in terms of the right to vote. In 1968, we had our Fair Housing Act to make sure that citizens whose skin was a different color were not going to be denied the opportunity to purchase homes. We took action in 1968 to protect that right. It wasn't very effective. We had to come back and revisit that again in 1988. Still, the progress went on. In 1988, we passed legislation to protect the rights of the disabled in our society. We had made some progress with what is known as Title VII over time, but the Americans with Disabilities Act was the legislation that established protections. We were saying to the American people—and the American people supported it—that if individuals have a disability, they should not be discriminated against in our society.

This is what we are talking about. We are talking about forms of discrimination. Discrimination is rooted in the basic emotion of hatred, of distrust, and of bigotry. We have seen it manifested in race relations in our country. Hatred, distrust and bigotry have also been reflected in other ways: on the basis of religion, national origin, sexual orientation, gender, and disability. We freed ourselves from discrimination based on national origin with the 1965 Immigration Act. The Immigration Act had certain rules for those who came from the Asian Pacific Island triangle. We only permitted less than 150 Asians to come onto our shores prior to 1965. Then we also had what was called the national origin quota system which discriminated against people who came from a number of the European countries. All of this is part of our national history.

One of the amazing and important aspects of the progress that America has made in recent time is in trying to free us from the stains of discrimination. We are talking not only about those who have been discriminated against but those who have perpetrated the discrimination.

We are talking about a continuum of this Nation attempting to define what America ought to be—a nation free from the forms of discrimination and hatred and bigotry. That is what distinguishes hate crimes from other criminal activities. Crimes based upon hatred and bigotry wound not only the individual, but they also wound and scar an entire community.

Hate crimes occur on a daily basis in the United States of America. Numerous hate crime incidents have been mentioned by our colleagues and illustrated time and again. According to FBI statistics, nearly one hate crime is committed every hour.

My colleagues and I want to take action that will move this country forward and free us from those acts of hatred that divide us.

We can't solve all of these problems, but there is no reason, when we have violence in our society, that those who are charged with protecting the Constitution of the United States ought to be standing on the sidelines when violence based upon discrimination is taking place in the United States of America. Why should we limit ourselves—those who have a responsibility—from helping and assisting those who are involved in local enforcement and State law enforcement, particularly when we are talking about these hate crimes against women in our society?

An individual was charged in Yosemite this past year with the murder of four women. He told the police investigators he had fantasized about killing women for three decades. A gay, homeless man in Richmond, VA, was found with a severed head and left at the top of a footbridge in James River Park near a popular gay meeting place. In Crystal Lake, IL, a Japanese American shopowner was shot to death outside of Chicago, based upon the fact of discrimination against Asians. Three synagogues in Sacramento, in July of 1999, were destroyed by arson on the basis of anti-Semitism.

These things are happening today. With all due respect to my friend and colleague from Utah, his legislation is basically to have a further study about whether these kinds of activities are taking place. This amendment that he has, on page 1, talks about studies, the collection of data, the data to be collected. Then it shows the number of relevant offenses, the percentage of offenses prosecuted. It continues on with the identification of trends. Then it has provisions for grants to local communities, and eligibility, and grants of $100,000.

We have had the FBI doing the study for the last 10 years. We have the figures that the FBI has produced. The one thing that the FBI has testified to, and is very clear about in their studies, is they believe it is vastly underestimating the amount of hate crimes that are taking place, because in so many instances there isn't the local training or prioritizing of hate crimes by local communities and State communities in order to collect the information or data on this.

So we do know that this is happening today. It is happening in increasing numbers. The reports that we do have basically underestimate the amount of action and activity that is taking place, and the States themselves—some of them—have taken action. But very few, if any, have taken the kind of comprehensive action we are talking about.

There are enormous gaps in the activities of the States in the kinds of protections they are providing. Others have talked about it, and I am glad to get into the various kinds of protections that we are talking about here, the reasons for this legislation. Again, I say, this is our opportunity—and tomorrow—to say whether we are going to be serious about taking action in this area of bigotry and hatred that is focused on particular groups in our society. We have been willing to take action in the past. We were willing to do it in the past. I have mentioned six or eight instances when this Congress thought there was such a compelling reason for us to take the action that we went ahead and took that action in order to try to do something about discrimination in our society.

We have the same issue in a different form before the Senate now. In the early 1960s, we had discrimination against blacks because we were not going to permit them to vote. We passed legislation and then implementing legislation. We said we were not going to protect discrimination and bigotry, discriminating against blacks in the areas of housing. We did the same regarding the disabled on the Americans With Disabilities Act. We made progress on discrimination against women in our society, and we have made progress as well in terms of understanding the various challenges on freeing ourselves from some forms of discrimination on the basis of sexual orientation—although we have made very little in that area.

The question is not the issue on sexual orientation. It is about violence against individual Americans. That is what it is about when you come down to it. It is violence based on bigotry. You can read long books about the origins of hatred and the origins of bigotry and the origins of prejudice and how they develop against individuals or individual groups. Many of them are different in the way that they did develop. But there is no difference about what is there basically when it is expressed in terms of violence. It is still violence against those individuals, and that is what we are attempting to address.

I will put in the RECORD the various justifications, in terms of the constitutional issues. We can get into those and debate and discuss those in the course of the evening. We believe we are on sound basis for that. We have spent a great deal of time in assuring that the legislation was going to meet the challenges of Supreme Court decisions. I believe that we do. I respect those who believe we have not. But we are talking about taking action and doing it now.

There are all kinds of reasons in this body why not to take action. But if we want to try to have an important response to the problems of hate crimes in our society, this is the way to do it. It is a bipartisan effort, and it has been since the development of our initial efforts under the leadership of Senator Simon and others a number of years ago, with just the collection of material. It has been, since that time, basically bipartisan, and it is on this measure now. It is whether we in the Senate are going to say that we have enough of the Matthew Shepard cases, that we have enough of the kind of vicious murdering on the basis of race, that we have enough prejudice and discrimination and expression of violence against Jewish individuals in our society, and we have had enough in terms of the violence against those who have a different sexual orientation. That is what the issue is, no more and no less.

I want to take a few moments, and if others want to address the Senate, I will obviously permit them to do so. I want to give the assurances to our colleagues about how this particular legislation has been fashioned and has been shaped. It is targeted, it is limited, it is responsive in terms of its constitutional standing and how it basically complements the work of the States, which are attempting to try to deal with those issues, and how it is positive in terms of helping those States, and how, in many circumstances—for example, in a number of the rapes or aggravated sexual assaults, because criminal penalties under State laws are actually more severe than under Federal laws, the prosecution quite clearly would fall in those circumstances.

As has been pointed out, in all the hate crimes prosecutions, the Federal authorities consult with the State and local enforcement officials before initiating an investigation or prosecution. The Federal jurisdiction allows the States to take advantage of the Department of Justice resources and personnel. Even if the State authorities ultimately bring the case, the Federal jurisdiction also allows the Attorney General to authorize the State prosecutor to bring a case based on Federal law, when that should be important or necessary.

In cases where the States have adequate resources to investigate and prosecute a case and it appears determined to do so, the Federal Government will not file its own case. As has been the case under existing law, prosecutions under expanded case law would occur primarily in four situations: where the State does not have jurisdiction or the State prosecutors decline to act; or, after consultation between Federal and local authorities there is a consensus that a Federal prosecution is preferable because of the higher penalties and procedural advantages due to the complexity of the case; third, the state does not object to the Justice Department assuming jurisdiction; or fourth, that the State prosecution does not achieve a just result and the evidence warrants a subsequent Federal prosecution.

Those are very limiting factors because they effectively give the States veto rights over Federal jurisdiction. We are talking about having an extremely effective remedy, one that will be in the interest of justice but one that is carefully sharpened in terms of its scope to make sure that we maintain local involvement and consider local priorities.

The point is made that the Federal Hate Crimes Act would, in many cases, continue to overlap State jurisdiction. People have opposed this proposal for that reason. Violent crimes, whether motivated by discriminatory animus or not are generally covered under State law, and such an overlap is common. For example, there is overlapping Federal jurisdiction in cases of many homicides, in bank robberies, in kidnapings, in fraud, and other crimes.

We have been willing to do it in other circumstances, and I believe that we must have overlapping jurisdiction for violent crimes based on animus and hatred as well. We must take meaningful steps to do something about it. Clearly, I think we have an important responsibility to act.

The importance of the amendment is to provide a backstop to State and local enforcement by allowing a Federal prosecution, if it is necessary, to achieve an effective just result and to permit Federal authorities to assist in local investigations.

As has been mentioned, every Federal prosecutor would have to prove motivation beyond a reasonable doubt in all cases. The prosecution would present evidence that indicated that a motivating factor in the defendant's conduct was bias against a particular group. That is a question for the jury to decide. Obviously, the prosecutor must convince the jury that the crime was based upon bias in order to secure a conviction.

I withhold and yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I listened carefully to the comments of my colleague. He knows I have great respect for him in regard to civil rights matters. I have great commendation for him. I feel deeply, as he does. However, there is no use kidding about it. I

think we ought to be prudent in the approach that we take. I think we ought to be constitutionally sound as well.

In all of the comments of my dear friend, he still hasn't answered this basic question, which is: Can those who are pushing this very broad legislation that would federalize all hate crimes—and all crimes are hate crimes, by the way. I believe that is, if not wholly true, certainly substantially true—but can those who want to enact this broad legislation federalizing all hate-motivated crimes tell me the number of instances, if any, in which State or local authorities have refused or failed to investigate and prosecute hate crimes? If there are any cases in which State or local authorities have refused or failed to investigate and prosecute a hate crime, was it because the State or the local jurisdiction was unwilling, for whatever reason, to bring the prosecution?

These questions haven't been answered. We asked them at the hearings, and the Justice Department couldn't answer them. In fact, Deputy Attorney General Holder testified that States and localities should be responsible for prosecuting the overwhelming majority of hate crimes. He said:

> State and local officials are on the front lines and do an enormous job in investigating and prosecuting hate crimes that occur in their communities. In fact, most hate crimes are investigated and prosecuted at the State level.

That is the Deputy Attorney General of the United States of America.

We have never denied that hate crimes are occurring. Nobody can deny that. I want to get rid of them as much as anybody—certainly as much as the distinguished Senator from Massachusetts.

But we have yet to hear of specific instances where States have failed or refused to prosecute. We have heard lots of horrific stories about hate crimes from Senators KENNEDY, REID, and DURBIN. But I think they have neglected to finish the story.

In each case, the Shepard case and the Byrd case, for example—heinous crimes, no question about it—that should never have occurred; that should have been prosecuted; and were prosecuted. The State prosecutors investigated those cases. They prosecuted the defendants. In the Byrd case, the prosecutors even obtained the death penalty, something that could not be obtained if the Kennedy amendment had been passed and the Federal Government had brought the case. Think about that. I think some crimes are so heinous that the death penalty should be imposed. Certainly the Byrd case, where racists chained James Byrd to a truck and dragged him to death on a back road in Jasper, Texas, warranted the death penalty. But in all of those cases, there ought to be absolute proof of guilt. The crime ought to be so heinous that it justifies the penalty, and there should be no substantial evidence of discrimination. In the Byrd case and the Shepard case, the defendants were fully prosecuted to the fullest extent of the law.

The question is not whether hate crimes are occurring. They are. We have them in our society—the greatest society in the world. We have some hate crimes. They are occurring. We all know it. They are occurring, and they are horrific and are to be abhorred. The question, though, is whether the States are adequately fighting these hate crimes, or whether we need to make a Federal case out of every hate-motivated crime.

My amendment calls for an analysis of that question. If my amendment passes and causes an analysis of that question, and we conclude that hate crimes are not being prosecuted by the State and local prosecutors, my gosh, I think then we are justified to federalize, if we can do it constitutionally, many of these crimes.

A prudent thing, in my view in light of the constitutional questions that are raised by the Kennedy amendment, would be to do the analysis first.

But my amendment does more than that. My amendment provides funds to assist State and local authorities in investigating and prosecuting hate-motivated crimes. My amendment provides resources and materials to be able to help States and localities with hate crimes. We are not ignoring the problems that exist.

Deputy Attorney General Eric Holder conceded in his testimony before our committee, and he acknowledged that an analysis of the hate crimes statistics that have been collected needs to be conducted to determine whether State and local authorities are failing to combat hate crimes. Eric Holder testified that the statistics we have are, to use his term, ''inadequate.'' In his testimony, Deputy Attorney General Holder repeatedly argued that the Justice Department should be permitted to involve itself in local hate crime cases where local authorities are ''unable or unwilling to prosecute the case.'' Holder admitted in his testimony that there are ''not very many'' instances—later in his testimony, he said, ''rare instances''—where local jurisdictions, for whatever reason, are unwilling to proceed in cases that the Justice Department ''thinks should be prosecuted.''

At the hearing, I asked Deputy Attorney General Holder if he could identify ''any specific instances in which State law enforcement authorities have deliberately failed to enforce the law against the perpetrator of a crime.'' I asked him a specific question, to give me any specific instances in which State law enforcement authorities have deliberately failed to enforce the law against the perpetrator of a crime.

I went further and I asked him, ''So the question is, can you give me specific instances where the States have failed in their duty to investigate and prosecute hate crimes.'' Deputy Attorney General Holder responded with only a handful of specific instances—and they were not instances where the State or local authorities refused to act but instances where the Justice Department felt that it would have tried the case differently or sought a harsher sentence, or where the Justice Department was not pleased with the verdict that State prosecutors obtained. The few cases Holder identified generally were not cases where State officials abdicated their responsibility to investigate and prosecute hate-motivated crimes.

I have to believe there may be some such cases, but the ones Mr. Holder identified were not persuasive. They did not show any widespread pattern of State and local authorities refusing or failing to investigate and prosecute hate crimes. I am happy to receive them from my distinguished friend from Massachusetts, and I am sure he may be able to cite some. Are there so many of them that we justify federalizing all hate crimes and dipping the Federal nose into everything that is done on the State and local levels? I don't know—in my mind, the case for doing so has not yet been made.

Deputy Attorney General Holder also testified that no hate crimes legislation is worthwhile if it is invalidated as unconstitutional. It would be one thing if we were talking about a Supreme Court case that was decided 100 years ago. We are talking about a case, however, the Morrison case, that was decided one month ago and invalidates exactly what Senator KENNEDY is doing today. If we find out that States are refusing to prosecute hate crimes, then we would be justified under the 14th amendment in enacting legislation directed at State officials or people acting under color of law who are denying victims of hate crimes the equal protection of the laws. If that were shown, then we would be justified, especially if such conduct were pervasive, or especially if there were a considerable number of cases where State officials were denying the equal protection of the laws by refusing to prosecute crimes committed against certain groups or classes of people. The supporters of the Kennedy amendment, I have to believe, will be able to come up with one, or two, or maybe three cases where State officials denied the equal protection of the laws in this manner. But even if then can, would that justify federalizing all hate crimes?

Mr. President, 95 percent of all criminal activity is prosecuted in State and local jurisdictions—95 percent. There are good reasons for that. Frankly, they do every bit as good a job as Federal prosecutors do.

But if you put in ''gender,'' as Senator KENNEDY does in his amendment, then every rape or assault becomes a Federal crime. I can just hear some of the very radical groups demanding that U.S. attorneys in Federal court bring cases in every rape case because every rape, in my opinion, is a hate crime.

However, there is no evidence that the States are not handling those sorts of cases properly. They may be in a better position to handle them well. It may be that the federal government needs to provide enough money, so that as a backup, the DNA postconviction and even preconviction DNA testing can be conducted and we can see that justice is done.

I am not unwilling to consider doing that. In fact, I am considering doing just that. I take no second seat to any Senator in this Chamber in the desire to get rid of hate crimes. But I do think you have to be wise and you can't just emotionally do it because you want to federalize things and you want to get control of them, when, in fact, the State and local governments are doing a fairly decent job. If they are not, that is another matter. I want to see the statistics. That is one reason I want a study, an analysis of these matters, so that we can know.

Senator KENNEDY and I fought on this very floor for the Hate Crimes Statistics Act. I have taken a lot of abuse through the years for having done so by some on the conservative side, and by some on the liberal side for not doing more. We have the statistics. We have a pretty good idea that these crimes are being committed. We just haven't got an analysis, nor do we have the facts, on whether the States are doing an adequate job of combating these crimes. And why should we go blundering ahead, federalizing all these crimes, when we are not really sure that the State and local governments are not doing a good job. In fact, the evidence I have seen appears to show that the States are taking their responsibilities in this area seriously.

My amendment does a lot. It calls for a study to determine whether these hate-motivated crimes are not being prosecuted at the State level in the manner that they should be. There are those in our body who even fight against that. I am talking about the Congress as a whole. I hope there is nobody in the Senate who would fight against that. We should do an analysis and a study. We should know. We have the statistics.

I do want to clear up one thing. The Department of Justice did send up a handful of cases in which the Department felt the result in hate crime litigation was inadequate. But the very few cases they identified in no way justify this type of expansive legislation. That is what I am concerned about.

Now, if we find that the States are refusing to do their jobs, that is another matter. We would be justified under the equal protection clause of the 14th amendment to enact remedial legislation prohibiting the States from denying our citizens the equal protection of the laws by refusing or failing to combat hate crimes.

Supporters of the Kennedy amendment argue that their amendment is limited because the Justice Department could exercise jurisdiction only in four instances. Supporters of the Kennedy amendment call these instances ''exceptions''—as in the Justice Department will not exercise jurisdiction over State prosecutions of hate crimes, ''except'' when one of the four circumstances outlined in the amendment is present. But these so-called ''exceptions'' to the exercise of federal jurisdiction are exceptions that swallow the rule.

The Kennedy amendment raises serious constitutional decisions or questions. The amendment is not consistent with the Supreme Court's decisions in United States v. Lopez and United States v. Morrison, just decided last month. The amendment attempts to federalize crimes committed because of the victim's actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability.

Last month's Supreme Court decision in United States v. Morrison changed the legal landscape with regard to congressional power vis-a-vis the States. In light of the Morrison decision, we first should take adequate steps to ensure that legislation is constitutional. And where serious constitutional questions are raised, we should responsibly pursue less intrusive alternatives. In the case of hate crimes legislation, we should at least determine whether a broad federalization of these crimes is needed, and whether a broad federalization of these crimes would be constitutional in light of Morrison. What may have been constitutional in our minds pre-Morrison may not be constitutional today.

I was the primary cosponsor of the Violence Against Women Act. It may never have come up had Senator BIDEN and I not pushed it as hard as we did. I believed it was constitutional at the time, or I wouldn't have done it. But it clearly was stricken as unconstitutional by the Supreme Court.

As the father of three daughters and a great number of granddaughters, I certainly want women protected in our society. If the State and local governments are not doing that, I will find some way. I think perhaps Senator KENNEDY, I, and others of good faith can find some way of making sure that these wrongs are righted.

But Congress has a duty to make sure that legislation it enacts is constitutional. Justice Scalia, as I stated earlier, recently criticized Congress for failing to consider whether legislation is constitutional before enacting it. Here is what he said:

> My court is fond of saying that acts of Congress come to the court with the presumption of constitutionality. But if Congress is going to take the attitude that it will do anything it can get away with, and let the Supreme Court worry about the Constitution [let the Supreme Court worry] perhaps the presumption is unwarranted.

He is saying that we have a constitutional obligation to live within the constraints of the Constitution. Although Morrison was a 5–4 decision, as many important decisions are, it is the supreme law of this land. And the Kennedy approach is unconstitutional.

It is unconstitutional because under the 14th amendment it seeks to criminalize purely private conduct. In the Morrison case, the Supreme Court reaffirmed that legislation enacted by Congress under the 14th Amendment may only criminalize State action, not individual action. So it really is unconstitutional from that standpoint, from the standpoint of the 14th Amendment.

In addition, the Kennedy amendment is unconstitutional under the commerce clause. In Morrison, the Supreme Court emphasized that the conduct regulated by Congress under the commerce clause must be ''some sort of economic endeavor. Here, the conduct sought to be regulated—the commission of hate crimes—is in no sense economic or commercial, but instead is non-economic and criminal in nature. Accordingly, it is just like the non-economic conduct Congress sought to regulate in the Gun Free Schools Zones Act and the Violence Against Women Act—statutes held to be unconstitutional in Lopez and Morrison.

In an effort to be constitutional, the Kennedy amendment provides that federal jurisdiction can only be exercised in four circumstances where there is some sort of link to interstate commerce. These circumstances, however, probably do not make the amendment constitutional.

First, the interstate travel circumstance set forth in the Kennedy amendment arguably may provide an interstate nexus, but it does nothing to change the criminal, generally non-economic nature of a hate crime. The same can be said for the other circumstances set forth in the Kennedy amendment authorizing the exercise of federal jurisdiction. The second circumstance's requirement, that the crime be committed by using a ''channel, facility or instrumentality of interstate'' commerce, also may provide a interstate nexus, but it is unclear precisely what hate crimes that would encompass: hijacking a plane or blowing up a rail line in connection with a hate crime? Such occurrences, if happening at all, surely are so infrequent as to make the Kennedy amendment unnecessary. And I might add, in these cases they have been prosecuted by state and local officials who have the right and power to do so. So there seems little or no reason to want the Kennedy amendment on that basis. But without some economic activity, it still makes you wonder.

The third circumstance's requirement that the defendant have used a weapon that traveled in interstate commerce would eviscerate the limits on commerce clause authority the Court stressed in Lopez and Morrison. If using a weapon that happened to have traveled in interstate commerce to commit a hate crime provides a sufficient interstate nexus authorizing congressional action federalizing hate

crimes, then by the same logic Congress could federalize essentially all State crimes where a firearm or other weapon is used. And that would include most homicides had assault cases.

The fourth circumstance's requirement that the victim be working and that the hate crime interfere with such working is analogous to the reasoning the Court rejected in Morrison. In Morrison, the Court rejected the argument that gender-motivated violence substantially affects interstate commerce. It can only be presumed that the Court would similarly conclude that violence motivated by disability, sexual orientation or gender—again—does not substantially affect interstate commerce. The Court in Morrison and in Lopez rejected these ''costs of crime'' and ''national productivity'' arguments because they would permit Congress to regulate not only all violent crime, but all activities that might lead to violent crime, regardless of how tenuously they relate to interstate commerce.

Finally, the Kennedy amendment's catch-all provision—that federal prosecution is permitted where the hate crime ''otherwise affects interstate or foreign commerce''—not only merely restates the constitutional test, it restates it wrongly. Under Lopez and Morrison, the conduct sought to be regulated under the commerce clause must ''substantially affect'' interstate commerce. The Kennedy amendment provides for a much lower standard.

With regard to the first amendment, the Kennedy amendment also has the potential to have a chilling effect on constitutionally protected speech. Under the amendment, the Federal Government could obtain a criminal conviction on the basis of evidence of speech that had no role in the chain of events that led to any alleged violent act proscribed by the statute. Evidence that a person holds racist or other bigoted views that are unrelated to the underlying crime cannot form the basis for a prosecution—otherwise the statute would be unconstitutional under the first amendment.

The Kennedy hate crimes amendment is also bad policy. It would place significant burdens on federal law enforcement and Federal courts, undermine State sentencing regimes, and unduly interfere with State prosecution of violent crime.

The Kennedy amendment prohibits hate crimes based upon the victims gender. I mentioned this earlier. Accordingly, the amendment, on its face, could effectively federalize all rapes and sexual assaults. Not only would such a statute likely be unconstitutional, it also would be bad policy. Seizing the authority to investigate and prosecute all incidents of rape and sexual assault from the States could impose a huge burden on Federal law enforcement agencies, Federal prosecutors, and the federal judiciary.

I know that the Supreme Court is very concerned about the proliferation of federal crimes, as are all Federal courts in our country. They think we federalize far too many laws when, in fact, the States are doing a good job in prosecuting those crimes. And there is little or no reason for us to intrude that much on State laws when they are doing a good job.

Authorities in Jasper, TX, secured a death penalty against the murderers of James Byrd, Jr., without either State or Federal hate crimes legislation. In contrast, the Kennedy amendment does not provide for the death penalty, even in the case of the most heinous hate crimes. Under the Kennedy amendment, then, a State could prosecute the same criminal acts more harshly than under the Kennedy hate crimes amendment. As a result, the Kennedy amendment would provide a lesser deterrent against hate-based criminal conduct.

If there was ever a case justifying the death penalty, it certainly was the case of James Byrd, Jr. But then again it makes my point. The State and local prosecutors were fully capable of taking care of this matter. And why should we intrude the Federal Government's unwanted nose under the tent in this matter when the States are perfectly capable of taking care of these matters.

The Kennedy amendment also would unduly interfere with state prosecutions of hate crimes. Contrary to claims by supporters of the Kennedy amendment, the amendment would not defer to State or local authorities at all. The amendment leaves the Justice Department free to insert itself in a local prosecution at the beginning, middle or end of the prosecution, and even after the local prosecutor has obtained a guilty verdict.

Even if State or local authorities inform the federal government that they intend to prosecute the case and object to Federal interference, the Justice Department, nevertheless, is empowered by the amendment to exert enormous pressure on local prosecutors regarding the manner in which they handle the case, from charging decisions to plea bargaining decisions to sentencing decisions. In essence, the federal government can always exercise jurisdiction under the Kennedy amendment. And in so doing, the Kennedy amendment works an unwarranted expansion of federal authority to prosecute defendants—even when a competent State prosecution is available.

In my view, hate crimes can be more sinister than non-hate crimes. A crime committed not only to harm an individual, but out of the motive of sending a message of hatred to an entire community—often a community that historically has been the subject of prejudice or discrimination—is appropriately punished more harshly or in a different manner than other crimes.

In Wisconsin versus Mitchell, the Supreme Court essentially agreed that the motive behind the crime can make the crime more sinister and more worthy of harsher punishment. In that case, the Court upheld the State of Wisconsin's sentencing enhancement for hate crimes.

There is a limited role for the federal government to play in combating hate crime. The federal government can assist State and local authorities in investigating and prosecuting hate crimes. In addition, the Hate Crimes Statistics Act of 1990, which I sponsored, provides for the nationwide collection of data regarding hate crimes.

Because I believe there is a federal role to play, I have introduced legislation, held hearings, and am offering this amendment today. The Federal government has a responsibility to help States and local governments solve our country's problem of hate-motivated crime.

But for a federal response to be meaningful, it must abide by the limitations imposed on Congress by the constitution, as interpreted by the Supreme Court. This is especially true today in light of the Supreme Court's decisions in Lopez and Morrison, which emphasized that there are limits on congressional power. The Morrison case was decided just last month and changed the legal landscape regarding congressional power in relation to the States.

We should be concerned, as the Supreme Court is, about the proliferation of companion Federal crimes in areas where State criminal statutes are sufficient. The Kennedy amendment would vastly expand the power and jurisdiction of the Federal Government to intervene in local law enforcement matters.

Repeatedly, supporters of the Kennedy amendment have argued the State and local authorities are either ''unable or unwilling'' to investigate the prosecute hate crimes. Let's examine this rationale closely.

First, the argument that State and local authorities are unable to get serious about hate crimes: I do not dispute that in certain cases the resources of local jurisdictions may be inadequate. We can solve that. But that cannot mean that we therefore should federalize these crimes. That soft-headed logic would lead us to argue that because State and local resources are inadequate to, for example, educate our young people in some parts of the country, then the Federal Government should conduct a nationwide takeover of elementary and secondary education. That, of course, would be the wrong solution. The right solution to a problem involving inadequate resources at the local level is to try to provide some Federal assistance where requested and where needed. That is what my amendment does.

If it is not enough money, then let's beef up the money. That is what my amendment does. It provides the monetary means whereby we can assist the States if they do not have the money to investigate and prosecute hate-motivated crimes. With regard to postconviction DNA evidence, it may mean we have to do more from a Federal Government standpoint.

Second, I have even more difficulty stomaching the second argument put forth by supporters of the Kennedy amendment, that State and local authorities are unwilling to get serious about hate crimes. I admit that I am not certain what the supporters of the Kennedy amendment mean when they say ''unwilling.'' I assume that we all understand and appreciate that in numerous cases State and local officials are unwilling to go forward because the evidence does not warrant going forward. Supporters of the Kennedy amendment cannot possibly mean to cover all of these cases. So what do they mean? A subset of these cases? Does the Federal Government intend to review every case where local officials fail to go forward, second guess their judgments, and then pick and chose on which of those cases they want to proceed? The true answer is that no one knows what supporters of the Kennedy amendment mean when they claim that States are ''unwilling'' to deal with hate crimes.

If we want to act responsibly and sensibly, we ought to do what I suggest in my amendment—(1) conduct a comprehensive analysis of whether there, in fact, is unwillingness at the local level in the handling of crimes motivates against persons because of their membership in a particular class or group and (2) provide some grant monies to States who may lack resources.

The amendment I have offered does not go as far as legislation I have offered in the past, but this is not because I do not believe that hate crimes are not a problem. Rather, it is because the Supreme Court has ruled as recently as a month ago in this area, and I do not think we can ignore that. The recent decision in Morrison requires that we step back and prudently assess whether legislation like the Kennedy amendment would pass constitutional muster, and I think more than an overwhelming case can be made that it does not.

Let's assume that if this amendment is ultimately adopted, and 2 or 3 years from now the Supreme Court decides the case based upon that amendment, and I am right and the Kennedy amendment is overturned, that means we are 3 more years down the line unable to do anything about hate crimes in our society when, if we do the appropriate analysis and get the information and do not walk in there emotionally, and try to give the State and local governments the monetary support and the other types of support we describe in our amendment, we could start tomorrow combating hate crimes at the federal level. The day my amendment is passed doing something about hate crimes, that will really be substantial and will work. It is a throw of the dice if we adopt the Kennedy amendment and that becomes law because I do not believe it can be possibly upheld by the Supreme Court in light of current constitutional law.

My amendment is very limited and does not raise the constitutional questions raised by the Kennedy amendment. At the same time, it provides for Federal assistance to State and local authorities in combating hate crimes.

With regard to both amendments, I find no fault at all—in fact, I commend my distinguished colleague from Massachusetts, my friend from Oregon, and others who are pushing the Kennedy amendment because they believe something has to be done about hate crimes in our society. I find no fault with that. In fact, I admire them for doing that. I find no fault with people trying to write laws, but I do believe we can be 3 years down the line and lose all that time in making headway against hate criminal activity in our society.

Where, if we do it right today and do it in a constitutionally sound way, as my amendment does, then we will have truly accomplished something. Perhaps we can get together and find some way of doing this so it brings everybody together; I would like to see all civil rights bills, all bills that involve equal protection under the laws pass unanimously, if we can. I want to work to that end.

I pledge to work with my colleagues from Massachusetts, Oregon, Vermont, and others in this body in trying to get us there. We are all after the same thing, and that is to have a better society so that people realize there are laws by which they have to live, that there are moral laws by which they should live, and that people realize this society has been a great society and will continue to be, the more we are concerned about our fellow men and women and equality under the law.

We differ on the ways to get there at this point. Maybe we can get together and find some way of resolving the differences. I find no fault with my colleagues, other than that I think Morrison is so clear, and it was decided only a month ago. I do find fault in that sense, to push an amendment probably is unconstitutional.

I find no fault with the motivations behind those supporting the Kennedy amendment. In fact, I am very proud of my colleagues for wanting to do something in this area, to make a difference in our society and help our society be even better. I commend them and thank them for their efforts in that regard, but I do think we ought to do it in a constitutional way. I do think we ought to do it in a thoughtful way. I do think we ought to do it in an analytical way. I do think we ought do it in a way that will bring people together, not split them apart. And I do think we ought to do it in a way that will help State and local prosecutors, rather than Federal prosecutors, to handle these cases in manners that are proper and acceptable in our society. I do think it ought to be done in a way that does not burden our Federal courts with a plethora of cases, in addition to the drug cases burdening our courts today, when State and local governments are totally capable of taking care of it, perhaps with some monetary assistance from the Federal Government.

I look forward to finding a way whereby Senator LEAHY and I and others can get together to resolve these problems of postconviction DNA testing because regardless of where one stands on the death penalty, for or against it, that is not the issue. The issue is justice, and that is what the issue is here as well.

Does anyone in this body think I like opposing this amendment? I don't think so. I have stood up on too many of these matters for them to think that. But defending the Constitution is more important to me than ''feeling good'' about things or just ''feeling emotional'' about things. I do feel emotionally about hate crimes. I do want to stamp them out. I do want to get rid of them. I want to start now, not 3 years from now when we have to start all over again because the Court rules that the Kennedy amendment is unconstitutional.

I have taken enough time. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, on tomorrow we will have the opportunity to choose between the proposal of the Senator from Utah and the amendment Senator SMITH and I are recommending to our colleagues.

When it is all said and done, as I mentioned earlier, the proposal that has been put forward by my friend and colleague from Utah is basically to conduct a study about the problems and frequency of hate crimes, permits up to $5 million in authorization, and permits the Justice Department to provide grants for prosecution. That is really the extent of the amendment of the Senator from Utah.

He has outlined his reasons for supporting that particular approach. I heard him say earlier he believes that it is really going to solve the problem and that it is going to really deal with the issue of hate crimes. Of course, I do not believe that to be the case.

We reviewed this issue on a number of different occasions in the Judiciary Committee. I understand his position. I respect it, although I do have some difficulties in being persuaded by it this evening.

For example, he basically has not questioned the existing limited hate crimes legislation that is on the books, 18 U.S.C. §245, dealing with the issue of race, color, religion, and national origin in our society, even though it is restricted in its application. He did not say we ought to eliminate that situation. He did not really refer to eliminating current hate crimes law.

The fact is, we have very limited hate crimes legislation on the books. Current law is restricted, as the Justice Department testified before the Judiciary Committee, in ways that virtually deny accountability for the serious hate crimes that are committed by individuals on the basis of race, color,

religion, or national origin in our society. Specifically, it requires the federal government to prove that the victim was engaged in a federally protected activity during the commission of the crime. We are trying to address this deficiency and to expand current law to include gender, disability, and sexual orientation.

Those of us who will favor our position tomorrow believe the ultimate guarantor of the right for privacy, liberty, and individual safety and security in our society is the Constitution of the United States. That is where the repository for protecting our rights and our liberties is enshrined. It is enshrined in the Constitution, as interpreted by the Supreme Court. But ultimately we are the ones who help define the extent of the Constitution's protection.

When we find that we have inadequate protection for citizens because of sexual orientation, or gender, or race, that challenge cries out for us to take action.

My good friend from Utah does not mind federalizing class action suits to bring them into the Federal court. He does not mind federalizing property issues in the takings legislation, to bring those into Federal court. For computer fraud, he does not mind bringing those crimes in Federal courts. But do not bring in Federal power to do something about hate crimes. I find that absolutely extraordinary.

Why are we putting great protection for property rights and computer fraud and class actions into Federal court, giving them preference over doing something about the problems of hate crimes in our society that even Senator HATCH admits are taking place? We see from the data collected by the FBI and various studies that hate crimes are taking place. That is a fact. Look at the statistics that have been collected over the last few years, from 1995 through 1998. We see what is happening with regard to race, religion, national origin, ethnic background, sexual orientation, and disability. As we have heard from the FBI and the Justice Department, they believe the FBI statistics vastly underestimate what is happening in our society.

The fact is, hate crimes are unlike any other crimes. Listening to the discussion of those who are opposed to our amendment, one would think these crimes were similar to pick-pocketing cases, misdemeanors, or traffic violations.

The kind of impact that hate crimes have in terms of not only the individual but the community is well understood. It should be well understood by communities and individuals. I do not have to take the time to quote what the American Psychological Society says about the enduring kind of burden that individuals undergo when they have been the victims of hate crimes over the course of their lifetime, even in contrast to other crimes of violence against individuals. It has a different flavor, and it has an impact on the victim, the family and the community. Hate crimes are an outrageous reflection of bigotry and hatred based on bias that cannot be tolerated in our society.

We have an opportunity to take some moderate steps to do something about it—to untie the hands of the Department of Justice. That is what tomorrow's vote is about. We have the constitutional authorities on our side, including the Justice Department, and others.

I will include the list of distinguished constitutional authorities that are supporting our positions.

Mr. President, I ask unanimous consent that the U.S. Department of Justice letter dated June 13, 2000, on the constitutionality of the Local Law Enforcement Enhancement Act of 2000 be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 13, 2000.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: This letter responds to your request for our views on the constitutionality of a proposed legislative amendment entitled the ''Local Law Enforcement Enhancement Act of 2000.'' Section 7(a) of the bill would amend title 18 of the United States Code to create a new §249, which would establish two criminal prohibitions called ''hate crime acts.'' First, proposed §249(a)(1) would prohibit willfully causing bodily injury to any person, or attempting to cause bodily injury to any person through the use of fire, a firearm, or an explosive or incendiary device, ''because of the actual or perceived race, color, religion, or national origin of any person.'' Second, proposed §249(a)(2) would prohibit willfully causing bodily injury to any person, or attempting to cause bodily injury to any person through the use of fire, a firearm, or an explosive or incendiary device, ''because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person,'' §249(a)(2)(A), but only if the conduct occurs in at least one of a series of defined ''circumstances'' that have an explicit connection with or effect on interstate or foreign commerce, §249(a)(2)(B).

In light of *United States* v. *Morrison*, 120 S. Ct. 1740 (2000), and other recent Supreme Court decisions, defendants might challenge the constitutionality of their convictions under §249 on the ground that Congress lacks power to enact the proposed statute. We believe, for the reasons set forth below, that the statute would be constitutional under governing Supreme Court precedents. We consider in turn the two proposed new crimes that would be created in §249.

1. PROPOSED 18 U.S.C. §249(A)(1)

Congress may prohibit the first category of hate crime acts that would be proscribed—actual or attempted violence directed at persons ''because of the[ir] actual or perceived race, color, religion, or national origin,'' §249(a)(1)—pursuant to its power to enforce the Thirteenth Amendment to the United States Constitution. Section 1 of that amendment provides, in relevant part, ''[n]either slavery nor involuntary servitude . . . shall exist within the United States.'' Section 2 provides, ''Congress shall have power to enforce this article by appropriate legislation.''

Under the Thirteenth Amendment, Congress has the authority not only to prevent the ''actual imposition of slavery or involuntary servitude,'' but to ensure that none of the ''badges and incidents'' of slavery or involuntary servitude exists in the United States, *Griffin* v. *Breckinridge*, 403 U.S. 88, 105 (1971); *see Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 409, 440–43 (1968) (discussing Congress's power to eliminate the ''badges,'' ''incidents,'' and ''relic[s]'' of slavery). '''Congress has the power under the Thirteenth Amendment rationally to determine what the badges and incidents of slavery, and the authority to translate that determination into effective legislation.''' *Griffin*, 403 U.S. at 105 (quoting Jones, 392 U.S. at 440); *see also Civil Rights Cases*, 109 U.S. 3, 21 (1883) (''Congress has a right to enact all necessary and proper laws for the obliteration and prevention of slavery, with all its badges and incidents''). In so legislating, Congress may impose liability not only for state action, but for ''varieties of private conduct,'' as well. *Griffin*, 403 U.S. at 105.

Section 2(10) of the bill's findings provides, in relevant part, that ''eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude,'' and that ''[s]lavery and involuntary servitude were enforced . . . through widespread public and private violence directed at persons because of their race.'' So long as Congress may rationally reach such determinations—and we believe Congress plainly could—the prohibition of racially motivated violence would be a permissible exercise of Congress's broad authority to enforce the Thirteenth Amendment.

That the bill would prohibit violence against not only African Americans but also persons of other races does not alter our conclusion. While it is true that the institution of slavery in the United States, the abolition of which was the primary impetus for the Thirteenth Amendment, primarily involved the subjugation of African Americans, it is well-established by Supreme Court precedent that Congress's authority to abolish the badges and incidents of slavery extends ''to legisla[tion] in regard to 'every race and individual.''' *McDonald* v. *Santa Fe Trail Transp. Co.*, 427 U.S. 273, 288 n.18 (1976) (quoting *Hodges* v. *United States*, 203 U.S. 1, 16–17 (1906), and citing *Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 409, 441 n.78 (1968)). In McDonald, for example, the Supreme Court held that 42 U.S.C. §1981, a Reconstruction-era statute that was enacted pursuant to, and contemporaneously with, the Thirteenth Amendment, prohibits racial discrimination in the making and enforcement of contracts against all persons, including whites.—See McDonald, 427 U.S. at 286–96.

The question whether Congress may prohibit violence against persons because of their actual or perceived religion or national origin is more complex, but there is a substantial basis to conclude that the Thirteenth Amendment grants Congress that authority, at a minimum, with respect to some religions and national origins. In *Saint Francis College* v. *Al-Khazraii*, 481 U.S. 604, 613 (1987), the Court held that the prohibition of discrimination in §1981 extends to discrimination against Arabs, as Congress intended to protect ''identifiable classes of persons who are subjected to intentional discrimination solely because of their ancestry or ethnic characteristics.'' Similarly, the Court in *Shaare Tefila Congregation* v. *Cobb*, 481 U.S. 615, 617–18 (1987), held that Jews can state a claim under 42 U.S.C. §1982, another Reconstruction-era antidiscrimination statute enacted pursuant to, and contemporaneously

with, the Thirteenth Amendment. In construing the reach of these two Reconstruction-era statutes, the Supreme Court found that Congress intended those statutes to extend to groups like ''Arabs'' and ''Jews'' because those groups ''were among the peoples [at the time the statutes were adopted] considered to be distinct races.'' Id.; see also Saint Francis College, 481 U.S. at 610–13. We thus believe that Congress would have authority under the Thirteenth Amendment to extend the prohibitions of proposed §249(a)(1) to violence that is based on a victim's religion or national origin, at least to the extent the violence is directed at members of those religions or national origins that would have been considered races at the time of the adoption of the Thirteenth Amendment.

None of the Court's recent federalism decisions casts doubt on Congress's powers under the Thirteenth Amendment to eliminate the badges and incidents of slavery. Both *Boerne* v. *Flores*, 521 U.S. 507 (1997), and *United States* v. *Morrison*, 120 S. Ct. 1740 (2000), involved legislation that was found to exceed Congress's powers under the Fourteenth Amendment. The Court in Morrison, for example, found that Congress lacked the power to enact the civil remedy of the Violence Against Women Act (''VAWA''), 42 U.S.C. §13981, pursuant to the Fourteenth Amendment because that amendment's equal protection guarantee extends only to ''state action,'' and the private remedy there was not, in the Court's view, sufficiently directed at such ''state action.'' 120 S. Ct. at 1756, 1758. The Thirteenth Amendment, however, plainly reaches private conduct as well as government conduct, and Congress thus is authorized to prohibit private action that constitutes a badge, incident or relic of slavery. See Griffin, 403 U.S. at 105; Jones, 392 U.S. at 440–43. Enactment of the proposed §249(a)(1) therefore would be within Congress's Thirteenth Amendment power.

2. PROPOSED 18 U.S.C. §249(A)(2)

Congress may prohibit the second category of hate crime acts that would be proscribed—certain instances of actual or attempted violence directed at persons ''because of the[ir] actual or perceived religion, national origin, gender, sexual orientation, or disability,'' §249(a)(1)(A)—pursuant to its power under the Commerce Clause of the Constitution, art. I., §8, cl. 3.

The Court in *Morrison* emphasized that ''even under our modern, expansive interpretation of the Commerce Clause, Congress' regulatory authority is not without effective bounds.'' 120 S. Ct. at 1748; *See also United States* v. *Lopez*, 514 U.S. 549, 557–61 (1995). Consistent with the Court's emphasis, the prohibitions of proposed §249(a)(2) (in contrast to the provisions of proposed §249(a)(1), discussed above), would not apply *except where* there is an explicit and discrete connection between the proscribed conduct and interstate or foreign commerce, a connection that the government would be required to allege and prove in each case.

In *Lopez*, the Court considered Congress's power to enact a statute prohibiting the possession of firearms within 1000 feet of a school. Conviction for a violation of that statute required no proof of a jurisdictional nexus between the gun, or the gun possession, and interstate commerce. The statute included no findings from which the Court could find that the possession of guns near schools substantially affected interstate commerce and, in the Court's view, the possession of a gun was not an economic activity itself. Under these circumstances, the Court held that the statute exceeded Congress's power to regulate interstate commerce because the prohibited conduct could not be said to ''substantially affect'' interstate commerce. Proposed §249(a)(2), by contrast to the statute invalidated in *Lopez*, would require pleading and proof of a specific jurisdictional nexus to interstate commerce for each and every offense.

In *Morrison*, the Court applied its holding in *Lopez* to find unconstitutional the civil remedy provided in VA WA, 42 U.S.C. §13981. Like the prohibition of gun possession in the statute at issue in *Lopez*, the VA WA civil remedy required no pleading or proof of a connection between the specific conduct prohibited by the statute and interstate commerce. Although the VA WA statute was supported by extensive congressional findings of the relationship between violence against women and the national economy, the Court was troubled that accepting this as a basis for legislation under the Commerce Clause would permit Congress to regulate anything, thus obliterating the ''distinction between what is truly national and what is truly local.'' *Morrison*, 120 S. Ct. at 1754 (citing *Lopez*, 514 U.S. at 568). By contrast, the requirement in proposed §249(a)(2) of proof in each case of a specific nexus between interstate commerce and the proscribed conduct would ensure that only conduct that falls within the Commerce power, and thus is ''truly national,'' would be within the reach of that statutory provision.

The Court in *Morrison* emphasized, as it did in *Lopez*, 514 U.S. at 561–62, that the statute the Court was invalidating did not include an ''express jurisdictional element,'' 120 S. Ct. at 1751, and compared this unfavorably to the criminal provision of VA WA, 18 U.S.C. §2261(a)(1), which does include such a jurisdictional nexus. *See id.* at 1752 n.5. The Court indicated that the presence of such a jurisdiction nexus. *See id.* at 1752 n.5. The Court indicated that the presence of such a jurisdictional nexus would go far towards meeting its constitutional concerns:

''The second consideration that we found important in analyzing [the statute in *Lopez*] was that the statute contained ''no express jurisdictional element which might limit its reach to a discrete set of firearm possessions that additionally have an explicit connection with or effect on interstate commerce.'' [514 U.S.] at 562. Such a jurisdictional element may establish that the enactment is in pursuance of Congress' regulation of interstate commerce.''

Id. at 1750–51; *see also id.* at 1751–52 (''Although *Lopez* makes clear that such a jurisdictional element would lend support to the argument that [the provision at issue in *Morrison*] is sufficiently tied to interstate commerce, Congress elected to cast [the provision's] remedy over a wider, and more purely intrastate, body of violent crime.'')

While the Court in *Morrison* stated that Congress may not ''regulate noneconomic, violent criminal conduct based solely on that conduct's aggregate effect on interstate commerce,'' *id.* at 1754, the proposed regulation of violent conduct in §249(a)(2) would *not* be based ''solely on that conduct's aggregate effect on interstate commerce,'' but would instead be based on a specific and discrete connection between each instance of prohibited conduct and interstate or foreign commerce. Specifically, with respect to violence because of the actual or perceived religion, national origin, gender, sexual orientation or disability of the victim, proposed §249(a)(2) would require the government to prove one or more specific jurisdictional commerce ''elements'' beyond a reasonable doubt. This additional jurisdictional requirement would reflect Congress's intent that §249(a)(2) reach only a ''discrete set of [violent acts] that additionally have an explicit connection with or effect on interstate commerce,'' 120 S. Ct. at 1751 (quoting *Lopez*, 514 U.S. at 562), and would fundamentally distinguish this statute from those that the Court invalidated in *Lopez* and in *Morrison*. Absent such a jurisdictional element, there exists the risk that ''a few random instances of interstate effects could be used to justify regulation of a multitude of intrastate transactions with no interstate effects.'' *United States* v. *Harrington*, 108 F.3d 1460, 1467 (D.C. Cir. 1997). By contrast, in the context of a statute with an interstate jurisdictional element (such as in proposed §249(a)(2)(B)), ''each case stands alone on its evidence that a concrete and specific effect does exist.''

The jurisdictional elements in §249(a)(2)(B) would ensure that each conviction under §249(a)(2) would involve conduct that Congress has the power to regulate under the Commerce Clause. In *Morrison*, the Court reiterated its observation in *Lopez* that there are '''three broad categories of activity that Congress may regulate under its commerce power.''' 120 S. Ct. at 1749 (quoting *Lopez*, 514 U.S. at 558):

''First, Congress may regulate the use of the channels of interstate commerce. . . . Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities. . . . Finally, Congress' commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce, . . . i.e., those activities that substantially affect interstate commerce.''—*Id.* (quoting *Lopez*, 514 U.S. at 558–59).

Proposed §249(a)(2)(B)(i) would prohibit the violent conduct described in §249(a)(2)(A) where the government proves that the conduct ''occurs in the course of, or as the result of, the travel of the defendant or the victim (a) across state lines or national borders, or (b) using a channel, facility, or instrumentality of interstate or foreign commerce.'' A conviction based on such proof would be within Congress's powers to ''regulate the use of the channels of interstate commerce,'' and to ''regulate and protect . . . persons or things in interstate commerce.'' Proposed §249(a)(2)(B)(ii) would prohibit the violent conduct described in §249(a)(2)(A) where the government proves that the defendant ''uses a channel, facility or instrumentality of interstate or foreign commerce in connection with the conduct''—such as sending a bomb to the victim via common carrier—and would fall within the power of Congress to ''regulate the use of the channels of interstate commerce'' and ''to regulate and protect the instrumentalities of interstate commerce.''

Proposed §249(a)(2)(B)(iii) would prohibit the violent conduct described in §249(a)(2)(A) where the government proves that the defendant ''employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce in connection with the conduct.'' Such a provision addresses harms that are, in a constitutionally important sense, facilitated by the unencumbered movement of weapons across state and national borders, and is similar to several other federal statutes in which Congress has prohibited persons from using or possessing weapons and other articles that have at one time or another traveled in interstate or foreign commerce. The courts of appeals uniformly have upheld the constitutionality of such statutes. And, in *Lopez* itself, the Supreme Court cited to the jurisdictional element in the statute at issue in *United States* v. *Bass*, 404 U.S. 336 (1971), as an example of a provision that ''would ensure, through case-by-case inquiry, that the firearm possession in question affects interstate commerce.'' 514 U.S. at 561. In *Bass*, 404 U.S. at 350–51, and in *Scarborough* v. *United*

States, 431 U.S. 563 (1977), the Court construed that statutory element to permit conviction upon proof that a felon had received or possessed a firearm that had at some time passed in interstate commerce.

Proposed §249(a)(2)(B)(iv)(I) would apply only where the government proves that the violent conduct ''interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct.'' This is one specific manner in which the violent conduct can affect interstate or foreign commerce. This jurisdictional element also is an exercise of Congress's power to regulate '''persons or things in interstate commerce.'' *Morrison*, 120 S. Ct. at 1749 (quoting *Lopez*, 514 U.S. at 558). As Justice Kennedy (joined by Justice O'Connor) wrote in *Lopez*, 514 U.S. at 574, ''Congress can regulate in the commercial sphere on the assumption that we have a single market and a unified purpose to build a stable national economy.''

Finally, proposed §249(a)(2)(B)(iv)(II) would prohibit the violent conduct described in §249(a)(2)(A) where the government proves that the conduct ''otherwise affects interstate or foreign commerce.'' Such ''affects commerce'' language has long been regarded as the appropriate means for Congress to invoke the full extent of its authority. *See, e.g., Jones* v. *United States*, 120 S. Ct. 1904 (2000), No. 99–5739, slip op. at 5 (May 22, 2000) (''the statutory term 'affecting . . . commerce,' . . . when unqualified, signal[s] Congress' intent to invoke its full authority under the Commerce Clause''); *Allied-Bruce Terminix Cos.* v. *Dobson*, 513 U.S. 265, 273 (1995) (''Th[e] phrase—'affecting commerce'—normally signals Congress's intent to exercise its Commerce Clause powers to the full.''). Of course, that this element goes to the extent of Congress's constitutional power does not mean that it is unlimited. Interpretation of the ''affecting . . . commerce'' provision would be addressed on a case-by-case basis, within the limits established by the Court's doctrine. There likely will be cases where there is some question whether a particular type or quantum of proof is adequate to show the ''explicit'' and ''concrete'' effect on interstate and foreign commerce that the element requires. See Hamilton, 108 F.3d at 1464, 1467 (citing *Lopez*, 514 U.S. at 562, 567). But on its face this element is, by its nature, within Congress's Commerce Clause power.

In sum, because §249(a)(2) would prohibit violent conduct in a ''discrete set'' of cases, 120 S. Ct. at 1751 (quoting *Lopez*, 514 U.S. at 562), where that conduct has an ''explicit connection with or effect on'' interstate or foreign commerce, id., it would satisfy the constitutional standards articulated in the Court's recent decisions.

The office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this letter.

Sincerely,

ROBERT RABEN,
Assistant Attorney General.

Mr. KENNEDY. I was startled to hear my friend and colleague suggest that when they asked the Justice Department which States took no action in the Federal Government prosecution, he said there was not any. He did not read his response from the Justice Department because I have in my hand the response from the Justice Department that lists their response. I am not going to take the time tonight to go all the way through, but they have been listed. He ought to ask his staff for that because it has been sent to the Judiciary Committee, of which he is the chairman.

Included in the Justice Department's response are cases showing instances where the Department has pursued cases Federally when the State cannot respond as effectively as the Federal Government. For example, when State penalties are less severe than Federal penalties or where there are differences in applicable criminal procedure.

The idea that there really aren't times when States are unable to prosecute a case just does not hold water, because the cases are out there and have been supplied by the Justice Department.

Furthermore, this chart shows what is happening across the country in the various States. Eight States have absolutely no hate crimes statutes, 22 States have criminal statutes for disability bias crimes, 21 States plus the District of Columbia have criminal statutes for sexual orientation bias crimes, and 20 States identify gender bias crimes.

But, if you are in any of these States shown on this chart which are colored gray, including many in the Northeast, as well as out in the West, and you are involved in the beating or battering of an individual American because of their sexual orientation, there are no hate crimes statutes under which to prosecute the perpetrator.

The States shown in yellow on the chart have no hate crimes statutes at all. As I said, the States shown in gray have no protection at all for crimes committed because of a person's sexual orientation. Many of those States that have hate crimes laws are inadequate because they do not include all of the categories, including sexual orientation, gender and disability.

We have one particular State, Utah, where a judge found the hate crime law to be incomplete because it specified no classes of victims—the State included itself as having a hate crimes law. The judge was forced to dismiss the felony charges against two defendants who allegedly beat and terrorized people in a downtown city. The case was effectively dismissed because the state hate crime law was so vaguely drafted that it failed to provide any of the protections that other state hate crimes law do that clearly define classes of people who are protected by race, religion, national origin, ethnic background, gender, sexual orientation, or disability.

The reality in the United States today is that either we believe we have some responsibility to protect our fellow Americans from these kinds of extraordinary actions based upon bigotry and prejudice or we don't.

We have taken action in the past. We have done it when the action was based upon bigotry and prejudice and denial of the right to vote. We have taken action when prejudice and bigotry have denied people public accommodation. We have taken action against bigotry and prejudice when people have been denied housing. We have taken action against bigotry and prejudice toward people with disabilities.

Now we are asking the Senate to take action when there is violence against American citizens based upon prejudice and bigotry. That is why this vote tomorrow is so important. That is what the issue is about. It is very basic and fundamental, and it is enormously important.

It is part of a continuing process of the march towards a fairer and more just America. We have been trying to free ourselves from the stains of discrimination on the basis of race. We are making progress in terms of religion, national origin, and ethnic background. We are doing it with regard to gender, disability, and sexual orientation.

What we are doing with this legislation is saying, at least in these areas, protect American citizens from prejudice and discrimination and violence that is being directed towards them. Let us make that a priority; let all Americans know that we are not going to fight prejudice and discrimination with one hand tied behind our backs. The Federal Government should have both hands involved in trying to protect our citizens from this form of discrimination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I don't disagree with the Senator that hate crimes are occurring, but they are being prosecuted by State and local officials. That is the point. Many of the cases —and there aren't a lot of cases that the Justice Department has provided—are cases where the Justice Department felt there should have been a greater remedy and there should have been greater sentencing. But they are not in large measure cases where State refused or failed to prosecute the perpetrators of these horrendous crimes.

The fact is, there are not a lot of cases that can be produced, and the Justice Department has not been able to produce them. I don't disagree that hate crimes are occurring and we should stamp them out, but they are being prosecuted by State and local officials to the fullest extent of the law. The Federal Government may disagree on how they prosecute sometimes, but the fact is, they are being prosecuted. No one has shown, certainly not the Justice Department, that these truly horrific crimes are not being prosecuted, let alone on a large scale. The fact is, they are being prosecuted.

The cases identified by the Justice Department, a handful of cases, were in large measure cases where State officials, investigators, and prosecutors got verdicts and sentences. In other words, they were brought and verdicts and sentences were obtained. The Federal Government would have tried the cases differently or might have sought a higher or more harsh sentence. But they are not cases where the State refused to prosecute a hate crime.

My colleague is right: We should do everything in our power to stop hate

crimes in our society. But no one to this date has been able to show that there is a widespread, endemic failure at the State level to prosecute these crimes. There is no real evidence that the States are being slovenly in their duties. That is one reason why I think it is very important that we objectively analyze these matters. We will have more time to debate this, hopefully a little more time tomorrow.

Finally, when Mr. Holder, the Deputy Attorney General, appeared before the committee, he could not cite one case, not a single case. After a month of research, the Justice Department came up with a handful of cases. That was it. Not because they weren't prosecuted at the State level, they were. They just differed with the way they were prosecuted. That is not good enough. These are some of the things that bother me.

I am willing to work with the distinguished Senator from Massachusetts and the distinguished Senator from Oregon and others who want to do something. If the amendment I am offering is not good enough, I am willing to work to see if we can find something that will bring us together and do a better job, certainly, to stamp out any type of hate criminal activity. But I am very loathe to federalize all crimes so that the Federal Government can second-guess State and local prosecutors every time a criminal activity occurs. I think one could say in many respects all crimes are hate crimes, even though they are not categorized as such now. They are prosecuted, and that is the important thing.

Mr. President, I will ask unanimous consent, unless there is anyone else who desires to speak.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I mentioned, the cases were provided by the Justice Department.

Let me give you one case, U.S. v. Kila, 1994, a Federal jury in Fort Worth, Texas acquitted three white supremacists of Federal civil rights charges arising from unprovoked assaults upon African Americans, including one incident where the defendants knocked a man unconscious as he stood near a bus stop. For several hours, the defendants walked throughout the town accosting every African American they met, ordering them to leave whatever place or area they were in. Some of these encounters consisted of verbal harassment; in others, Black victims were shoved on the streets, their hats knocked off. Throughout their movements through the city, the subjects were using racial epithets and talking about white supremacy.

The subjects' parade of racial hate erupted into serious violence with the assault on Ali—that is the name of the individual—at the bus stop, an assault which knocked him unconscious. According to witnesses, Ali was punched in the face after he fell to the ground, and kicked in the head. He was transported by ambulance to the hospital, having sustained head injuries. He did not have medical insurance. When the doctors asked him to remain for further tests, he left against their wishes.

The Federal Government became involved in the case when State officials went to the U.S. Attorney's Office asking for Federal assistance. The State could only proceed on misdemeanors, and in their judgment, the conduct warranted felony treatment, treatment available under Federal law. Some of the jurors revealed after the trial that although the assaults were clearly motivated by racial animus, there was no apparent intent to deprive the victims of the right to participate in any federally protected activity.

It is this federally protected activity barrier under current law that is unduly restrictive, and must be amended.

The Government's proof that the defendants went out looking for African Americans to assault was insufficient to satisfy the statutory requirements and effectively the case was dropped.

I could go back as far as 1982. Maybe in some cases defendants get tried for a misdemeanor, as they did in a Western State case I mentioned previously, but they are not getting prosecuted with the full weight of the law. That is what we are talking about. In the 1982 case that I referred to, two white men chased a man of Asian descent from a night club in Detroit and beat him to death. The Department of Justice prosecuted the perpetrators under existing hate crimes laws, but both defendants were acquitted—despite substantial evidence to establish their animus based on the victim's national origin. Although the Justice Department had no direct evidence of the basis for the jurors' decision, the Government's need to prove the defendants' intent to interfere with the victim's engagement in a federally protected right—the use of a place of public accommodation, was the weak link in the prosecution.

These defendants committed murder on the basis of hate. Do we need more cases? I am glad to stay here and go through a whole pile of them. These are examples of what we are talking about. This is what is taking place. The question is whether we are going to do something about it. That is the issue that will be presented to this body tomorrow.

I will take a moment to read into the RECORD the letter from Judy Shepard addressed to the members of the Judiciary Committee:

Thank you for your hard work and commitment to combating hate violence in America. I appreciate the opportunity to testify before your committee last year. As the mother of a hate crime victim, I applaud your interest in trying to address this serious problem that has torn at the very fabric of our nation. However, I do have concerns with your bill (S. 1406) as currently written, and I would like to take this opportunity to discuss them with you.

As I am sure you remember from our visit last fall, two men murdered my son Matthew in Laramie, Wyoming in October 1998 because he was gay. Though your amendment is well intentioned, it fails to address hate crimes based on sexual orientation, nor does it include disability or gender. The time has long passed for halfway measures to address this devastating violence. While I appreciate your efforts, the appropriate and necessary response is the Smith-Kennedy measure (S. 622), and I strongly urge you to support this approach.

Though forty states and the District of Columbia have enacted hate crime statutes, most states do not provide authority for bias crime prosecutions based on sexual orientation, gender, or disability. Including the District of Columbia, only 22 states now include sexual orientation-based crimes in their hate crime statutes, 21 include coverage of gender-based crimes, and 22 include coverage for disability-based crimes.

There is currently no law that allows federal assistance for localities investigating and prosecuting hate crimes based on sexual orientation. As a result, though Matt's killers were brought to justice, the Laramie law enforcement officials told me, as I know they told you last year, that they were forced to furlough five employees to be able to afford to bring the case. The Smith-Kennedy amendment would add sexual orientation, gender and disability to current law, while your amendment would not. I urge you to support the Smith-Kennedy amendment, which is more comprehensive and inclusive.

I know that legislation cannot erase the hate or pain or bring back my son, but I believe that passage of this legislation is an essential step in the healing process and will help allow the federal government to assist in the investigation and prosecution of future hate crimes.

Again, I respect your commitment to making America a more understanding and just country where hate crimes are no longer tolerated. But I urge you to promptly address my concerns that are shared by so many others, so our nation can be safe for all people, including gay people like my son Matthew.

Sincerely,

JUDY SHEPARD.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I don't mean to prolong this, but in the handful of cases they don't like what happened. In that case, I may agree with the Senator that there should have been a verdict against the defendants, but a jury in the United States found otherwise. That doesn't mean we should federalize all hate crimes. That is what I am concerned about.

I will just put forth my offer to work with the Senator to see if we can find some way of bringing everybody together in a way that will not intrude the Federal Government into all the local and State prosecutions in this country, which certainly the Senator's amendment would do. That is what I am concerned about. We will chat overnight and talk about it and see what we can do.

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MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

JUNETEENTH INDEPENDENCE DAY

Mr. LEVIN. Mr. President, today we recognize the date upon which slavery finally came to an end in the United States, June 19, 1865, also known as ''Juneteenth Independence Day.'' It was on this date that slaves in the Southwest finally learned of the end of slavery. Although passage of the Thirteenth Amendment in January 1863, legally abolished slavery, many African Americans remained in servitude due to the slow dissemination of this news across the country.

Since that time, over 130 years ago, the descendants of slaves have observed this anniversary of emancipation as a remembrance of one of the most tragic periods of our nation's history. The suffering, degradation and brutality of slavery cannot be repaired, but the memory can serve to ensure that no such inhumanity is ever perpetrated again on American soil.

Mr. President, throughout the Nation, we also celebrate the many important achievements of former slaves and their descendants. We do so because in 1926, Dr. Carter G. Woodson, son of former slaves, proposed such a recognition as a way of preserving the history of African Americans and recognizing the enormous contributions of a people of great strength, dignity, faith and conviction—a people who rendered their achievements for the betterment and advancement of a Nation once lacking in humanity towards them. Every February, nationwide, we celebrate African American History Month. And, every year on June 19, we celebrate ''Juneteenth Independence Day.''

Lerone Bennett, editor, writer and lecturer recently reflected on the life and times of Dr. Woodson. In an article he wrote earlier this year for Johnson's Publications, Bennett tells us that one of the most inspiring and instructive stories in African American history is the story of Woodson's struggle and rise from the coal mines of West Virginia to the summit of academic achievement:

> At 17, the young man who was called by history to reveal Black history was an untutored coal miner. At 19, after teaching himself the fundamentals of English and arithmetic, he entered high school and mastered the four-year curriculum in less than two years. At 22, after two-thirds of a year at Berea College [in Kentucky], he returned to the coal mines and studied Latin and Greek between trips to the mine shafts. He then went on to the University of Chicago, where he received bachelor's and master's degrees, and Harvard University, where he became the second Black to receive a doctorate in history. The rest is history—Black history.

In keeping with the spirit and the vision of Dr. Carter G. Woodson, I would like to pay tribute to two courageous women, claimed by my home state of Michigan, who played significant roles in addressing American injustice and inequality. These are two women of different times who would change the course of history.

Sojourner Truth, who helped lead our country out of the dark days of slavery, and Rosa Parks, whose dignified leadership sparked the Montgomery Bus Boycott and the start of the Civil Rights movement are indelibly echoed in the chronicle of not only the history of this Nation, but are viewed with distinction and admiration throughout the world.

Sojourner Truth, though unable to read or write, was considered one of the most eloquent and noted spokespersons of her day on the inhumanity and immorality of slavery. She was a leader in the abolitionist movement, and a ground breaking speaker on behalf of equality for women. Michigan recently honored her with the dedication of the Sojourner Truth Memorial Monument, which was unveiled in Battle Creek, Michigan on September 25, 1999.

Truth lived in Washington, D.C. for several years, helping slaves who had fled from the South and appearing at women's suffrage gatherings. She returned to Battle Creek in 1875, and remained there until her death in 1883. Sojourner Truth spoke from her heart about the most troubling issues of her time. A testament to Truth's convictions is that her words continue to speak to us today.

On May 4, 1999 legislation was enacted which authorized the President of the United States to award the Congressional Gold Medal to Rosa Parks. I was pleased to coauthor this fitting tribute to Rosa Parks—the gentle warrior who decided that she would no longer tolerate the humiliation and demoralization of racial segregation on a bus. Her personal bravery and self-sacrifice are remembered with reverence and respect by us all.

Forty-four years ago in Montgomery, Alabama the modern civil rights movement began when Rosa Parks refused to give up her seat and move to the back of the bus. The strength and spirit of this courageous woman captured the consciousness of not only the American people but the entire world. The boycott which Rosa Parks began was the beginning of an American revolution that elevated the status of African Americans nationwide and introduced to the world a young leader who would one day have a national holiday declared in his honor, the Reverend Martin Luther King Jr.

We have come a long way toward achieving justice and equality for all. But we still have work to do. In the names of Rosa Parks, Sojourner Truth, Dr. Carter G. Woodson, Dr. Martin Luther King, Jr, and many others, let us rededicate ourselves to continuing the struggle on Civil Rights and to human rights.

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MULTI-YEAR PROCUREMENT FOR THE F/A–18 E/F SUPER HORNET

Mr. ASHCROFT. Mr. President, I want to announce my unqualified support for the recent signing of the Multi-Year Procurement contract on Boeing's F/A–18 E/F Super Hornet. This is a good day for U.S. national defense, the Navy, the American taxpayers, and the city of St. Louis.

This announcement secures the production of the Super Hornet, which is in St. Louis, for the next 5 years. Valued at $8.9 billion for a total of 222 aircraft over 5 years, this contract will ensure that the Navy will have these planes and, in addition, U.S. taxpayers will save over $700 million. It is definitely a ''win-win'' situation.

The U.S. Navy's award winning Super Hornet Program continues to be recognized throughout the Department of Defense and industry as the standard by which all other tactical aviation programs should be evaluated. Since the program's inception, the Super Hornet has met or exceeded all cost, weight and schedule goals and requirements.

The Boeing Corporation, which is the prime contractor, in partnership with the Navy has introduced a 21st Century strike fighter that will ensure the Navy's carrier airwing is more than able to defeat today's threat and the projected threats of the first 30 years of this century. A balanced approach to survivability, revolutionary methods of design and manufacture, and a very cost-conscious approach to achieving and maintaining multi-mission superiority over the threat has given the Navy a new tactical aircraft that supports Navy budget realities.

Mr. President, in addition to affordability, comparable performance, enhanced range, carrier bring back, more weapons stations, future growth and better survivability were major consideration for the next generation of carrier-based strike fighters. The Super Hornet has met the muster in every category.

The Navy has not been shy about its support for this project, and I wholeheartedly agree with my good friend Admiral Jay Johnson, the Chief of Naval Operations, who recently stated: ''The F/A–18E/F Super Hornet is the cornerstone of the future of Naval aviation. . . . It will provide twice the sorties, a third the combat losses and forty percent greater range. We can't wait to get it to the fleet!''

This contract is also a testimony to the excellent job the workers of St. Louis do every day. Without their dedication and commitment to quality, the Super Hornet would not be able to win such an important contract.

In conclusion, I thank the people who made this contract a reality—namely the people of St. Louis, the Boeing Corporation, the U.S. Navy, and my fellow Senators who joined me in my support of this wonderful project.

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HOURS OF SERVICE PROVISIONS IN H.R. 4475

Mr. CLELAND. Mr. President, I rise today to address the Hours of Service provision in H.R. 4475, the Department of Transportation appropriations bill. As directed by Congress, the Department of Transportation, and most recently the new Federal Motor Carrier

Safety Administration (FMCSA), set out to examine the hours of service standard for motor carrier drivers that had been in effect since the 1930s.

As I stated in the Surface Transportation Subcommittee's hearing in September 1999, I am concerned about fatigued drivers on the road. The fatigue related accident I profiled at this hearing occurred August 31, 1999 in Atlanta, and resulted in deadly consequences for the drivers of the truck. The accident occurred in the early morning hours and thankfully, no other automobiles were directly involved. However, daily commuters felt the effects during morning and afternoon rush hours, and the tragedy and frustration from incidents such as this accident resulted in Congress directing DOT to examine hours of service regulations.

Admittedly, I have concerns about the effects of the proposed rule, but I do not believe that the appropriations bill is the proper vehicle through which to express concerns. I would like to remind my colleagues that the DOT has only issued a proposed rule. DOT is still accepting comments on this rule through October 31, 2000—an extension of the original date—and continues to hold hearings on the issue throughout the country. I believe these hearings have brought, and will continue to bring, potential problems to the attention of DOT officials. For example, during emergencies, utility drivers must restore service to customers. How do these rules apply to such drivers in these special situations?

Congress directed DOT to evaluate the hours of service rules. Is this the best proposal? I am not convinced so, but I do believe DOT should be able to move forward with the prescribed process. The American driving public deserves the continuation of the hours of service reform process. The truck drivers want this collaborative process to continue. As this point, why should the Senate attempt to short-circuit the efforts of the FMCSA to reform the hours of service rule as directed by Congress?

I do not support the prohibition on moving forward with the hours of service process, and I urge the conferees on H.R. 4475 to remove the hours of service provision from the final bill. Let's work together in thoroughly considering the best way to ensure the safety of automobile and truck drivers traveling America's roads.

ADDITIONAL STATEMENTS

NONCOMMISSIONED OFFICER OF THE YEAR AWARD

● Mr. MURKOWSKI. Mr. President, it is with great honor today that I rise to recognize one of the finest men in the Alaska Army National Guard, Sergeant Edwin D. Irizarry. Sergeant Irizarry's hard work and dedication to the Army National Guard in Alaska have earned him the title of the ''Noncommissioned Officer of the Year.'' Mr. President, this is no small award. It is only awarded to those who show outstanding leadership and extraordinary accomplishments in their duty. Sergeant Irizarry epitomizes the commitment and unselfish honor of the men and women in Alaska's Army National Guard.

This is a great honor for Alaska. The commitment to be in the Guard requires an individual to work hard and sacrifice their own personal time to protect the very communities where they live. Sergeant Irizarry lives and works in Ketchikan, with his wife and family. Ketchikan is a beautiful town in southeast Alaska where I was fortunate to have been raised. I know the terrain that the Guard uses is no walk in the park. Mountains and a channel of water hug the town in this great place. To be stationed in Ketchikan one must learn to adapt to the fast changing climate and diverse environment that exists in this region. Ketchikan and Alaska are truly indebted to the many fine soldiers like Sergeant Irizarry who protect and assist in communities throughout the last frontier.

Sergeant Irizarry serves as role model and inspiration to the over 300,000 men and women in our country's National Guard. Without the talent and support given to our armed forces by the National Guard and individuals like Sergeant Irizarry, our country would not be where it is today. I take great pride in congratulating Sergeant Irizarry for his Guard career and for being an example for all of us to follow.●

PRIVATE RELIEF BILL FOR MARINA KHALINA

● Mr. WYDEN. Mr. President, I ask that the following letter be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, June 16, 2000.

Senator TOM DASCHLE
Minority Leader,
Washington, DC.

DEAR MR. LEADER: Two weeks ago, my private relief bill for Marina Khalina, S. 150, was scheduled to come to the floor, but other members objected to this bill coming to the floor before their private relief bills came to the floor.

I agreed to let my bill be sent back to the Judiciary Committee so that it and the other private relief bills could be cleared for the floor together on June 15, 2000.

Now, I have been informed that the Immigration and Naturalization Service (INS) somehow misplaced Ms. Khalina's fingerprints and that her relief bill cannot be passed by the full Senate until a new fingerprint record for Ms. Khalina can be processed by the INS. Senate action on her bill should not be delayed because of INS incompetence in losing her fingerprints.

Since I am concerned that Ms. Khalina will miss her opportunity for justice should these bills go forward without S. 150, I am notifying you that I would object to a unanimous consent request to move any private relief bills unless S. 150 is included with the package.

I ask unanimous consent that my remarks be included in the record pursuant to the leaders request that such objections be made public.

Sincerely,

RON WYDEN.●

TRIBUTE TO BILL FRAIN

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor the outstanding leadership of PSNH President and CEO Bill Frain. The core qualities of a great leader—vision and values—are often overlooked in the hustle of today's corporate society. PSNH President and CEO Bill Frain is one leader whose accomplishments and dedication to both his vision and values have gained him the respect and admiration of individuals across the state.

After years of service to PSNH and its surrounding communities in the great state of New Hampshire, Bill Frain is retiring from the company. It has been both a great honor and a distinct pleasure to work with Bill over the years, and I salute him for his unwavering dedication to New Hampshire, its citizens and its economy.

Bill often quotes the adage, ''Storms make oaks take deeper roots.'' Through his navigational skills and constant perseverence, Bill brought PSNH to a level where it is currently one of the most respected companies in the state and that earned him the honor of being named ''Business Leader of the Decade'' by Business New Hampshire Magazine.

Bill is often described by his peers as a strong leader who is able to motivate those around him to continued success. Over the years, I have seen first-hand his ability to inspire, and I applaud his talents and dedication to New Hampshire.

I wish Bill much happiness as he embarks on this new journey in life, as he will be missed. I want to leave Bill with a poem by Robert Frost, as I know that he has many more miles to travel and endeavors to conquer.

The woods are lovely, dark and deep.
But I have promises to keep,
And miles to go before I sleep.
And miles to go before I sleep.

Bill, it has been a pleasure to represent you in the United States Senate. I wish you the best of luck in your future endeavors. May you always continue to inspire those around you.●

RECOGNITION OF MRS. SUSAN WARGO

● Mr. REID. Mr. President, I have the pleasure to stand today and celebrate the career of a very fine public school teacher. She is Mrs. Susan Wargo, a third grade school teacher at Franklin Sherman Elementary School in Fairfax County, Virginia. She is retiring this year, after teaching school for 28 years. She and her husband Mike, will be relocating to Aiken, South Carolina.

I know about Mrs. Wargo because she teaches my granddaughter, Mattie

Barringer. Mattie loves Mrs. Wargo, and its not hard to figure out why. She has captured Mattie's imagination and won her heart. Mattie has learned ancient history, economics, math, and literature from Mrs. Wargo, but she could have learned those things from anybody. Mrs. Wargo's lasting contribution to Mattie's education is the atmosphere she created in her classroom. She embraced her students, made them feel comfortable, taught them how to learn, and got them to accomplish great things—more than they ever thought they were capable of doing. Mrs. Wargo is that amazing teacher that we all can remember: the one that cared about us, that took an interest in us, that rooted for us, and made us passionate to learn.

I had a teacher like Mrs. Wargo when I was a young boy—her name was Mrs. Pickard and I am glad my granddaughter was lucky enough to have such a teacher so early in her education. Teachers like Mrs. Wargo immeasurably enrich our lives. My daughter Lana—Mattie's mother—tells me that when talking about Mattie in a parent-teacher conference, Mrs. Wargo's voice seemed to break just slightly with emotion as she spoke passionately about Mattie's talents and potential. My daughter came away from that conference amazed at this great teacher.

It is hard to express these feelings we have about great teachers. Mattie did a much better job than I have done here in a recent letter to Mrs. Wargo. She wrote: ''When I came to this school, you made me feel special. You always make me feel good about myself. I'll miss you.''

With those words, I am delighted to pay tribute to Mrs. Wargo, and to her colleagues like her who serve in the public schools. Mrs. Wargo, my family thanks you for your many gifts to Mattie. We want you to know that the good you have done so far in your life has been noticed, and much appreciated.●

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TRIBUTE TO LT. GEN. MICHAEL C. SHORT, USAF

● Mr. SHELBY. Mr. President, today, I recognize the outstanding service to our Nation of Lieutenant General Michael C. Short. Lt. General Short will retire on July 1, 2000, after an outstanding career in the United States Air Force. During a 35 year career, General Short distinguished himself as a fighter pilot, warfighter, and trusted leader.

Throughout his career, General Short commanded at all levels, both overseas and in the continental United States. A 1965 graduate of the U.S. Air Force Academy, he is a command pilot with more than 4,600 flying hours in fighter aircraft, including 276 combat missions in Southeast Asia. His impressive list of accomplishments include command of the 4th Aircraft Generation Squadron, 334th Tactical Fighter Squadron, 4450th Tactical Group, 355th Tactical Training Wing, 67th Tactical Reconnaissance Wing and the 4404th Composite Wing.

During his last assignment, General Short commanded the Allied Air Forces Southern Europe, Stabilization Forces Air Component, and Kosovo Forces Air Component, Naples, Italy, and the 16th Air Force and 16th Air and Space Expeditionary Task Force, U.S. Air Forces in Europe, Aviano Air Base, Italy. As commander of these forces, he was the air principal subordinate commander and the joint and combined forces air component commander for the North Atlantic Treaty Organization's (NATO) Southern Region. He also was responsible for the planning and employment of NATO's air forces in the Mediterranean area of operations from Gibraltar to Eastern Turkey and air operations throughout the Balkans. General Short led the 16th Air Force during what was, without question, the most demanding period in its history—a time when it fulfilled a NATO mission of peace enforcement in Bosnia-Herzegovina and later, participated in a NATO-led air war, which removed Slobodan Milosevic's Serbian military and police forces from Kosovo.

A consummate professional, General Mike Short's performance of duty during the past thirty-five years of service personify those traits of courage, competency and integrity that we expect from our military officers. His career reflects a deep commitment to our country, to dedicated and selfless service, and to excellence. On behalf of the United States Senate and the people of this great Nation, I commend him for his exemplary service and offer heartfelt appreciation for a job well done. We wish him and his family Godspeed and all the best in their future endeavors.●

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RETIREMENT OF JAMES STALDER

● Mr. SANTORUM. Mr. President, I rise today to recognize James Stalder as he retires as Managing Partner from the Pittsburgh office of Pricewaterhouse-Coopers LLP. He initially joined the firm in Pittsburgh, Pennsylvania before transferring to the National Headquarters in New York, where he served as Director of Tax Research and Technical Services for the Ohio Valley Area. In 1988, he was appointed Managing partner of the Price Waterhouse office. Since July 1998, Mr. Stalder has been Managing Partner of the PricewaterhouseCoopers LLP office.

Upon retiring, Mr. Stalder will commence a deanship at Duquesne University in Pittsburgh. He will assume the position of Dean of the A.J. Palumbo Undergraduate School of Business and the John F. Donahue Graduate School of Business. Judging by Mr. Stalder's proven leadership, it is clear that he will be a great asset to Duquesne.

Mr. Stalder has served as President of the Pennsylvania Institute of Certified Public Accountants and as a member of the Council of the American Institute of Public Accountants. He is also a Life Trustee of Carnegie-Mellon University where he has been a member of the faculty of the Graduate School of Industrial Administration since 1981. A graduate of The Pennsylvania State University, he also serves as a member of the University's Smeal College of Business Administration Board of Trustees. Moreover, Mr. Stalder was instrumental in the creation of the Pennsylvania Tax Blueprint Project, which is developing micro simulation economic impact models to enable the Governor and legislators in Pennsylvania to measure and intelligently debate alternative tax reform proposals. In addition, Mr. Stalder has served as Chairman of the Greater Pittsburgh Chamber of Commerce and in many other leadership roles in similar organizations. I commend Mr. Stalder for his demonstrated service to leadership in these organizations.

Mr. Stalder has received numerous awards for outstanding service to his community. Among these is the Distinguished Public Service Award, the top award presented to an individual by the Pennsylvania Institute of Certified Public Accountants, which ''honors CPAs who have truly made a difference through active participation in public service.

Mr. Stalder will be an excellent addition to the administration at Duquesne. Throughout his professional life, he has worked with some of the leading multi-national corporations in the world. He will be able to offer his extensive expertise in tax accounting and related fields, as well as the skills of negotiating and deal making.

James Stalder is a role model not only to the residents of Pittsburgh but to the entire Commonwealth of Pennsylvania. I wish him the best as he takes on new challenges.●

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THE SITUATION IN ZIMBABWE

● Mr. MCCAIN. Mr. President, in assessing the situation in Zimbabwe today, permit me to quote a long-time supporter of that country's ruling party in reference to that party: ''If I give my name, they might hear and come for me at night.'' Such is the pervasive level of fear that has permeated Zimbabwe over the past several months and threatens that country with a degree of political instability not seen since white-minority rule gave way to the creation of the Republic of Zimbabwe. The increasingly autocratic regime of Robert Mugabe, threatened by the growth of a viable democratic opposition, is responding the way dictatorial regimes the world over generally do, with violence aimed at subverting the will of the people.

Permit me to quote from the June 3 issue of The Economist for a sense of what is going on inside Zimbabwe today:

Intimidation is rampant in the countryside. . .Peasants are told that their votes are not secret and that they will suffer if they do not give them to the ruling party. People suspected of supporting opposition parties have been threatened, beaten and in some cases killed. Rural clinics and hospitals have been ordered to refuse treatment to opposition supporters. Teachers in the countryside have been singled out for attack, dragged from their classrooms and beaten in front of their students. Some female teachers have been stripped naked. More than 260 rural schools have been closed by the violence.

As chairman of the International Republican Institute, which has maintained a presence in Zimbabwe along with its counterpart National Democratic Institute, I am appalled at developments in that southern African country. Parliamentary elections, widely expected to result in a resounding victory for the opposition Movement for Democratic Change and thus threaten the ruling Zimbabwe African National Union-Patriotic Front's 20-year hold on power, are being systematically undermined by the kind of campaign violence and intimidation that has been all too common in other countries that resisted the path of democratization. That is unfortunate, for Zimbabwe, like other strife-torn countries of Africa, has the potential to provide its people a far better quality of life than can ever enjoy under one-party rule.

Those parliamentary elections, Mr. President, as with the defeat of the constitutional referendum in February, would have provided ample evidence that the majority of Zimbaweans are tired of corruption, vast unemployment, 60 percent inflation, and the fuel and energy shortages that have become a part of life in a once wealthy nation. The recent decision by the International Republican Institute to withdraw its election observers, however, as well as the United Nation's withdrawal of its election coordinator, should be seen for what it is: a very clear warning sign that President Mugabe has no intention of permitting free and fair elections, and fully intends to continue his campaign of exacerbating ethnic divisions in Zimbabwe for his personal benefit. That President Mugabe refuses to even accredit U.S. Embassy personnel to act as observers is a stinging and unfortunate rebuke to the international community. The recent jailing of an opposition activist with whom I had the privilege of meeting in my office only two months ago not only augurs ill for the future of Zimbabwe, but hurts me deeply for the promise this fine woman showed in that meeting.

The deterioration of the political situation in Zimbabwe is the direct result of the unwillingness of President Mugabe to countenance any level of political opposition that threatens his hold on power. And make no mistake, that some ruling party members have come under attack by the opposition does not place both sides on an equal moral footing. On the contrary, Amnesty International and other foreign observers have been very clear that the government and its supporters are responsible for the violence that has wracked a country that had enjoyed 20 years of peace, flawed though it was by the socialist policies of Mr. Mugabe. The 30 or so deaths and hundreds of injuries that have occurred may, I fear, be only a precursor to greater violence should the Movement for Democratic Change continue to attempt to mount a credible campaign against one-party rule.

Mr. President, some may look at the seizure of white-owned farms by black squatters openly and vociferously encouraged by President Mugabe, and the murder of some of those farmers, through the prism of the former era of colonial and white-minority rule. That would be a tragic mistake. The deteriorating situation in Zimbabwe is directly tied to President Mugabe's autocratic rule and desperate attempt to hold back the tides of history, which appear to favor democracy. Mugabe's rejection of South African President Thabo Mbeki's efforts at brokering a quasi-reasonable resolution of the land-reform issue was further evidence of his growing penchant for petty tyranny as a substitute for enlightened government.

It is imperative that the United States, the European Community and, most importantly, the Organization of African Unity act forcefully in pressuring Mugabe to reverse his current dictatorial policies and allow for the conduct of free and fair elections. His failure to do so should be widely condemned. What ails Zimbabwe is not racial tension, but the age-old problem of a dictator who fails to read the writing on the walls. As with others before him, he will find, I suspect, that his world will become more and more confined, more and more restrictive and his actions more and more desperate. At a time when Sub-Saharan Africa has become synonymous with civil strife and the international community debates the ongoing wars in Sierra Leone and Congo, while conflict continues in Angola and ethnic violence continues in and around Rwanda and Burundi, Zimbabwe should have been a beacon of political stability and economic development. Instead, it descends into the darkness of tyranny. It is hopefully not too late to reverse the situation there, but the signs are not encouraging.●

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MESSAGE FROM THE HOUSE

At 1:09 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4578. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

ENROLLED BILL SIGNED

At 1:09 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:

H.R. 4387. An act to provide that the School Governance Charter Amendment Act of 2000 shall take effect upon the date such Act is ratified by the voters of the District of Columbia.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

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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. REID:

S. 2749. A bill to establish the California Trail Interpretive Center in Elko, Nevada, to facilitate the interpretation of the history of development and use of trails in the settling of the western portion of the United States; to the Committee on Energy and Natural Resources.

By Mr. REID:

S. 2750. A bill to direct the Administrator of the Environmental Protection Agency, the Secretary of the Army, the Secretary of Agriculture, and the Secretary of the Interior to participate constructively in the implementation of the Las Vegas Wash Wetland Restoration and Lake Mead Water Quality Improvement Project, Nevada; to the Committee on Environment and Public Works.

By Mr. REID:

S. 2751. A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California; to the Committee on Energy and Natural Resources

By Mr. THOMPSON:

S. 2752. To amend the North Korea Threat Reduction Act of 1999 to enhance congressional oversight to nuclear transfers to North Korea and to prohibit the assumption by the United States Government of liability for nuclear accidents that may occur at nuclear reactors provided to North Korea; read the first time.

By Mr. DASCHLE (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRYAN, Mr. BYRD, Mr. CLELAND, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, and Mr. WELLSTONE):

S. 2753. A bill to amend title XVIII of the Social Security Act to provide a prescription drug benefit for the aged and disabled under the medicare program, to enhance the preventative benefits covered under such program, and for other purposes; placed on the calendar.

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SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI:

S. Con. Res. 124. A concurrent resolution expressing the sense of the Congress with regard to Iraq's failure to release prisoners of war from Kuwait and nine other nations in violation of international agreements; to the Committee on Foreign Relations.

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STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 2749. A bill to establish the California Trail Interpretive Center in Elko, Nevada, to facilitate the interpretation of the history of development and use of trails in the setting of the western portion of the United States; to the Committee on Energy and Natural Resources.

CALIFORNIA TRAIL INTERPRETIVE ACT

Mr. REID. Mr. President, I rise today to introduce the California Trail Interpretive Act.

The nineteenth century westward emigration on the California National Historic Trail, which occurred from 1840 until the completion of the transcontinental railroad in 1869, was an important cultural and historical era in the settlement of the West. This influx of settlers contributed to the development of lands in the western United States by Americans and immigrants and to the prevention of colonization of the west coast by Russia and the British Empire. More than 300,000 settlers traveled the California Trail and many documented their amazing experiences in detailed journals. Under the National Trails System Act, the Secretary of Interior may establish interpretation centers to document and celebrate pioneer trails such as the California National Historic Trail. In Nevada, Elko County alone contains over 435 miles of National Historic Trails.

Mr. President, recognition and interpretation of the pioneer experience on the Trail is appropriate in light of Americans' strong interest in understanding our history and heritage. Those who pursue Western Americana, and thousands do, will find physical evidence of the documented hardships facing the original pioneers. One pioneer journal bemoaned the death of an elderly lady traveling west with her family. Her grave and its marker are in evidence in the Beowawe Cemetery near the trail river crossing known as Gravely Ford for those searching for historical confirmation. And, if the present-day explorers choose to walk part of the California Trail, they may do so at this place. To the east of this river crossing is around five miles of undisturbed trail that leads down from what is known as ''Emigrant Pass''.

This Act authorizes the planning, construction and operation of a visitor center. The cooperative parties include the State of Nevada, the Advisory Board for the National Historic California Emigrant Trails Interpretive Center, Elko County, the City of Elko, and Bureau of Land Management.

This interpretive center will be located near the city of Elko, in northeastern Nevada. The location is the junction of the California Trail and the Hastings Cutoff. The ill-fated Reed-Donner party spent an additional 31 days meandering over the so-called Hastings Cutoff route; precious time wasted that kept them from crossing the deadly Sierra Nevada before winter struck in 1846.

This act will recognize the California Trail, including the Hastings Cutoff, for its national historical and cultural significance through the construction of an interpretive facility devoted to the vital role of Pioneer trails in the West in the development of the United States.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

Thank you, Mr. President, I yield the floor

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

S. 2749

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 ''California Trail Interpretive Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the nineteenth century westward movement in the United States over the California National Historic Trail, which occurred from 1840 until the completion of the transcontinental railroad in 1869, was an important cultural and historical event in—

(A) the development of the western land of the United States; and

(B) the prevention of colonization of the west coast by Russia and the British Empire;

(2) the movement over the California Trail was completed by over 300,000 settlers, many of whom left records or stories of their journeys; and

(3) additional recognition and interpretation of the movement over the California Trail is appropriate in light of—

(A) the national scope of nineteenth century westward movement in the United States; and

(B) the strong interest expressed by people of the United States in understanding their history and heritage.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the California Trail, including the Hastings Cutoff and the trail of the ill-fated Donner-Reed Party, for its national, historical, and cultural significance; and

(2) to provide the public with an interpretive facility devoted to the vital role of trails in the West in the development of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) CALIFORNIA TRAIL.—The term ''California Trail'' means the California National Historic Trail, established under section 5(a)(18) of the National Trails System Act (16 U.S.C. 1244(a)(18)).

(2) CENTER.—The term ''Center'' means the California Trail Interpretive Center established under section 4(a).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(4) STATE.—The term ''State'' means the State of Nevada.

SEC. 4. CALIFORNIA TRAIL INTERPRETIVE CENTER.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In furtherance of the purposes of section 7(c) of the National Trails System Act (16 U.S.C. 1246(c)), the Secretary may establish an interpretation center to be known as the ''California Trail Interpretive Center'', near the city of Elko, Nevada.

(2) PURPOSE.—The Center shall established be for the purpose of interpreting the history of development and use of the California Trail in the settling of the West.

(b) MASTER PLAN STUDY.—To carry out subsection (a), the Secretary shall—

(1) consider the findings of the master plan study for the California Trail Interpretive Center in Elko, Nevada, as authorized by page 15 of Senate Report 106–99; and

(2) initiate a plan for the development of the Center that includes—

(A) a detailed description of the design of the Center;

(B) a description of the site on which the Center is to be located;

(C) a description of the method and estimated cost of acquisition of the site on which the Center is to be located;

(D) the estimated cost of construction of the Center;

(E) the cost of operation and maintenance of the Center; and

(F) a description of the manner and extent to which non-Federal entities shall participate in the acquisition and construction of the Center.

(c) IMPLEMENTATION.—To carry out subsection (a), the Secretary may—

(1) acquire land and interests in land for the construction of the Center by—

(A) donation;

(B) purchase with donated or appropriated funds; or

(C) exchange;

(2) provide for local review of and input concerning the development and operation of the Center by the Advisory Board for the National Historic California Emigrant Trails Interpretive Center of the city of Elko, Nevada;

(3) periodically prepare a budget and funding request that allows a Federal agency to carry out the maintenance and operation of the Center;

(4) enter into a cooperative agreement with—

(A) the State, to provide assistance in—

(i) removal of snow from roads;

(ii) rescue, firefighting, and law enforcement services; and

(iii) coordination of activities of nearby law enforcement and firefighting departments or agencies; and

(B) a Federal, State, or local agency to develop or operate facilities and services to carry out this Act; and

(5) notwithstanding any other provision of law, accept donations of funds, property, or services from an individual, foundation, corporation, or public entity to provide a service or facility that is consistent with this Act, as determined by the Secretary, including 1-time contributions for the Center (to be payable during construction funding periods for the Center after the date of enactment of this Act) from—

(A) the State, in the amount of $3,000,000;

(B) Elko County, Nevada, in the amount of $1,000,000; and

(C) the city of Elko, Nevada, in the amount of $2,000,000.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $12,000,000.

By Mr. REID:

S. 2750. A bill to direct the Administrator of the Environmental Protection

Agency, the Secretary of the Army, the Secretary of Agriculture, and the Secretary of the Interior to participate constructively in the implementation of the Las Vegas Wash Wetland Restoration and Lake Mead Water Quality Improvement Project, Nevada; to the Committee on Environment and Public Works.

LAS VEGAS WASH WETLAND RESTORATION AND LAKE MEAD WATER QUALITY IMPROVEMENT ACT OF 2000

Mr. REID. Mr. President, I am pleased to introduce today the Las Vegas Wash Wetland Restoration and Lake Mead Water Quality Improvement Act of 2000. This bill is important for Nevada's families and for the environment, because water is our most precious natural resource.

My bill is the product of a visionary, locally-led initiative designed to develop and implement a plan that would enhance and protect water quality in the Las Vegas basin.

Importantly, my bill would safeguard southern Nevada's water supply and improve the unique desert wetlands environment of the Las Vegas Wash.

I would like to review some of the history that contributed to the development of this bill.

In 1998, in response to a recommendation by a citizens' water quality advisory committee, the Las Vegas Wash Coordination Committee was formed to develop a comprehensive Adaptive Management Plan (AMP) for the Las Vegas Wash ecosystem.

The AMP, which was developed by the Las Vegas Wash Coordinating Committee over the past two years and approved early this year by the Southern Nevada Water Authority, represents a vision for how local, State, and Federal stakeholders can work together to achieve shared water quality and ecosystem restoration goals in the Las Vegas basin.

First and foremost, the AMP is a locally-driven strategy. The stakeholder working group, coordinated by the Southern Nevada Water Authority and comprised of 28 groups, contributed their varied perspectives and good ideas to the development of this plan.

A draft of the AMP was published for public comment in October 1999. In January 2000, the Southern Nevada Water Authority finalized and approved the AMP.

Chief among the recommendations in the AMP was the call for development of a partnership consisting of local, State, Federal agencies with interests in the Las Vegas Wash ecosystem.

I view this plan as a Nevada solution to a tremendous local challenge of accelerated erosion and deteriorating water quality.

I commend the local, State, and Federal stakeholders that helped create the AMP for their hard work, cooperation, and dedication to improving Southern Nevada's environment for Nevada's families today and for future generations.

The Federal government, by virtue of its land ownership in Nevada and responsibilities at Lake Mead, has an obligation to help make the plan work.

In addition, the Federal government is uniquely responsible for the perchlorate contamination which contributes to the groundwater contamination that pollutes Las Vegas Wash run-off.

My bill directs the relevant Federal agencies to participate in efforts to restore Las Vegas Wash and protect Lake Mead's water quality. These agencies include: the Environmental Protection Agency, the Bureau of Land Management, the Bureau of Reclamation, the National Park Service, the Natural Resources Conservation Service, the Fish and Wildlife Service, and the Army Corps of Engineers.

I hope that the Senate will move quickly to consider and pass this bill so that Federal agencies can become full partners in the effort to rehabilitate and conserve the Las Vegas Wash desert ecosystem and to improve water quality in southern Nevada's most heavily used watershed.

By Mr. REID:

S. 2751. A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit, Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California; to the Committee on Energy and Natural Resources.

WASHOE TRIBE LAND CONVEYANCE LEGISLATION

Mr. REID. Mr. President, I rise today to introduce the Washoe Tribe Lake Tahoe Access Act.

In 1997, I helped convene a Presidential Forum at Lake Tahoe to discuss the future of the Lake Tahoe Basin. Together with President Clinton, Federal, State, and local government leaders, we addressed the protection of the extraordinary natural, recreational, and ecological resources of the Lake Tahoe region. Goals and an action plan developed during the Lake Tahoe Forum were codified as the ''Presidential Forum Deliverables.'' These Deliverables included supporting the traditional and customary use of the Lake Tahoe Basin by the Washoe Tribe. Perhaps, most importantly, the Deliverables include a provision designed to provide the Washoe Tribe access to the shore of Lake Tahoe for cultural purposes.

Mr. President, the ancestral homeland of the Washoe Tribe of Nevada and California included an area of over 10,000 square miles in and around Lake Tahoe. The purpose of this Act is to ensure that the members of the Washoe Tribe have the opportunity to engage in traditional and customary cultural practices on the shore of Lake Tahoe including spiritual renewal, land stewardship, Washoe horticulture and ethnobotany, subsistence gathering, traditional learning, and reunification of tribal and family bonds as was envisioned by the parties involved in the Lake Tahoe Presidential Forum.

Mr. President, this Act will convey 24.3 acres from the Secretary of Agriculture to the Secretary of the Interior to be held in trust for the Washoe Tribe. This is land located within the Lake Tahoe Basin Management Unit north of Skunk Harbor, Nevada. The land in question would be conveyed with the expectation that it would be used for traditional and customary uses and stewardship conservation of the Washoe Tribe and will not permit any commercial use. In the unlikely event this land were used for any commercial development purpose, title to the land will revert to the Secretary of Agriculture. It is my sincere hope that Congress will pass this bill thereby making the Presidential Deliverables of the Lake Tahoe forum a reality by ensuring that the Washoe Tribe once again enjoy access to Lake Tahoe.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WASHOE TRIBE LAND CONVEYANCE.

(a) FINDINGS.—Congress finds that—

(1) the ancestral homeland of the Washoe Tribe of Nevada and California (referred to in this section as the ''Tribe'') included an area of approximately 5,000 square miles in and around Lake Tahoe, California and Nevada, and Lake Tahoe was the heart of the territory;

(2) in 1997, Federal, State, and local governments, together with many private landholders, recognized the Washoe people as indigenous people of Lake Tahoe Basin through a series of meetings convened by those governments at 2 locations in Lake Tahoe;

(3) the meetings were held to address protection of the extraordinary natural, recreational, and ecological resources in the Lake Tahoe region;

(4) the resulting multiagency agreement includes objectives that support the traditional and customary uses of Forest Service land by the Tribe; and

(5) those objectives include the provision of access by members of the Tribe to the shore of Lake Tahoe in order to reestablish traditional and customary cultural practices.

(b) PURPOSES.—The purposes of this Act are—

(1) to implement the joint local, State, tribal, and Federal objective of returning the Tribe to Lake Tahoe; and

(2) to ensure that members of the Tribe have the opportunity to engage in traditional and customary cultural practices on the shore of Lake Tahoe to meet the needs of spiritual renewal, land stewardship, Washoe horticulture and ethnobotony, subsistence gathering, traditional learning, and reunification of tribal and family bonds.

(c) CONVEYANCE.—Subject to valid existing rights and subject to the easement reserved under subsection (d), the Secretary of Agriculture shall convey to the Secretary of the Interior, in trust for the Tribe, for no consideration, all right, title, and interest in the parcel of land comprising approximately 24.3 acres, located within the Lake Tahoe Basin Management Unit north of Skunk Harbor, Nevada, and more particularly described as Mount Diablo Meridian, T15N, R18E, section 27, lot 3.

(d) EASEMENT.—

(1) IN GENERAL.—The conveyance under subsection (c) shall be made subject to reservation to the United States of a nonexclusive easement for public and administrative access over Forest Development Road #15N67 to National Forest System land.

(2) ACCESS BY INDIVIDUALS WITH DISABILITIES.—The Secretary shall provide a reciprocal easement to the Tribe permitting vehicular access to the parcel over Forest Development Road #15N67 to—

(A) members of the Tribe for administrative and safety purposes; and

(B) members of the Tribe who, due to age, infirmity, or disability, would have difficulty accessing the conveyed parcel on foot.

(e) USE OF LAND.—

(1) IN GENERAL.—In using the parcel conveyed under subsection (c), the Tribe and members of the Tribe—

(A) shall limit the use of the parcel to traditional and customary uses and stewardship conservation of the Tribe and not permit any commercial use (including commercial development, residential development, gaming, sale of timber, or mineral extraction); and

(B) shall comply with environmental requirements that are no less protective than environmental requirements that apply under the Regional Plan of the Tahoe Regional Planning Agency.

(2) REVERSION.—If the Secretary of the Interior, after notice to the Tribe and an opportunity for a hearing, based on monitoring of use of the parcel by the Tribe, makes a finding that the Tribe has used or permitted the use of the parcel in violation of paragraph (1) and the Tribe fails to take corrective or remedial action directed by the Secretary of the Interior, title to the parcel shall revert to the Secretary of Agriculture.

—

SENATE CONCURRENT RESOLUTION 124—EXPRESSING THE SENSE OF THE CONGRESS WITH REGARD TO IRAQ'S FAILURE TO RELEASE PRISONERS OF WAR FROM KUWAIT AND NINE OTHER NATIONS IN VIOLATION OF INTERNATIONAL AGREEMENTS

Mr. MURKOWSKI submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 124

Whereas in 1990 and 1991, thousands of Kuwaitis were randomly arrested on the streets of Kuwait during the Iraqi occupation;

Whereas in February 1993, the Government of Kuwait compiled evidence documenting the existence of 605 prisoners of war and submitted its files to the International Committee of the Red Cross (ICRC), which passed those files on to Iraq, the United Nations, and the Arab League;

Whereas numerous testimonials exist from family members who witnessed the arrest and forcible removal of their relatives by Iraqi armed forces during the occupation;

Whereas eyewitness reports from released prisoners of war indicate that many of those who are still missing were seen and contacted in Iraqi prisons;

Whereas official Iraqi documents left behind in Kuwait chronicle in detail the arrest, imprisonment, and transfer of significant numbers of Kuwaitis, including those who are still missing;

Whereas in 1991, the United Nations Security Council overwhelmingly passed Security Council Resolutions 686 and 687 that were part of the broad cease-fire agreement accepted by the Iraqi regime;

Whereas United Nations Security Council Resolution 686 calls upon Iraq to arrange for immediate access to and release of all prisoners of war under the auspices of the ICRC and to return the remains of the deceased personnel of the forces of Kuwait and the Member States cooperating with Kuwait;

Whereas United Nations Security Resolution 687 calls upon Iraq to cooperate with the ICRC in the repatriation of all Kuwaiti and third-country nationals, to provide the ICRC with access to the prisoners wherever they are located or detained, and to facilitate the ICRC search for those unaccounted for;

Whereas the Government of Kuwait, in accordance with United Nations Security Council Resolution 686, immediately released all Iraqi prisoners of war as required by the terms of the Geneva Convention;

Whereas immediately following the ceasefire in March 1991, Iraq repatriated 5,722 Kuwaiti prisoners of war under the aegis of the ICRC and freed 500 Kuwaitis held by rebels in southern Iraq;

Whereas Iraq has hindered and blocked efforts of the Tripartite Commission, the eight-country commission chaired by the ICRC and responsible for locating and securing the release of the remaining prisoners of war;

Whereas Iraq has denied the ICRC access to Iraqi prisons in violation of Article 126 of the Third Geneva Convention, to which Iraq is a signatory; and

Whereas Iraq—under the direction and control of Saddam Hussein—has failed to locate and secure the return of all prisoners of war being held in Iraq, including prisoners from Kuwait and nine other nations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress—

(A) acknowledges that there remain 605 prisoners of war unaccounted for in Iraq, although Kuwait was liberated from Iraq's brutal invasion and occupation on February 26, 1991;

(B) condemns and denounces the Iraqi Government's refusal to comply with international human rights instruments to which it is a party;

(C) urges Iraq immediately to disclose the names and whereabouts of those who are still alive among the Kuwaiti prisoners of war and other nations to bring relief to their families; and

(D) insists that Iraq immediately allow humanitarian organizations such as the International Committee of the Red Cross to visit the living prisoners and to recover the remains of those who have died while in captivity; and

(2) it is the sense of the Congress that the United States Government should—

(A) actively and urgently work with the international community and the Government of Kuwait, in accordance with United Nations Security Council Resolutions 686 and 687, to secure the release of Kuwaiti prisoners of war and other prisoners of war who are still missing nine years after the end of the Gulf War; and

(B) exert pressure, as a permanent member of the United Nations Security Council, on Iraq to bring this issue to a close, to release all remaining prisoners of the Iraqi occupation of Kuwait, and to rejoin the community of nations with a humane gesture of good will and decency.

—

ADDITIONAL COSPONSORS

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1668

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1668, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 1726

At the request of Mr. MCCAIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1726, a bill to amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes Indian tribal governments the same as State or local units of government or as nonprofit organizations.

S. 1810

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1810, a bill to amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures.

S. 2018

At the request of Mr. ROBB, his name was added as a cosponsor of S . 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2100

At the request of Mr. EDWARDS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2100, a bill to provide for fire sprinkler systems in public and private college and university housing and dormitories, including fraternity and sorority housing and dormitories.

S. 2330

At the request of Mr. ROTH, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2330, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services.

S. 2396

At the request of Mr. BENNETT, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2396, a bill to authorize the Secretary of the Interior to enter into contracts with the Weber Basin Water Conservancy District, Utah, to use Weber Basin Project facilities for the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes.

S. 2417

At the request of Mr. CRAPO, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2417, a bill to amend the Federal Water Pollution Control Act to increase funding for State nonpoint

source pollution control programs, and for other purposes.

S. 2420

At the request of Mr. ROBB, his name was added as a cosponsor of S. 2420, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees, members of the uniformed services, and civilian and military retirees, and for other purposes.

S. 2510

At the request of Mr. MCCAIN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2510, a bill to establish the Social Security Protection, Preservation, and Reform Commission.

S. 2617

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2617, a bill to lift the trade embargo on Cuba, and for other purposes.

S. 2641

At the request of Mr. CLELAND, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2641, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 2645

At the request of Mr. THOMPSON, the names of the Senator from Georgia (Mr. COVERDELL), the Senator from Maine (Ms. SNOWE), the Senator from Arizona (Mr. MCCAIN), and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 2645, a bill to provide for the application of certain measures to the People's Republic of China in response to the illegal sale, transfer, or misuse of certain controlled goods, services, or technology, and for other purposes.

S. 2703

At the request of Mr. AKAKA, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2703, a bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 2745

At the request of Mr. ASHCROFT, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2745, a bill to provide for grants to assist value-added agricultural businesses.

S. 2746

At the request of Mr. ASHCROFT, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 2746, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for investment by farmers in value-added agricultural property.

S. RES. 254

At the request of Mr. CAMPBELL, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Utah (Mr. HATCH), the Senator from Utah (Mr. BENNETT), the Senator from Rhode Island (Mr. L. CHAFEE), the Senator from Georgia (Mr. CLELAND), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maine (Ms. COLLINS), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S.Res. 254, a resolution supporting the goals and ideals of the Olympics.

S. RES. 294

At the request of Mr. ABRAHAM, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S.Res. 294, a resolution designating the month of October 2000 as ''Children's Internet Safety Month.''

AMENDMENTS SUBMITTED

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

LEVIN (AND OTHERS) AMENDMENT NO. 3457

(Ordered to lie on the table.)

Mr. LEVIN (for himself, Ms. COLLINS, Mr. SCHUMER, Mr. JEFFORDS, Mrs. MURRAY, Ms. SNOWE, Mr. MOYNIHAN, Mr. LEAHY, Mr. ROCKEFELLER, Mr. ROBB, and Mr. DURBIN) submitted an amendment intended to be proposed by them to the bill (S. 2536) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 75, between lines 16 and 17, insert the following:

Sec. 7___. APPLE MARKET LOSS ASSISTANCE AND QUALITY LOSS PAYMENTS FOR APPLES AND POTATOES.—(a) APPLE MARKET LOSS ASSISTANCE.—

(1) IN GENERAL.—In order to provide relief for loss of markets for apples, the Secretary of Agriculture shall use $100,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers.

(2) PAYMENT QUANTITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the payment quantity of apples for which the producers on a farm are eligible for payments under this subsection shall be equal to the average quantity of the 1994 through 1999 crops of apples produced by the producers on the farm.

(B) MAXIMUM QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this subsection shall not exceed 1,600,000 pounds of apples produced on the farm.

(b) QUALITY LOSS PAYMENTS FOR APPLES AND POTATOES.—In addition to the assistance provided under subsection (a), the Secretary shall use $15,000,000 of funds of the Commodity Credit Corporation to make payments to apple producers, and potato producers, that suffered quality losses to the 1999 crop of potatoes and apples, respectively, due to, or related to, a 1999 hurricane or other weather-related disaster.

(c) NONDUPLICATION OF PAYMENTS.—A producer shall be ineligible for payments under this section with respect to a market or quality loss for apples or potatoes to the extent that the producer is eligible for compensation or assistance for the loss under any other Federal program, other than the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(d) EMERGENCY REQUIREMENT.—

(1) IN GENERAL.—The entire amount necessary to carry out this section shall be available only to the extent that an official budget request for the entire amount, that includes designation of the entire amount of the request as an emergency requirement under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is transmitted by the President to Congress.

(2) DESIGNATION.—The entire amount necessary to carry out this section is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of that Act (2 U.S.C. 901(b)(2)(A)).

● Mr. LEVIN. Mr. President, I rise today to introduce an amendment to the Senate Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Bill that seeks to provide much needed assistance to our nation's apple and potato farmers. In the past three years, due to weather related disasters, disease and the dumping of Chinese apply juice concentrate, our nation's apple producers have lost over three-quarters of a billion dollars in revenue. Likewise, potato producers in much of the country have struggled to overcome adverse weather conditions which have reduced the value of or, in some cases, destroyed their crops. This has left many growers on the brink of financial disaster.

In the past two years, Congress has assisted America's farmers by providing substantial assistance to agricultural producers. However, apple and potato producers received little, if any, of that assistance. The $115 million in assistance we are proposing will help these producers, and ensure that apple and potato growers will be able to provide the United States and the world with a quality product that is second to none.

Mr. President I am proud to introduce this legislation that will directly assist our nation's apple and potato growers, and I urge all Senators to support me in this matter.●

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

MCCAIN AMENDMENT NO. 3458

Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year of the Armed Forces, and for other purposes, as follows:

On page 239, following line 22, add the following:

SEC. 656. CLARIFICATION OF DEPARTMENT OF VETERANS AFFAIRS DUTY TO ASSIST.

(a) IN GENERAL.—Section 5107 of title 38, United States Code, is amended to read as follows:

"§ 5107 Assistance to claimants; benefit of the doubt; burden of proof

''(a) The Secretary shall assist a claimant in developing all facts pertinent to a claim for benefits under this title. Such assistance shall include requesting information as described in section 5106 of this title. The Secretary shall provide a medical examination when such examination may substantiate entitlement to the benefits sought. The Secretary may decide a claim without providing assistance under this subsection when no reasonable possibility exists that such assistance will aid in the establishment of entitlement.

''(b) The Secretary shall consider all evidence and material of record in a case before the Department with respect to benefits under laws administered by the Secretary and shall give the claimant the benefit of the doubt when there is an approximate balance of positive and negative evidence regarding any issue material to the determination of the matter.

''(c) Except when otherwise provided by this title or by the Secretary in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Secretary shall have the burden of proof.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of that title is amended by striking the item relating to section 5017 and inserting the following new item:

''5107 Assistance to claimants; benefit of the doubt; burden of proof.''.

DODD AMENDMENT NO. 3459

Mr. LEVIN (for Mr. DODD) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 415, between lines 2 and 3, insert the following:

SEC. 1061. AUTHORITY TO PROVIDE HEADSTONES OR MARKERS FOR MARKED GRAVES OR OTHERWISE COMMEMORATE CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 2306 of title 38, United States Code, is amended—

(1) in subsections (a) and (e)(1), by striking ''the unmarked graves of''; and

(2) by adding at the end the following:

''(f) A headstone or marker furnished under subsection (a) shall be furnished, upon request, for the marked grave or unmarked grave of the individual or at another area appropriate for the purpose of commemorating the individual.''.

(b) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendment to subsection (a) of section 2306 of title 38, United States Code, made by subsection (a) of this section, and subsection (f) of such section 2306, as added by subsection (a) of this section, shall apply with respect to burials occurring before, on, or after the date of the enactment of this Act.

(2) The amendments referred to in paragraph (1) shall not apply in the case of the grave for any individual who died before November 1, 1990, for which the Administrator of Veterans' Affairs provided reimbursement in lieu of furnishing a headstone or marker under subsection (d) of section 906 of title 38, United States Code, as such subsection was in effect after September 30, 1978, and before November 1, 1990.

WARNER AMENDMENT NO. 3460

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 17, line 7, strike ''$1,479,950,000'' and insert ''$1,509,950,000''.

On page 17, line 5, strike ''$8,745,958,000'' and insert ''$8,715,958,000''.

CLELAND (AND COVERDELL) AMENDMENT NO. 3461

Mr. LEVIN (for Mr. CLELAND (for himself, and Mr. COVERDELL)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 48, between lines 20 and 21, insert the following:

SEC. 222. PRECISION LOCATION AND IDENTIFICATION PROGRAM (PLAID).

(a) INCREASE IN AMOUNT.—(1) The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $8,000,000.

(2) Of the amount authorized to be appropriated by section 201(3), as increased by paragraph (1), the amount available for Electronic Warfare Development (PE604270F) is hereby increased by $8,000,000, with the amount of such increase available for the Precision Location and Identification Program (PLAID).

(b) OFFSET.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby decreased by $8,000,000, with the amount of the reduction applied to Electronic Warfare Development (PE604270A).

WARNER AMENDMENT NO. 3642

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 17, line 7, strike ''$1,479,950,000'' and insert ''$1,509,950,000''.

On page 17, line 5, strike ''$8,745,958,000'' and insert ''$8,715,958,000''.

LANDRIEU AMENDMENT NO. 3463

Mr. LEVIN (for Ms. LANDRIEU) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 378, between lines 19 and 20, insert the following:

SEC. 1027. REPORT ON SUBMARINE RESCUE SUPPORT VESSELS.

(a) REQUIREMENT.—The Secretary of the Navy shall submit to Congress, together with the submission of the budget of the President for fiscal year 2002 under section 1105 of title 31, United States Code, a report on the plan of the Navy for providing for submarine rescue support vessels through fiscal year 2007.

(b) CONTENT.—The report shall include a discussion of the following:

(1) The requirement for submarine rescue support vessels through fiscal year 2007, including experience in changing from the provision of such vessels from dedicated platforms to the provision of such vessels through vessel of opportunity services and charter vessels.

(2) The resources required, the risks to submariners, and the operational impacts of the following:

(A) Chartering submarine rescue support vessels for terms of up to five years, with options to extend the charters for two additional five-year periods.

(B) Providing submarine rescue support vessels using vessel of opportunity services.

(C) Providing submarine rescue support services through other means considered by the Navy.

WARNER AMENDMENT NO. 3464

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 303, between lines 6 and 7, insert the following:

SEC. 814. STUDY OF OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76 PROCESS.

(a) GAO-CONVENED PANEL.—The Comptroller General shall convene a panel of experts to study rules, and the administration of the rules, governing the selection of sources for the performance of commercial or industrial functions for the Federal Government from between public and private sector sources, including public-private competitions pursuant to the Office of Management and Budget Circular A–76. The Comptroller General shall be the chairman of the panel.

(b) COMPOSITION OF PANEL.—(1) The Comptroller General shall appoint highly qualified and knowledgeable persons to serve on the panel and shall ensure that the following groups receive fair representation on the panel:

(A) Officers and employees of the United States.

(B) Persons in private industry.

(C) Federal labor organizations.

(2) For the purposes of the requirement for fair representation under paragraph (1), persons serving on the panel under subparagraph (C) of that paragraph shall not be counted as persons serving on the panel under subparagraph (A) or (B) of that paragraph.

(c) PARTICIPATION BY OTHER INTERESTED PARTIES.—The Comptroller General shall ensure that the opportunity to submit information and views on the Office of Management and Budget Circular A–76 process to the panel for the purposes of the study is accorded to all interested parties, including officers and employees of the United States not serving on the panel and entities in private industry and representatives of federal labor organizations not represented on the panel.

(d) INFORMATION FROM AGENCIES.—The panel may secure directly from any department or agency of the United States any information that the panel considers necessary to carry out a meaningful study of administration of the rules described in subsection (a), including the Office of Management and Budget Circular A–76 process. Upon the request of the Chairman of the panel, the head of such department or agency shall furnish the requested information to the panel.

(e) REPORT.—The Comptroller General shall submit a report on the results of the study to Congress.

(f) DEFINITION.—In this section, the term ''federal labor organization'' has the meaning given the term ''labor organization'' in section 7103(a)(4) of title 5, United States Code.

FEINSTEIN AMENDMENT NO. 3465

Mr. LEVIN (for Mrs. FEINSTEIN) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 543, strike line 20 and insert the following:

Part III—Air Force Conveyances

SEC. 2861. LAND CONVEYANCE, LOS ANGELES AIR FORCE BASE, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, by sale

or lease upon such terms as the Secretary considers appropriate, all or any portion of the following parcels of real property, including improvements thereon, at Los Angeles Air Force Base, California:

(1) Approximately 42 acres in El Segundo, California, commonly known as Area A.

(2) Approximately 52 acres in El Segundo, California, commonly known as Area B.

(3) Approximately 13 acres in Hawthorne, California, commonly known as the Lawndale Annex.

(4) Approximately 3.7 acres in Sun Valley, California, commonly known as the Armed Forces Radio and Television Service Broadcast Center.

(b) CONSIDERATION.—As consideration for the conveyance of real property under subsection (a), the recipient of the property shall provide for the design and construction on real property acceptable to the Secretary of one or more facilities to consolidate the mission and support functions at Los Angeles Air Force Base. Any such facility must comply with the seismic and safety design standards for Los Angeles County, California, in effect at the time the Secretary takes possession of the facility.

(c) LEASEBACK AUTHORITY.—If the fair market value of a facility to be provided as consideration for the conveyance of real property under subsection (a) exceeds the fair market value of the conveyed property, the Secretary may enter into a lease for the facility for a period not to exceed 10 years. Rental payments under the lease shall be established at the rate necessary to permit the lessor to recover, by the end of the lease term, the difference between the fair market value of a facility and the fair market value of the conveyed property. At the end of the lease, all right, title, and interest in the facility shall vest in the United States.

(d) APPRAISAL OF PROPERTY.—The Secretary shall obtain an appraisal of the fair market value of all property and facilities to be sold, leased, or acquired under this section. An appraisal shall be made by a qualified appraiser familiar with the type of property to be appraised. The Secretary shall consider the appraisals in determining whether a proposed conveyance accomplishes the purpose of this section and is in the interest of the United States. Appraisal reports shall not be released outside of the Federal Government, other than the other party to a conveyance.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of real property to be conveyed under subsection (a) or acquired under subsection (b) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the recipient of the property.

(f) EXEMPTION.—Section 2696 of title 10, United States Code, does not apply to the conveyance authorized by subsection (a).

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under subsection (a) or a lease under subsection (c) as the Secretary considers appropriate to protect the interests of the United States.

Part IV—Defense Agencies Conveyances

SANTORUM AMENDMENT NO. 3466

Mr. WARNER (for Mr. SANTORUM) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 31, between lines 18 and 19, insert the following:

SEC. 126. REMANUFACTURED AV–8B AIRCRAFT.

Of the amount authorized to be appropriated by section 102(a)(1)—

(1) $318,646,000 is available for the procurement of remanufactured AV–8B aircraft;

(2) $15,200,000 is available for the procurement of UC–35 aircraft;

(3) $3,300,000 is available for the procurement of automatic flight control systems for EA–6B aircraft; and

(4) $46,000,000 is available for engineering change proposal 583 for FA–18 aircraft.

LANDRIEU AMENDMENT NO. 3467

Mr. LEVIN (for Ms. LANDRIEU) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 48, between lines 20 and 21, insert the following:

SEC. 222. NAVY INFORMATION TECHNOLOGY CENTER AND HUMAN RESOURCE ENTERPRISE STRATEGY.

(a) AVAILABILITY OF INCREASED AMOUNT.—(1) Of the amount authorized to be appropriated by section 201(2), for research, development, test, and evaluation for the Navy, $5,000,000 shall be available for the Navy Program Executive Office for Information Technology for purposes of the Information Technology Center and for the Human Resource Enterprise Strategy implemented under section 8147 of the Department of Defense Appropriations Act, 1999 (Public Law 105–262; 112 Stat. 2341; 10 U.S.C. 113 note).

(2) Amounts made available under paragraph (1) for the purposes specified in that paragraph are in addition to any other amounts made available under this Act for such purposes.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(2), the amount available for Marine Corps Assault Vehicles (PE603611M) is hereby reduced by $5,000,000.

WARNER AMENDMENT NO. 3468

Mr. WARNER proposed an amendment to the bill, S. 2549, supra; as follows:

On page 17, line 13, strike ''$1,181,035,000'' and insert ''$1,191,035,000''.

On page 16, line 22, strike ''$4,068,570,000'' and insert ''$4,058,570,000''.

KENNEDY AMENDMENT NO. 3469

Mr. LEVIN (for Mr. KENNEDY) proposed an amendment to amendment No. 3383 previously proposed to the bill, S. 2549, supra; as follows:

On page 2, strike line 24 and all that follows through page 3, line 3, and insert the following:

(d) OFFSET.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide is hereby decreased by $5,000,000, with the amount of such decrease applied to computing systems and communications technology (PE602301E).

WARNER (AND OTHERS) AMENDMENT NO. 3470

Mr. WARNER (for himself, Mr. HUTCHINSON, and Mr. CLELAND) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 200, after line 23, insert the following:

SEC. 566. MANAGEMENT AND PER DIEM REQUIREMENTS FOR MEMBERS SUBJECT TO LENGTHY OR NUMEROUS DEPLOYMENTS.

(a) MANAGEMENT OF DEPLOYMENTS OF MEMBERS.—Section 586(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 637) is amended in the text of section 991 of title 10, United States Code, set forth in such section 586(a)—

(1) in subsection (a), by striking ''an officer in the grade of general or admiral'' in the second sentence and inserting ''the designated component commander for the member's armed force''; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''or homeport, as the case may'' before the period at the end;

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following new paragraph (2):

''(2) In the case of a member of a reserve component performing active service, the member shall be considered deployed or in a deployment for the purposes of paragraph (1) on any day on which, pursuant to orders that do not establish a permanent change of station, the member is performing the active service at a location that—

''(A) is not the member's permanent training site; and

''(B) is—

''(i) at least 100 miles from the member's permanent residence; or

''(ii) a lesser distance from the member's permanent residence that, under the circumstances applicable to the member's travel, is a distance that requires at least three hours of travel to traverse.''; and

(D) in paragraph (3), as redesignated by subparagraph (B) of this paragraph—

(i) by striking ''or'' at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting ''; or''; and

(iii) by adding at the end the following:

''(C) unavailable solely because of—

''(i) a hospitalization of the member at the member's permanent duty station or homeport or in the immediate vicinity of the member's permanent residence; or

''(ii) a disciplinary action taken against the member.''.

(b) ASSOCIATED PER DIEM ALLOWANCE.—Section 586(b) of that Act (113 Stat. 638) is amended in the text of section 435 of title 37, United States Code, set forth in such section 586(b)—

(1) in subsection (a), by striking ''251 days or more out of the preceding 365 days'' and inserting ''501 or more days out of the preceding 730 days''; and

(2) in subsection (b), by striking ''prescribed under paragraph (3)'' and inserting ''prescribed under paragraph (4)''.

(c) REVIEW OF MANAGEMENT OF DEPLOYMENTS OF INDIVIDUAL MEMBERS.— Not later than March 31, 2002, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of section 991 of title 10, United States Code (as added by section 586(a) of the National Defense Authorization Act for Fiscal Year 2000), during the first year that such section 991 is in effect. The report shall include—

(1) a discussion of the experience in tracking and recording the deployments of members of the Armed Forces; and

(2) any recommendations for revision of such section 991 that the Secretary considers appropriate.

SEC. 567. EXTENSION OF TRICARE MANAGED CARE SUPPORT CONTRACTS.

(a) AUTHORITY.—Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 1999, may be extended for four years, subject to subsection (b).

(b) CONDITIONS.—Any extension of a contract under paragraph (1)—

(1) may be made only if the Secretary of Defense determines that it is in the best interest of the Government to do so; and

(2) shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Government.

SCHUMER AMENDMENT NO. 3471

Mr. LEVIN (for Mr. SCHUMER) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 378, between lines 19 and 20, insert the following:

SEC. 1027. REPORTS ON FEDERAL GOVERNMENT PROGRESS IN DEVELOPING INFORMATION ASSURANCE STRATEGIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The protection of our Nation's critical infrastructure is of paramount importance to the security of the United States.

(2) The vulnerability of our Nation's critical sectors—such as financial services, transportation, communications, and energy and water supply—has increased dramatically in recent years as our economy and society have become ever more dependent on interconnected computer systems.

(3) Threats to our Nation's critical infrastructure will continue to grow as foreign governments, terrorist groups, and cyber-criminals increasingly focus on information warfare as a method of achieving their aims.

(4) Addressing the computer-based risks to our Nation's critical infrastructure requires extensive coordination and cooperation within and between Federal agencies and the private sector.

(5) Presidential Decision Directive No. 63 (PDD–63) identifies 12 areas critical to the functioning of the United States and requires certain Federal agencies, and encourages private sector industries, to develop and comply with strategies intended to enhance the Nation's ability to protect its critical infrastructure.

(6) PDD–63 requires lead Federal agencies to work with their counterparts in the private sector to create early warning information sharing systems and other cyber-security strategies.

(7) PDD–63 further requires that key Federal agencies develop their own internal information assurance plans, and that these plans be fully operational not later than May 2003.

(b) REPORT REQUIREMENTS.—(1) Not later than July 1, 2001, the President shall submit to Congress a comprehensive report detailing the specific steps taken by the Federal Government as of the date of the report to develop infrastructure assurance strategies as outlined by Presidential Decision Directive No. 63 (PDD–63). The report shall include the following:

(A) A detailed summary of the progress of each Federal agency in developing an internal information assurance plan.

(B) The progress of Federal agencies in establishing partnerships with relevant private sector industries.

(2) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a detailed report on the roles and responsibilities of the Department of Defense in defending against attacks on critical infrastructure and critical information-based systems. The report shall include the following:

(A) A description of the current role of the Department of Defense in implementing Presidential Decision Directive No. 63 (PDD–63).

(B) A description of the manner in which the Department is integrating its various capabilities and assets (including the Army Land Information Warfare Activity (LIWA), the Joint Task Force on Computer Network Defense (JTF-CND), and the National Communications System) into an indications and warning architecture.

(C) A description of Department work with the intelligence community to identify, detect, and counter the threat of information warfare programs by potentially hostile foreign national governments and sub-national groups.

(D) A definitions of the terms ''nationally significant cyber event'' and ''cyber reconstitution''.

(E) A description of the organization of Department to protect its foreign-based infrastructure and networks.

(F) An identification of the elements of a defense against an information warfare attack, including the integration of the Computer Network Attack Capability of the United States Space Command into the overall cyber-defense of the United States.

THOMPSON (AND OTHERS) AMENDMENT NO. 3472

Mr. WARNER (for Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. AKAKA, Mr. CLELAND, Mr. VOINOVICH, Mr. ABRAHAM, Mr. HELMS, and Ms. COLLINS)) proposed an amendment to the bill, S. 2549, supra; as follows:

On page 471, between lines 8 and 9, insert the following:

TITLE XIV—GOVERNMENT INFORMATION SECURITY REFORM

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Government Information Security Act''.

SEC. 1402. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended by inserting at the end the following:

''SUBCHAPTER II—INFORMATION SECURITY

''§ 3531. Purposes

''The purposes of this subchapter are to—

''(1) provide a comprehensive framework for establishing and ensuring the effectiveness of controls over information resources that support Federal operations and assets;

''(2)(A) recognize the highly networked nature of the Federal computing environment including the need for Federal Government interoperability and, in the implementation of improved security management measures, assure that opportunities for interoperability are not adversely affected; and

''(B) provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

''(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems; and

''(4) provide a mechanism for improved oversight of Federal agency information security programs.

''§ 3532. Definitions

''(a) Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

''(b) As used in this subchapter the term—

''(1) 'information technology' has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401); and

''(2) 'mission critical system' means any telecommunications or information system used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, that—

''(A) is defined as a national security system under section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452);

''(B) is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be classified in the interest of national defense or foreign policy; or

''(C) processes any information, the loss, misuse, disclosure, or unauthorized access to or modification of, would have a debilitating impact on the mission of an agency.

''§ 3533. Authority and functions of the Director

''(a)(1) The Director shall establish governmentwide policies for the management of programs that—

''(A) support the cost-effective security of Federal information systems by promoting security as an integral component of each agency's business operations; and

''(B) include information technology architectures as defined under section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425).

''(2) Policies under this subsection shall—

''(A) be founded on a continuing risk management cycle that recognizes the need to—

''(i) identify, assess, and understand risk; and

''(ii) determine security needs commensurate with the level of risk;

''(B) implement controls that adequately address the risk;

''(C) promote continuing awareness of information security risk; and

''(D) continually monitor and evaluate policy and control effectiveness of information security practices.

''(b) The authority under subsection (a) includes the authority to—

''(1) oversee and develop policies, principles, standards, and guidelines for the handling of Federal information and information resources to improve the efficiency and effectiveness of governmental operations, including principles, policies, and guidelines for the implementation of agency responsibilities under applicable law for ensuring the privacy, confidentiality, and security of Federal information;

''(2) consistent with the standards and guidelines promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 1441 note; Public Law 100–235; 101 Stat. 1729), require Federal agencies to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency;

''(3) direct the heads of agencies to—

''(A) identify, use, and share best security practices;

''(B) develop an agency-wide information security plan;

''(C) incorporate information security principles and practices throughout the life cycles of the agency's information systems; and

''(D) ensure that the agency's information security plan is practiced throughout all life cycles of the agency's information systems;

''(4) oversee the development and implementation of standards and guidelines relating to security controls for Federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3);

''(5) oversee and coordinate compliance with this section in a manner consistent with—

''(A) sections 552 and 552a of title 5;

''(B) sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3 and 278g–4);

''(C) section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

''(D) sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 1441 note; Public Law 100–235; 101 Stat. 1729); and

''(E) related information management laws; and

''(6) take any authorized action under section 5113(b)(5) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1413(b)(5)) that the Director considers appropriate, including any action involving the budgetary process or appropriations management process, to enforce accountability of the head of an agency for information resources management, including the requirements of this subchapter, and for the investments made by the agency in information technology, including—

''(A) recommending a reduction or an increase in any amount for information resources that the head of the agency proposes for the budget submitted to Congress under section 1105(a) of title 31;

''(B) reducing or otherwise adjusting apportionments and reapportionments of appropriations for information resources; and

''(C) using other authorized administrative controls over appropriations to restrict the availability of funds for information resources.

''(c) The authorities of the Director under this section may be delegated—

''(1) to the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President in the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2); and

''(2) in the case of all other Federal information systems, only to the Deputy Director for Management of the Office of Management and Budget.

''§ 3534. Federal agency responsibilities

''(a) The head of each agency shall—

''(1) be responsible for—

''(A) adequately ensuring the integrity, confidentiality, authenticity, availability, and nonrepudiation of information and information systems supporting agency operations and assets;

''(B) developing and implementing information security policies, procedures, and control techniques sufficient to afford security protections commensurate with the risk and magnitude of the harm resulting from unauthorized disclosure, disruption, modification, or destruction of information collected or maintained by or for the agency; and

''(C) ensuring that the agency's information security plan is practiced throughout the life cycle of each agency system;

''(2) ensure that appropriate senior agency officials are responsible for—

''(A) assessing the information security risks associated with the operations and assets for programs and systems over which such officials have control;

''(B) determining the levels of information security appropriate to protect such operations and assets; and

''(C) periodically testing and evaluating information security controls and techniques;

''(3) delegate to the agency Chief Information Officer established under section 3506, or a comparable official in an agency not covered by such section, the authority to administer all functions under this subchapter including—

''(A) designating a senior agency information security official who shall report to the Chief Information Officer or a comparable official;

''(B) developing and maintaining an agencywide information security program as required under subsection (b);

''(C) ensuring that the agency effectively implements and maintains information security policies, procedures, and control techniques;

''(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

''(E) assisting senior agency officials concerning responsibilities under paragraph (2);

''(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

''(5) ensure that the agency Chief Information Officer, in coordination with senior agency officials, periodically—

''(A)(i) evaluates the effectiveness of the agency information security program, including testing control techniques; and

''(ii) implements appropriate remedial actions based on that evaluation; and

''(B) reports to the agency head on—

''(i) the results of such tests and evaluations; and

''(ii) the progress of remedial actions.

''(b)(1) Each agency shall develop and implement an agencywide information security program to provide information security for the operations and assets of the agency, including operations and assets provided or managed by another agency.

''(2) Each program under this subsection shall include—

''(A) periodic risk assessments that consider internal and external threats to—

''(i) the integrity, confidentiality, and availability of systems; and

''(ii) data supporting critical operations and assets;

''(B) policies and procedures that—

''(i) are based on the risk assessments required under subparagraph (A) that cost-effectively reduce information security risks to an acceptable level; and

''(ii) ensure compliance with—

''(I) the requirements of this subchapter;

''(II) policies and procedures as may be prescribed by the Director; and

''(III) any other applicable requirements;

''(C) security awareness training to inform personnel of—

''(i) information security risks associated with the activities of personnel; and

''(ii) responsibilities of personnel in complying with agency policies and procedures designed to reduce such risks;

''(D)(i) periodic management testing and evaluation of the effectiveness of information security policies and procedures; and

''(ii) a process for ensuring remedial action to address any significant deficiencies; and

''(E) procedures for detecting, reporting, and responding to security incidents, including—

''(i) mitigating risks associated with such incidents before substantial damage occurs;

''(ii) notifying and consulting with law enforcement officials and other offices and authorities;

''(iii) notifying and consulting with an office designated by the Administrator of General Services within the General Services Administration; and

''(iv) notifying and consulting with an office designated by the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President for incidents involving systems described under subparagraphs (A) and (B) of section 3532(b)(2).

''(3) Each program under this subsection is subject to the approval of the Director and is required to be reviewed at least annually by agency program officials in consultation with the Chief Information Officer. In the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2), the Director shall delegate approval authority under this paragraph to the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President.

''(c)(1) Each agency shall examine the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

''(A) annual agency budgets;

''(B) information resources management under the Paperwork Reduction Act of 1995 (44 U.S.C. 101 note);

''(C) performance and results based management under the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.);

''(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 through 2805 of title 39; and

''(E) financial management under—

''(i) chapter 9 of title 31, United States Code, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

''(ii) the Federal Financial Management Improvement Act of 1996 (31 U.S.C. 3512 note) (and the amendments made by that Act); and

''(iii) the internal controls conducted under section 3512 of title 31.

''(2) Any significant deficiency in a policy, procedure, or practice identified under paragraph (1) shall be reported as a material weakness in reporting required under the applicable provision of law under paragraph (1).

''(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Chief Information Officer, shall include as part of the performance plan required under section 1115 of title 31 a description of—

''(A) the time periods; and

''(B) the resources, including budget, staffing, and training,

which are necessary to implement the program required under subsection (b)(1).

''(2) The description under paragraph (1) shall be based on the risk assessment required under subsection (b)(2)(A).

''§ 3535. Annual independent evaluation

''(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency.

''(2) Each evaluation under this section shall include—

''(A) an assessment of compliance with—

''(i) the requirements of this subchapter; and

''(ii) related information security policies, procedures, standards, and guidelines; and

''(B) tests of the effectiveness of information security control techniques.

''(3) The Inspector General or the independent evaluator performing an evaluation under this section including the Comptroller General may use any audit, evaluation, or report relating to programs or practices of the applicable agency.

''(b)(1)(A) Subject to subparagraph (B), for agencies with Inspectors General appointed under the Inspector General Act of 1978 (5 U.S.C. App.) or any other law, the annual evaluation required under this section or, in the case of systems described under subparagraphs (A) and (B) of section 3532(b)(2), an audit of the annual evaluation required under this section, shall be performed by the Inspector General or by an independent evaluator, as determined by the Inspector General of the agency.

''(B) For systems described under subparagraphs (A) and (B) of section 3532(b)(2), the evaluation required under this section shall be performed only by an entity designated by the Secretary of Defense, the Director of Central Intelligence, or other agency head as designated by the President.

''(2) For any agency to which paragraph (1) does not apply, the head of the agency shall contract with an independent evaluator to perform the evaluation.

''(3) An evaluation of agency information security programs and practices performed by the Comptroller General may be in lieu of the evaluation required under this section.

''(c) Not later than 1 year after the date of enactment of this subchapter, and on that date every year thereafter, the applicable agency head shall submit to the Director—

''(1) the results of each evaluation required under this section, other than an evaluation of a system described under subparagraph (A) or (B) of section 3532(b)(2); and

''(2) the results of each audit of an evaluation required under this section of a system described under subparagraph (A) or (B) of section 3532(b)(2).

''(d)(1) Each year the Comptroller General shall review—

''(A) the evaluations required under this section (other than an evaluation of a system described under subparagraph (A) or (B) of section 3532(b)(2));

''(B) the results of each audit of an evaluation required under this section of a system described under subparagraph (A) or (B) of section 3532(b)(2); and

''(C) other information security evaluation results.

''(2) The Comptroller General shall report to Congress regarding the results of the review required under paragraph (1) and the adequacy of agency information programs and practices.

''(3) Evaluations and audits of evaluations of systems under the authority and control of the Director of Central Intelligence and evaluations and audits of evaluation of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense—

''(A) shall not be provided to the Comptroller General under this subsection; and

''(B) shall be made available only to the appropriate oversight committees of Congress, in accordance with applicable laws.

''(e) Agencies and evaluators shall take appropriate actions to ensure the protection of information, the disclosure of which may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws.''.

SEC. 1403. RESPONSIBILITIES OF CERTAIN AGENCIES.

(a) DEPARTMENT OF COMMERCE.—Notwithstanding section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and except as provided under subsection (b), the Secretary of Commerce, through the National Institute of Standards and Technology and with technical assistance from the National Security Agency, as required or when requested, shall—

(1) develop, issue, review, and update standards and guidance for the security of Federal information systems, including development of methods and techniques for security systems and validation programs;

(2) develop, issue, review, and update guidelines for training in computer security awareness and accepted computer security practices, with assistance from the Office of Personnel Management;

(3) provide agencies with guidance for security planning to assist in the development of applications and system security plans for such agencies;

(4) provide guidance and assistance to agencies concerning cost-effective controls when interconnecting with other systems; and

(5) evaluate information technologies to assess security vulnerabilities and alert Federal agencies of such vulnerabilities as soon as those vulnerabilities are known.

(b) DEPARTMENT OF DEFENSE AND THE INTELLIGENCE COMMUNITY.—

(1) IN GENERAL.—Notwithstanding section 3533 of title 44, United States Code (as added by section 1402 of this Act), the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President, shall, consistent with their respective authorities—

(A) develop and issue information security policies, standards, and guidelines for systems described under subparagraphs (A) and (B) of section 3532(b)(2) of title 44, United States Code (as added by section 1402 of this Act), that provide more stringent protection than the policies, principles, standards, and guidelines required under section 3533 of such title; and

(B) ensure the implementation of the information security policies, principles, standards, and guidelines described under subparagraph (A).

(2) MEASURES ADDRESSED.—The policies, principles, standards, and guidelines developed by the Secretary of Defense and the Director of Central Intelligence under paragraph (1) shall address the full range of information assurance measures needed to protect and defend Federal information and information systems by ensuring their integrity, confidentiality, authenticity, availability, and nonrepudiation.

(c) DEPARTMENT OF JUSTICE.—The Department of Justice shall review and update guidance to agencies on—

(1) legal remedies regarding security incidents and ways to report to and work with law enforcement agencies concerning such incidents; and

(2) lawful uses of security techniques and technologies.

(d) GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall—

(1) review and update General Services Administration guidance to agencies on addressing security considerations when acquiring information technology; and

(2) assist agencies in—

(A) fulfilling agency responsibilities under section 3534(b)(2)(E) of title 44, United States Code (as added by section 1402 of this Act); and

(B) the acquisition of cost-effective security products, services, and incident response capabilities.

(e) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management shall—

(1) review and update Office of Personnel Management regulations concerning computer security training for Federal civilian employees;

(2) assist the Department of Commerce in updating and maintaining guidelines for training in computer security awareness and computer security best practices; and

(3) work with the National Science Foundation and other agencies on personnel and training initiatives (including scholarships and fellowships, as authorized by law) as necessary to ensure that the Federal Government—

(A) has adequate sources of continuing information security education and training available for employees; and

(B) has an adequate supply of qualified information security professionals to meet agency needs.

(f) INFORMATION SECURITY POLICIES, PRINCIPLES, STANDARDS, AND GUIDELINES.—

(1) IN GENERAL.—Notwithstanding any provision of this title (including any amendment made by this title)—

(A) the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President shall develop such policies, principles, standards, and guidelines for mission critical systems subject to their control;

(B) the policies, principles, standards, and guidelines developed by the Secretary of Defense, the Director of Central Intelligence, and other agency head as designated by the President may be adopted, to the extent that such policies are consistent with policies and guidance developed by the Director of the Office of Management and Budget and the Secretary of Commerce—

(i) by the Director of the Office of Management and Budget, as appropriate, to the mission critical systems of all agencies; or

(ii) by an agency head, as appropriate, to the mission critical systems of that agency; and

(C) to the extent that such policies are consistent with policies and guidance developed by the Director of the Office of Management and Budget and the Secretary of Commerce, an agency may develop and implement information security policies, principles, standards, and guidelines that provide more stringent protection than those required under section 3533 of title 44, United States Code (as added by section 1402 of this Act), or subsection (a) of this section.

(2) MEASURES ADDRESSED.—The policies, principles, standards, and guidelines developed by the Secretary of Defense and the Director of Central Intelligence under paragraph (1) shall address the full range of information assurance measures needed to protect and defend Federal information and information systems by ensuring their integrity, confidentiality, authenticity, availability, and nonrepudiation.

(g) ATOMIC ENERGY ACT OF 1954.—Nothing in this title (including any amendment made by this title) shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted Data or Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 1404. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Chapter 35 of title 44, United States Code, is amended—

(1) in the table of sections—

(A) by inserting after the chapter heading the following:

''SUBCHAPTER I—FEDERAL INFORMATION POLICY'';

and

(B) by inserting after the item relating to section 3520 the following:

''SUBCHAPTER II—INFORMATION SECURITY

''Sec.
''3531. Purposes.
''3532. Definitions.
''3533. Authority and functions of the Director.
''3534. Federal agency responsibilities.
''3535. Annual independent evaluation.'';

and

(2) by inserting before section 3501 the following:

''SUBCHAPTER I—FEDERAL INFORMATION POLICY''.

(b) REFERENCES TO CHAPTER 35.—Chapter 35 of title 44, United States Code, is amended—

(1) in section 3501—

(A) in the matter preceding paragraph (1), by striking ''chapter'' and inserting ''subchapter''; and

(B) in paragraph (11), by striking ''chapter'' and inserting ''subchapter'';

(2) in section 3502, in the matter preceding paragraph (1), by striking ''chapter'' and inserting ''subchapter'';

(3) in section 3503, in subsection (b), by striking ''chapter'' and inserting ''subchapter'';

(4) in section 3504—

(A) in subsection (a)(2), by striking ''chapter'' and inserting ''subchapter'';

(B) in subsection (d)(2), by striking ''chapter'' and inserting ''subchapter''; and

(C) in subsection (f)(1), by striking ''chapter'' and inserting ''subchapter'';

(5) in section 3505—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''chapter'' and inserting ''subchapter'';

(B) in subsection (a)(2), by striking ''chapter'' and inserting ''subchapter''; and

(C) in subsection (a)(3)(B)(iii), by striking ''chapter'' and inserting ''subchapter'';

(6) in section 3506—

(A) in subsection (a)(1)(B), by striking ''chapter'' and inserting ''subchapter'';

(B) in subsection (a)(2)(A), by striking ''chapter'' and inserting ''subchapter'';

(C) in subsection (a)(2)(B), by striking ''chapter'' and inserting ''subchapter'';

(D) in subsection (a)(3)—

(i) in the first sentence, by striking ''chapter'' and inserting ''subchapter''; and

(ii) in the second sentence, by striking ''chapter'' and inserting ''subchapter'';

(E) in subsection (b)(4), by striking ''chapter'' and inserting ''subchapter'';

(F) in subsection (c)(1), by striking ''chapter, to'' and inserting ''subchapter, to''; and

(G) in subsection (c)(1)(A), by striking ''chapter'' and inserting ''subchapter'';

(7) in section 3507—

(A) in subsection (e)(3)(B), by striking ''chapter'' and inserting ''subchapter'';

(B) in subsection (h)(2)(B), by striking ''chapter'' and inserting ''subchapter'';

(C) in subsection (h)(3), by striking ''chapter'' and inserting ''subchapter'';

(D) in subsection (j)(1)(A)(i), by striking ''chapter'' and inserting ''subchapter'';

(E) in subsection (j)(1)(B), by striking ''chapter'' and inserting ''subchapter''; and

(F) in subsection (j)(2), by striking ''chapter'' and inserting ''subchapter'';

(8) in section 3509, by striking ''chapter'' and inserting ''subchapter'';

(9) in section 3512—

(A) in subsection (a), by striking ''chapter if'' and inserting ''subchapter if''; and

(B) in subsection (a)(1), by striking ''chapter'' and inserting ''subchapter'';

(10) in section 3514—

(A) in subsection (a)(1)(A), by striking ''chapter'' and inserting ''subchapter''; and

(B) in subsection (a)(2)(A)(ii), by striking ''chapter'' and inserting ''subchapter'' each place it appears;

(11) in section 3515, by striking ''chapter'' and inserting ''subchapter'';

(12) in section 3516, by striking ''chapter'' and inserting ''subchapter'';

(13) in section 3517(b), by striking ''chapter'' and inserting ''subchapter'';

(14) in section 3518—

(A) in subsection (a), by striking ''chapter'' and inserting ''subchapter'' each place it appears;

(B) in subsection (b), by striking ''chapter'' and inserting ''subchapter'';

(C) in subsection (c)(1), by striking ''chapter'' and inserting ''subchapter'';

(D) in subsection (c)(2), by striking ''chapter'' and inserting ''subchapter'';

(E) in subsection (d), by striking ''chapter'' and inserting ''subchapter''; and

(F) in subsection (e), by striking ''chapter'' and inserting ''subchapter''; and

(15) in section 3520, by striking ''chapter'' and inserting ''subchapter''.

SEC. 1405. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 30 days after the date of enactment of this Act.

KENNEDY (AND OTHERS) AMENDMENT NO. 3473

Mr. LEVIN (for Mr. KENNEDY (for himself, Mrs. BOXER, Mr. L. CHAFEE, Mr. DASCHLE, Mr. DODD, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. JEFFORDS, Mr. LEAHY, Mr. LEVIN, Mr. SCHUMER, Mr. SMITH of Oregon, Mr. TORRICELLI, Mr. WELLSTONE, Mr. WYDEN, and Mr. REED)) proposed an amendment to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

TITLE ___—LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2000

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Local Law Enforcement Enhancement Act of 2000''.

SEC. ___02. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the victim's family and friends, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ''races''. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. ___03. DEFINITION OF HATE CRIME.

In this title, the term ''hate crime'' has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. ___04. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the victim's race, color, religion, national origin, gender, sexual orientation, or disability or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

(1) IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes. In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(2) APPLICATION.—

(A) IN GENERAL.—Each State desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State, political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(3) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(4) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(5) REPORT.—Not later than December 31, 2001, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2001 and 2002.

SEC. ___05. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. ___06. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2001, 2002, and 2003 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code (as added by this title).

SEC. ___07. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

"§ 249. Hate crime acts

''(a) IN GENERAL.—

''(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

''(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(i) death results from the offense; or

''(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

''(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

''(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(I) death results from the offense; or

''(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

''(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

''(I) across a State line or national border; or

''(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

''(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

''(iii) in connection with the conduct described in subparagraph (A): the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

''(iv) the conduct described in subparagraph (A)—

''(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

''(II) otherwise affects interstate or foreign commerce.

''(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

''(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

''(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

''(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

''(B) the State has requested that the Federal Government assume jurisdiction;

''(C) the State does not object to the Federal Government assuming jurisdiction; or

''(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

''(c) DEFINITIONS.—In this section—

''(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title; and

''(2) the term 'firearm' has the meaning given the term in section 921(a) of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''249. Hate crime acts.''.

SEC. ___08. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. ___09. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting ''gender,'' after ''race,''.

SEC. ___10. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

HATCH AMENDMENT NO. 3474

Mr. HATCH proposed an amendment to the bill, S. 2549, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE STUDY AND SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) STUDIES.—

(1) COLLECTION OF DATA.—

(A) DEFINITION OF RELEVANT OFFENSE.—In this paragraph, the term ''relevant offense'' means a crime described in subsection (b)(1) of the first section of Public Law 101–275 (28 U.S.C. 534 note) and a crime that manifests evidence of prejudice based on gender or age.

(B) COLLECTION FROM CROSS-SECTION OF STATES.—Not later than 120 days after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the National Governors' Association, shall select 10 jurisdictions with laws classifying certain types of offenses as relevant offenses and 10 jurisdictions without such laws from which to collect the data described in subparagraph (C) over a 12-month period.

(C) DATA TO BE COLLECTED.—The data described in this paragraph are—

(i) the number of relevant offenses that are reported and investigated in the jurisdiction;

(ii) the percentage of relevant offenses that are prosecuted and the percentage that result in conviction;

(iii) the duration of the sentences imposed for crimes classified as relevant offenses in the jurisdiction, compared with the length of sentences imposed for similar crimes committed in jurisdictions with no laws relating to relevant offenses; and

(iv) references to and descriptions of the laws under which the offenders were punished.

(D) COSTS.—Participating jurisdictions shall be reimbursed for the reasonable and necessary costs of compiling data collected under this paragraph.

(2) STUDY OF RELEVANT OFFENSE ACTIVITY.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall complete a study and submit to Congress a report that analyzes the data collected under paragraph (1) and under section 534 of title 28, United States Code, to determine the extent of relevant offense activity throughout the United States and the success of State and local officials in combating that activity.

(B) IDENTIFICATION OF TRENDS.—In the study conducted under subparagraph (A), the Comptroller General of the United States shall identify any trends in the commission of relevant offenses specifically by—

(i) geographic region;

(ii) type of crime committed; and

(iii) the number and percentage of relevant offenses that are prosecuted and the number for which convictions are obtained.

(b) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—At the request of a law enforcement official of a State or a political subdivision of a State, the Attorney General, acting through the Director of the Federal Bureau of Investigation and in cases where the Attorney General determines special circumstances exist, may provide technical, forensic, prosecutorial, or any other assistance in the criminal investigation or prosecution of any crime that—

(1) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(2) constitutes a felony under the laws of the State; and

(3) is motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(c) GRANTS.—

(1) IN GENERAL.—The Attorney General may, in cases where the Attorney General determines special circumstances exist, make grants to States and local subdivisions of States to assist those entities in the investigation and prosecution of crimes motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(2) ELIGIBILITY.—A State or political subdivision of a State applying for assistance under this subsection shall—

(A) describe the purposes for which the grant is needed; and

(B) certify that the State or political subdivision lacks the resources necessary to investigate or prosecute a crime motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(3) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 10 days after the application is submitted.

(4) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single case.

(5) REPORT AND AUDIT.—Not later than December 31, 2001, the Attorney General, in consultation with the National Governors' Association, shall—

(A) submit to Congress a report describing the applications made for grants under this subsection, the award of such grants, and the effectiveness of the grant funds awarded; and

(B) conduct an audit of the grants awarded under this subsection to ensure that such grants are used for the purposes provided in this subsection.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 2001 and 2002 to carry out this section.

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NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, June 22, 2000 at 11 a.m. in room 485 of the Russell Senate Building to mark up the following: S. 2719, to provide for business development and trade promotion for Native Americans; S. 1658; to authorize the construction of a Reconciliation Place in Fort Pierre, South Dakota; and S. 1148, to provide for the Yankton Sioux Tribe and the Santee Sioux Tribe certain benefits of the Missouri River Pick-Sloan Project; to be followed by a hearing, on the Indian Trust Resolution Corporation.

Those wishing additional information may contact committee staff at 202/224–2251.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MCCONNELL. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Tuesday, June 27, 2000, in Room SR–301 Russell Senate Office Building, to receive testimony on the operations of the Library of Congress and the Smithsonian Institution.

For further information concerning this meeting, please contact Lani Gerst at the Rules Committee on 4–6352.

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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

On June 15, 2000, the Senate amended and passed H.R. 4475, as follows:

Resolved, That the bill from the House of Representatives (H.R. 4475) entitled ''An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,800,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $500,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $9,000,000.

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY

For necessary expenses of the Office of the Assistant Secretary for Policy, $2,500,000.

OFFICE OF THE ASSISTANT SECRETARY FOR AVIATION AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Aviation and International Affairs, $7,000,000: Provided, That notwithstanding any other provision of law, there may be credited to this appropriation up to $1,250,000 in funds received in user fees.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $6,500,000, including not to exceed $60,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine: Provided, That not more than $15,000 of the official reception and representation funds shall be available for obligation prior to January 20, 2001.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,000,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $17,800,000.

OFFICE OF PUBLIC AFFAIRS

For necessary expenses of the Office of Public Affairs, $1,500,000.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, $1,181,000.

BOARD OF CONTRACT APPEALS

For necessary expenses of the Board of Contract Appeals, $496,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $1,192,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, $6,000,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $8,000,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $5,300,000, of which $1,400,000 shall only be available for planning for the 2001 Winter Special Olympics; and $2,000,000 shall only be available for the purpose of section 228 of Public Law 106–181.

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $173,278,000, shall be paid from appropriations made available to the Department of Transportation: Provided, That such services shall be provided on a competitive basis to entities within the Department of Transportation: Provided further, That the above limitation on operating expenses shall not apply to non-DOT entities: Provided further, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: Provided further, That no assessments may be levied against any

program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of direct loans, $1,500,000, as authorized by 49 U.S.C. 332: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $13,775,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $3,000,000, of which $2,635,000 shall remain available until September 30, 2002: Provided, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $3,039,460,000, of which $641,000,000 shall be available only for defense-related activities; and of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That none of the funds appropriated in this or any other Act shall be available for pay for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839: Provided further, That up to $615,000 in user fees collected pursuant to section 1111 of Public Law 104–324 shall be credited to this appropriation as offsetting collections in fiscal year 2001: Provided further, That none of the funds in this Act shall be available for the Coast Guard to plan, finalize, or implement any regulation that would promulgate new maritime user fees not specifically authorized by law after the date of the enactment of this Act: Provided further, That the Secretary may transfer funds to this account, from Federal Aviation Administration ''Operations'', not to exceed $100,000,000 in total for the fiscal year, fifteen days after written notification to the House and Senate Committees on Appropriations, for the purpose of providing additional funds for drug interdiction activities and/or the Office of Intelligence and Security activities: Provided further, That the United States Coast Guard will reimburse the Department of Transportation Inspector General $5,000,000 for costs associated with audits and investigations of all Coast Guard-related issues and systems.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $407,747,660, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $145,936,660 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2005; $41,650,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2003; $54,304,000 shall be available for other equipment, to remain available until September 30, 2003; $68,406,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2003; $55,151,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 2002; and $42,300,000 for the Integrated Deepwater Systems program, to remain available until September 30, 2003: Provided, That the Commandant may dispose of surplus real property by sale or lease and the proceeds shall be credited to this appropriation and remain available until expended, but shall not be available for obligation until October 1, 2001: Provided further, That none of the funds provided for the Integrated Deepwater Systems program shall be available for obligation until the submission of a comprehensive capital investment plan for the United States Coast Guard as required by Public Law 106–69: Provided further, That the Commandant shall transfer $5,800,000 to the City of Homer, Alaska, for the construction of a municipal pier and other harbor improvements: Provided further, That the City of Homer enters into an agreement with the United States to accommodate Coast Guard vessels and to support Coast Guard operations at Homer, Alaska: Provided further, That the Commandant is hereby granted the authority to enter into a contract for the Great Lakes Icebreaker (GLIB) Replacement which shall be funded on an incremental basis: Provided further, That upon initial submission to the Congress of the fiscal year 2002 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the United States Coast Guard which includes funding for each budget line item for fiscal years 2002 through 2006, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $16,700,000, to remain available until expended.

ALTERATION OF BRIDGES

(HIGHWAY TRUST FUND)

For necessary expenses for alteration or removal of obstructive bridges, $15,500,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $778,000,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $80,371,000: Provided, That no more than $22,000,000 of funds made available under this heading may be transferred to Coast Guard ''Operating expenses'' or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve: Provided further, That none of the funds in this Act may be used by the Coast Guard to assess direct charges on the Coast Guard Reserves for items or activities which were not so charged during fiscal year 1997.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $21,320,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund: Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, and carrying out the provisions of subchapter I of chapter 471 of title 49, United States Code, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104–264, $6,350,250,000, of which $4,414,869,000 shall be derived from the Airport and Airway Trust Fund, of which $5,039,391,000 shall be available for air traffic services program activities; $691,979,000 shall be available for aviation regulation and certification program activities; $138,462,000 shall be available for civil aviation security program activities; $182,401,000 shall be available for research and acquisition program activities; $10,000,000 shall be available for commercial space transportation program activities; $43,000,000 shall be available for Financial Services program activities; $49,906,000 shall be available for Human Resources program activities; $99,347,000 shall be available for Regional Coordination program activities; and $95,764,000 shall be available for Staff Offices program activities: Provided, That none of the funds in this Act shall be available for the Federal Aviation Administration to plan, finalize, or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of the enactment of this Act: Provided further, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: Provided further, That of the funds appropriated under this heading, not less than $5,000,000 shall be for the contract tower cost-sharing program and not less than $55,300,000 shall be for the contract tower program within the air traffic services program activities: Provided further, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: Provided further, That none of the funds in this Act shall be available for new applicants for the second career training program: Provided further, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed

work during the time corresponding to such premium pay: Provided further, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: Provided further, That none of the funds in this Act may be used for the Federal Aviation Administration to enter into a multiyear lease greater than 5 years in length or greater than $100,000,000 in value unless such lease is specifically authorized by the Congress and appropriations have been provided to fully cover the Federal Government's contingent liabilities: Provided further, That none of the funds in this Act may be used for the Federal Aviation Administration (FAA) to sign a lease for satellite services related to the global positioning system (GPS) wide area augmentation system until the administrator of FAA certifies in writing to the House and Senate Committees on Appropriations that FAA has conducted a lease versus buy analysis which indicates that such lease will result in the lowest overall cost to the agency: Provided further, That notwithstanding any other provision of law, the FAA Administrator may contract out the entire function of Oceanic flight services: Provided further, That the Secretary may transfer funds to this account, from Coast Guard ''Operating expenses'', not to exceed $100,000,000 in total for the fiscal year, fifteen days after written notification to the House and Senate Committees on Appropriations, solely for the purpose of providing additional funds for air traffic control operations and maintenance to enhance aviation safety and security, and/or the Office of Intelligence and Security activities: Provided further, That the Federal Aviation Administration will reimburse the Department of Transportation Inspector General $19,000,000 for costs associated with audits and investigations of all aviation-related issues and systems.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this head; and to make grants to carry out the Small Community Air Service Development Pilot Program under section 41743 of title 49, United States Code; to be derived from the Airport and Airway Trust Fund, $2,656,765,000, of which $2,334,112,400 shall remain available until September 30, 2003, and of which $322,652,600 shall remain available until September 30, 2001: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: Provided further, That upon initial submission to the Congress of the fiscal year 2002 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2002 through 2006, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: Provided further, That none of the funds in this Act may be used for the Federal Aviation Administration to enter into a capital lease agreement unless appropriations have been provided to fully cover the Federal Government's contingent liabilities at the time the lease agreement is signed: Provided further, That notwithstanding any other provision of law, not more than $20,000,000 of funds made available under this heading in fiscal year 2001 may be obligated for grants under the Small Community Air Service Development Pilot Program under section 41743 of title 49, United States Code, subject to the normal reprogramming guidelines.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $183,343,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2003: Provided, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for administration of such programs and air traffic services program activities; for administration of programs under section 40117; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, $3,200,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: Provided, That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,200,000,000 in fiscal year 2001, notwithstanding section 47117(h) of title 49, United States Code: Provided further, That notwithstanding any other provision of law, not more than $173,000,000 of funds limited under this heading shall be obligated for administration and air traffic services program activities if such funds are necessary to maintain aviation safety.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $579,000,000 are rescinded.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration not to exceed $386,657,840 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: Provided, That $10,000,000 shall be available for National Historic Covered Bridge Preservation Program under section 1224 of Public Law 105–178, as amended, $33,588,500 shall be available for the Indian Reservation Roads Program under section 204 of title 23, $30,046,440 shall be available for the Public Lands Highway Program under section 204 of title 23, $20,153,100 shall be available for the Park Roads and Parkways Program under section 204 of title 23, and $2,442,800 shall be available for the Refuge Roads program under section 204 of title 23: Provided further, That the Federal Highway Administration will reimburse the Department of Transportation Inspector General $10,000,000 from funds available within this limitation for costs associated with audits and investigations of all highway-related issues and systems.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $29,661,806,000 for Federal-aid highways and highway safety construction programs for fiscal year 2001: Provided, That within the $29,661,806,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than $437,250,000 shall be available for the implementation or execution of programs for transportation research (sections 502, 503, 504, 506, 507, and 508 of title 23, United States Code, as amended; section 5505 of title 49, United States Code, as amended; and sections 5112 and 5204–5209 of Public Law 105–178) for fiscal year 2000; not more than $25,000,000 shall be available for the implementation or execution of programs for the Magnetic Levitation Transportation Technology Deployment Program (section 1218 of Public Law 105–178) for fiscal year 2001, of which not to exceed $1,000,000 shall be available to the Federal Railroad Administration for administrative expenses and technical assistance in connection with such program; not more than $31,000,000 shall be available for the implementation or execution of programs for the Bureau of Transportation Statistics (section 111 of title 49, United States Code) for fiscal year 2001: Provided further, That within the $218,000,000 obligation limitation on Intelligent Transportation Systems, the following sums shall be made available for Intelligent Transportation System projects in the following specified areas:

Calhoun County, MI	$500,000
Wayne County, MI	1,500,000
Southeast Michigan	1,000,000
Indiana Statewide (SAFE–T)	1,500,000
Salt Lake City (Olympic Games)	2,000,000
State of New Mexico	1,500,000
Santa Teresa, NM	1,000,000
State of Missouri (Rural)	1,000,000
Springfield-Branson, MO	1,500,000
Kansas City, MO	2,500,000
Inglewood, CA	1,200,000
Lewis & Clark trail, MT	1,250,000
State of Montana	1,500,000
Fort Collins, CO	2,000,000
Arapahoe County, CO	1,000,000
I–70 West project, CO	1,000,000
I–81 Safety Corridor, VA	1,000,000
Aquidneck Island, RI	750,000
Hattiesburg, MS	1,000,000
Jackson, MS	1,000,000
Fargo, ND	1,000,000
Moscow, ID	1,750,000
State of Ohio	2,500,000
State of Connecticut	3,000,000
Illinois Statewide	2,000,000
Charlotte, NC	1,250,000
Nashville, TN	1,000,000
State of Tennessee	2,600,000
Spokane, WA	1,000,000
Bellingham, WA	700,000
Puget Sound Regional Fare Coordination	2,000,000

Bay County, FL	1,000,000
Iowa statewide (traffic enforcement)	3,000,000
State of Nebraska	2,600,000
State of North Carolina	3,000,000
South Carolina statewide	2,000,000
San Antonio, TX	200,000
Beaumont, TX	300,000
Corpus Christi, TX (vehicle dispatching)	1,500,000
Williamson County/Round Rock, TX	500,000
Austin, TX	500,000
Texas Border Phase I Houston, TX	1,000,000
Oklahoma statewide	2,000,000
Vermont statewide	1,000,000
Vermont rural ITS	1,500,000
State of Wisconsin	3,600,000
Tucson, AZ	2,500,000
Cargo Mate, NJ	1,000,000
New Jersey regional integration/TRANSCOM	4,000,000
State of Kentucky	2,000,000
State of Maryland	4,000,000
Sacramento to Reno, I–80 corridor	200,000
Washoe County, NV	200,000
North Las Vegas, NV	1,800,000
Delaware statewide	1,000,000
North Central Pennsylvania	1,500,000
Delaware River Port Authority	3,500,000
Pennsylvania Turnpike Commission	3,000,000
Huntsville, AL	2,000,000
Tuscaloosa/Muscle Shoals	3,000,000
Automated crash notification system, UAB	2,000,000
Oregon statewide	1,500,000
Alaska statewide	4,200,000
South Dakota commercial vehicle ITS	1,500,000:

Provided further, That, notwithstanding Public Law 105–178 as amended, funds authorized under section 110 of title 23, United States Code, for fiscal year 2001 shall be apportioned based on each State's percentage share of funding provided for under section 105 of title 23, United States Code, for fiscal year 2001. Of the funds to be apportioned under section 110 for fiscal year 2001, the Secretary shall ensure that such funds are apportioned for the Interstate Maintenance program, the National Highway system program, the bridge program, the surface transportation program, and the congestion mitigation and air quality program in the same ratio that each State is apportioned funds for such program in fiscal year 2001 but for this section.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, $28,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses for administration of motor carrier safety programs and motor carrier safety research, pursuant to section 104(a) of title 23, United States Code, not to exceed $92,194,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Motor Carrier Safety Administration, together with advances and reimbursements received by the Federal Motor Carrier Safety Administration: Provided, That such amounts shall be available to carry out the functions and operations of the Federal Motor Carrier Safety Administration.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, $177,000,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $177,000,000 for ''Motor Carrier Safety Grants''.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, $107,876,000 of which $77,670,000 shall remain available until September 30, 2003: Provided, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect: Provided further, That none of the funds appropriated in this Act may be obligated or expended to purchase a vehicle to conduct New Car Assessment Program crash testing at a price that exceeds the manufacturer's suggested retail price: Provided further, That none of the funds appropriated in this Act may be obligated or expended to plan, finalize, or implement regulations that would add the static stability factor to the New Car Assessment Program until the National Academy of Sciences reports to the House and Senate Committees on Appropriations not later than nine months after the date of enactment of this Act that the static stability factor is a scientifically valid measurement and presents practical, useful information to the public; a comparison of the static stability factor test versus a test with rollover metrics based on dynamic driving conditions that induce rollover events; and the validity of the NHTSA proposed system for placing its rollover rating information on the web compared to making rollover information available at the point of sale.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, $72,000,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2001 are in excess of $72,000,000 for programs authorized under 23 U.S.C. 403.

NATIONAL DRIVER REGISTER

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, $2,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411 to remain available until expended, $213,000,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2001, are in excess of $213,000,000 for programs authorized under 23 U.S.C. 402, 405, 410, and 411 of which $155,000,000 shall be for ''Highway Safety Programs'' under 23 U.S.C. 402, $13,000,000 shall be for ''Occupant Protection Incentive Grants'' under 23 U.S.C. 405, $36,000,000 shall be for ''Alcohol-Impaired Driving Countermeasures Grants'' under 23 U.S.C. 410, $9,000,000 shall be for the ''State Highway Safety Data Grants'' under 23 U.S.C. 411: Provided further, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: Provided further, That not to exceed $7,750,000 of the funds made available for section 402, not to exceed $650,000 of the funds made available for section 405, not to exceed $1,800,000 of the funds made available for section 410, and not to exceed $450,000 of the funds made available for section 411 shall be available to NHTSA for administering highway safety grants under chapter 4 of title 23, United States Code: Provided further, That not to exceed $500,000 of the funds made available for section 410 ''Alcohol-Impaired Driving Countermeasures Grants'' shall be available for technical assistance to the States.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $99,390,000, of which $4,957,000 shall remain available until expended: Provided, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: Provided further, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation: Provided further, That the Federal Railroad Administration will reimburse the Department of Transportation Inspector General $1,500,000 for costs associated with audits and investigations of all rail-related issues and systems.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $24,725,000, to remain available until expended.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: Provided, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2001.

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 U.S.C. 26101 and 26102, $24,900,000, to remain available until expended.

ALASKA RAILROAD REHABILITATION

To enable the Secretary of Transportation to make grants to the Alaska Railroad, $20,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations, to remain available until expended.

WEST VIRGINIA RAIL DEVELOPMENT

For capital costs associated with track, signal, and crossover rehabilitation and improvements on the MARC Brunswick line in West Virginia, $15,000,000, to remain available until expended.

CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $521,000,000 to remain available until expended: Provided, That the Secretary shall not obligate more than $208,400,000 prior to September 30, 2001.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $12,800,000: Provided, That no more than $64,000,000 of budget authority shall be available for these purposes: Provided further, That the Federal Transit Administration will reimburse the Department of Transportation Inspector General $3,000,000 for costs associated with audits and investigations of all transit-related issues and systems

FORMULA GRANTS

For necessary expenses to carry out 49 U.S.C. 5307, 5308, 5310, 5311, 5327, and section 3038 of Public Law 105–178, $669,000,000, to remain available until expended: Provided, That no more than $3,345,000,000 of budget authority shall be available for these purposes.

UNIVERSITY TRANSPORTATION RESEARCH

For necessary expenses to carry out 49 U.S.C. 5505, $1,200,000, to remain available until expended: Provided, That no more than $6,000,000 of budget authority shall be available for these purposes.

TRANSIT PLANNING AND RESEARCH

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $22,200,000, to remain available until expended: Provided, That no more than $110,000,000 of budget authority shall be available for these purposes: Provided further, That $5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)); $4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315); $8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)), of which $3,000,000 is available for transit-related research conducted by the Great Cities Universities research consortia; $52,113,600 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305); $10,886,400 is available for State planning (49 U.S.C. 5313(b)); and $29,500,000 is available for the national planning and research program (49 U.S.C. 5314): Provided further, That of the total budget authority made available for the national planning and research program, the Federal Transit Administration shall provide the following amounts for the projects and activities listed below:

Mid-America Regional Council coordinated transit planning, Kansas City metro area	$750,000
Sacramento Area Council of Governments regional air quality planning and coordination study	250,000
Salt Lake Olympics Committee multimodal transportation planning	1,200,000
West Virginia University fuel cell technology institute propulsion and ITS testing	1,000,000
University of Rhode Island, Kingston traffic congestion study	150,000
Georgia Regional Transportation Authority regional transit study	350,000
Trans-lake Washington land use effectiveness and enhancement review	450,000
State of Vermont electric vehicle transit demonstration	500,000
Acadia Island, Maine explorer transit system experimental pilot program	150,000
Center for Composites Manufacturing	950,000
Southern Nevada air quality study	800,000
Southeastern Pennsylvania Transit Authority advanced propulsion control system	3,000,000
Fairbanks extreme temperature clean fuels research	800,000
National Transit Database	2,500,000
Safety and Security	6,100,000
National Rural Transit Assistance Program	750,000
Mississippi State University bus service expansion plan	100,000
Bus Rapid Transit administration, data collection and analysis	1,000,000
Project ACTION	3,000,000

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 5303–5308, 5310–5315, 5317(b), 5322, 5327, 5334, 5505, and sections 3037 and 3038 of Public Law 105–178, $5,016,600,000, to remain available until expended, and to be derived from the Mass Transit Account of the Highway Trust Fund: Provided, That $2,676,000,000 shall be paid to the Federal Transit Administration's formula grants account: Provided further, That $87,800,000 shall be paid to the Federal Transit Administration's transit planning and research account: Provided further, That $51,200,000 shall be paid to the Federal Transit Administration's administrative expenses account: Provided further, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: Provided further, That $80,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program: Provided further, That $2,116,800,000 shall be paid to the Federal Transit Administration's capital investment grants account.

CAPITAL INVESTMENT GRANTS

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $529,200,000, to remain available until expended: Provided, That no more than $2,646,000,000 of budget authority shall be available for these purposes: Provided further, That notwithstanding any other provision of law, there shall be available for fixed guideway modernization, $1,058,400,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $529,200,000; and there shall be available for new fixed guideway systems $1,058,400,000: Provided further, That, within the total funds provided for buses and bus-related facilities to carry out 49 U.S.C. section 5309, the following projects shall be considered eligible for these funds: Provided further, That the Administrator of the Federal Transit Administration shall, not later than February 1, 2001, individually submit to the House and Senate Committees on Appropriations the recommended grant funding levels for the respective projects, from the bus and bus-related facilities projects listed in the accompanying Senate report: Provided further, That within the total funds provided for new fixed guideway systems to carry out 49 U.S.C. section 5309, the following projects shall be considered eligible for these funds: Provided further, That the Administrator of the Federal Transit Administration shall, not later than February 1, 2001, individually submit to the House and Senate Committees on Appropriations the recommended grant funding levels for the respective projects.

The following new fixed guideway systems and extensions to existing systems are eligible to receive funding for final design and construction:

2002 Winter Olympics spectator transportation systems and facilities;

Alaska or Hawaii ferry projects;

Atlanta-MARTA North Line extension completion;

Austin Capital Metro Light Rail;

Baltimore Central Light Rail double tracking;

Boston North-South Rail Link;

Boston-South Boston Piers Transitway;

Canton-Akron-Cleveland commuter rail line;

Charlotte North-South Transitway project;

Chicago METRA commuter rail consolidated request;

Chicago Transit Authority Ravenswood Brown Line capacity expansion;

Chicago Transit Authority Douglas Blue Line;

Clark County, Nevada RTC fixed guideway project;

Cleveland Euclid Corridor improvement project;

Dallas Area Rapid Transit North Central light rail;

Denver Southeast corridor project;

Denver Southwest corridor project;

Fort Lauderdale Tri-County commuter rail project;

Fort Worth Railtran corridor commuter rail project;

Galveston Rail Trolley extension;

Girdwood to Wasilla, Alaska commuter rail project;

Houston Metro Regional Bus Plan;

Kansas City Southtown corridor;

Little Rock, Arkansas River Rail project;

Long Island Rail Road East Side access project;

Los Angeles Mid-city and Eastside corridors;

Los Angeles North Hollywood extension;

MARC expansion projects—Penn-Camden lines connector and midday storage facility;

MARC-Brunswick line in West Virginia, signal and crossover improvements;

Memphis Medical Center extension project;

Minneapolis-Twin Cities Transitways corridor projects;

Nashua, New Hampshire to Lowell, Massachusetts commuter rail;

Nashville regional commuter rail;

New Jersey Hudson-Bergen Light Rail;

New Orleans Canal Street Streetcar corridor project;

New Orleans Desire Street corridor project;

Newark-Elizabeth rail link;

Oceanside-Escondido, California light rail;

Orange County, California transitway project;

Philadelphia-Reading SEPTA Schuylkill Valley metro project;

Phoenix metropolitan area transit project;

Pittsburgh North Shore-central business district corridor project;

Pittsburgh Stage II Light Rail transit;

Portland Interstate MAX light rail transit;

Raleigh, Durham and Chapel Hill regional rail service;

Rhode Island-Pawtucket and T.F. Green commuter rail and maintenance facility;
Sacramento south corridor light rail extension;
Salt Lake City-University light rail line;
Salt Lake City North/South light rail project;
Salt Lake-Ogden-Provo regional commuter rail;
San Bernardino MetroLink;
San Diego Mission Valley East light rail;
San Francisco BART extension to the airport project;
San Jose Tasman West light rail project;
San Juan-Tren Urbano;
Seattle-Sound Transit Central Link light rail project;
Seattle-Puget Sound RTA Sounder commuter rail project;
Spokane-South Valley Corridor light rail project;
St. Louis Metrolink Cross County connector;
St. Louis/St. Clair County Metrolink light rail extension;
Stamford Urban Transitway, Connecticut;
Tampa Bay regional rail project;
Washington Metro Blue Line-Largo extension;
West Trenton, New Jersey rail project.

The following new fixed guideway systems and extensions to existing systems are eligible to receive funding for alternatives analysis and preliminary engineering:

Albuquerque/Greater Albuquerque mass transit project;
Atlanta-MARTA West Line extension study;
Ballston, Virginia Metro access improvements;
Baltimore regional rail transit system;
Birmingham, Alabama transit corridor;
Boston Urban Ring;
Burlington-Bennington, Vermont commuter rail project;
Calais, Maine Branch Line regional transit program;
Colorado/Eagle Airport to Avon light rail system;
Colorado/Roaring Fork Valley rail project;
Columbus-Central Ohio Transit Authority north corridor;
Dallas Area Rapid Transit Southeast Corridor Light Rail;
Danbury-Norwalk Rail Line Re-Electrification project;
Des Moines commuter rail;
Detroit Metropolitan Airport light rail project;
Draper, West Jordan, West Valley City and Sandy City, Utah light rail extensions;
Dulles Corridor, Virginia innovative intermodal system;
El Paso/Juarez People mover system;
Fort Worth trolley system;
Harrisburg-Lancaster capital area transit corridor 1 regional light rail;
Hollister/Gilroy Branch Line extension;
Honolulu bus rapid transit;
Houston advanced transit program;
Indianapolis Northeast-Downtown corridor project;
Johnson County, Kansas I–35 Commuter Rail Project;
Kenosha-Racine-Milwaukee commuter rail extension;
Los Angeles San Fernando Valley Corridor;
Los Angeles San Diego LOSSAN corridor project;
Massachusetts North Shore Corridor project;
Miami south busway extension;
New Orleans commuter rail from Airport to downtown;
New York City 2nd Avenue Subway study;
Northern Indiana south shore commuter rail;
Northwest New Jersey-Northeast Pennsylvania passenger rail project;
Potomac Yards, Virginia transit study;
Philadelphia SEPTA Cross County Metro;
Portland, Maine marine highway program;
San Francisco BART to Livermore extension;
San Francisco MUNI 3rd Street light rail extension;
Santa Fe-Eldorado rail link project;
Stockton, California Altamont commuter rail project;
Vasona light rail corridor;
Virginia Railway Express commuter rail;
Whitehall ferry terminal project;
Wilmington, Delaware downtown transit connector; and
Wilsonville to Beaverton commuter rail:

Provided further, That funds made available under the heading ''Capital Investment Grants'' in Division A, Section 101(g) of Public Law 105–277 for the ''Colorado-North Front Range corridor feasibility study'' are to be made available for ''Colorado-Eagle Airport to Avon light rail system feasibility study''; and that funds made available in Public Law 106–69 under ''Capital Investment Grants'' for buses and bus-related facilities that were designated for projects numbered 14 and 20 shall be made available to the State of Alabama for buses and bus-related facilities.

DISCRETIONARY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of previous obligations incurred in carrying out 49 U.S.C. 5338(b), $350,000,000, to remain available until expended and to be derived from the Mass Transit Account of the Highway Trust Fund.

JOB ACCESS AND REVERSE COMMUTE GRANTS

For necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, $20,000,000, to remain available until expended: Provided, That no more than $100,000,000 of budget authority shall be available for these purposes.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $12,400,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $34,370,000, of which $645,000 shall be derived from the Pipeline Safety Fund, and of which $4,201,000 shall remain available until September 30, 2003: Provided, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: Provided further, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $43,144,000, of which $8,750,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2003; of which $31,894,000 shall be derived from the Pipeline Safety Fund, of which $24,432,000 shall remain available until September 30, 2003; and of which $2,500,000 shall be derived from amounts previously collected under 49 U.S.C. 60301: Provided, That amounts previously collected under 49 U.S.C. 60301 shall be available for damage prevention grants to States.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2003: Provided, That not more than $13,227,000 shall be made available for obligation in fiscal year 2001 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): Provided further, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee: Provided further, That the deadline for the submission of registration statements and the accompanying registration and processing fees for the July 1, 2000 to June 30, 2001 registration year described under sections 107.608, 107.612, and 107.616 of the Department of Transportation's final rule docket number RSPA–99–5137 is amended to not later than September 30.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $49,000,000 of which $38,500,000 shall be derived from transfers of funds from the United States Coast Guard, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, and the Federal Transit Administration.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $17,000,000: Provided, That notwithstanding any other provision of law, not to exceed $954,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $4,795,000: Provided, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as

authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $59,000,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 2001 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available: (1) except as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents; and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 305. None of the funds in this Act shall be available for salaries and expenses of more than 104 political and Presidential appointees in the Department of Transportation: Provided, That none of the personnel covered by this provision or political and Presidential appointees in an independent agency funded in this Act may be assigned on temporary detail outside the Department of Transportation or such independent agency.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 309. (a) No recipient of funds made available in this Act shall disseminate driver's license personal information as defined in 18 U.S.C. 2725(3) except as provided in subsection (b) of this section or motor vehicle records as defined in 18 U.S.C. 2725(1) for any use not permitted under 18 U.S.C. 2721.

(b) No recipient of funds made available in this Act shall disseminate a person's driver's license photograph, social security number, and medical or disability information from a motor vehicle record as defined in 18 U.S.C. 2725(1) without the express consent of the person to whom such information pertains, except for uses permitted under 18 U.S.C. 2721(1), 2721(4), 2721(6), and 2721(9): Provided, That subsection (b) shall not in any way affect the use of organ donation information on an individual's driver's license or affect the administration of organ donation initiatives in the States.

SEC. 310. (a) For fiscal year 2001, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, for the highway use tax evasion program, and amounts provided under section 110 of title 23, United States Code, excluding $128,752,000 pursuant to subsection (e) of section 110 of title 23, as amended, and for the Bureau of Transportation Statistics;

(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) of section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid Highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; and (8) under section 105 of title 23, United States Code (but, only in an amount equal to $639,000,000 for such fiscal year).

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1943–1945).

(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 4 of title 23, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

SEC. 311. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49

U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 312. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 313. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 314. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant. The Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by FAA in accordance with agency criteria.

SEC. 315. None of the funds in this Act shall be available to award a multiyear contract for production end items that: (1) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any 1 year of the contract; (2) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the Government's liability; or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: Provided, That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 316. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under ''Federal Transit Administration, Capital investment grants'' for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2003, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 317. Notwithstanding any other provision of law, any funds appropriated before October 1, 2000, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 318. None of the funds in this Act may be used to compensate in excess of 320 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2001.

SEC. 319. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $53,430,000, which limits fiscal year 2001 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $119,848,000: Provided, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center. In addition to the funds limited in this Act, $54,963,000 shall be available for section 1069(y) of Public Law 102–240.

SEC. 320. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's ''Federal-Aid Highways'' account, the Federal Transit Administration's ''Transit Planning and Research'' account, and to the Federal Railroad Administration's ''Safety and Operations'' account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 321. Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(2)(B) may be used to construct new vessels and facilities, to provide passenger ferryboat service, or to improve existing vessels and facilities, including both the passenger and vehicle-related elements of such vessels and facilities, and for repair facilities.

SEC. 322. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: Provided, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 323. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegraph, telephone, letter, printed or written material, radio, television, video presentation, electronic communications, or other device, intended or designed to influence in any manner a Member of Congress or of a State legislature to favor or oppose by vote or otherwise, any legislation or appropriation by Congress or a State legislature after the introduction of any bill or resolution in Congress proposing such legislation or appropriation, or after the introduction of any bill or resolution in a State legislature proposing such legislation or appropriation: Provided, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress or to Congress, on the request of any Member, or to members of State legislature, or to a State legislature, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of business.

SEC. 324. (a) IN GENERAL.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 325. Not to exceed $1,500,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees: Provided, That this limitation shall not apply to advisory committees established for the purpose of conducting negotiated rulemaking in accordance with the Negotiated Rulemaking Act, 5 U.S.C. 561–570a, or the Coast Guard's advisory council on roles and missions.

SEC. 326. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 2001.

SEC. 327. Notwithstanding any other provision of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 328. For necessary expenses of the Amtrak Reform Council authorized under section 203 of Public Law 105–134, $495,000, to remain available until September 30, 2002: Provided, That the duties of the Amtrak Reform Council described in section 203(g)(1) of Public Law 105–134 shall include the identification of Amtrak routes which are candidates for closure or realignment, based on performance rankings developed by Amtrak which incorporate information on each route's fully allocated costs and ridership on core intercity passenger service, and which assume, for purposes of closure or realignment candidate identification, that Federal subsidies for Amtrak will decline over the 4-year period from fiscal year 1999 to fiscal year 2002: Provided further, That these closure or realignment recommendations shall be included in the Amtrak Reform Council's annual report to the Congress required by section 203(h) of Public Law 105–134.

SEC. 329. The Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: Provided, That no appropriation shall be increased or decreased by more than 12 percent by all such transfers: Provided further, That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 330. None of the funds in this Act shall be available for activities under the Aircraft Purchase Loan Guarantee Program during fiscal year 2001.

SEC. 331. Section 3038(e) of Public Law 105–178 is amended by striking ''50'' and inserting ''90''.

SEC. 332. The Secretary of Transportation shall execute a demonstration program, to be conducted for a period not to exceed eighteen months, of the ''fractional ownership'' concept in performing administrative support flight missions, the purpose of which would be to determine whether cost savings, as well as increased operational flexibility and aircraft availability, can be realized through the use by the government of the commercial fractional ownership concept or report to the Committee the reason for not conducting such an evaluation: Provided, That the Secretary shall ensure the competitive selection for this demonstration of a fractional ownership concept which provides a suite of aircraft capable of meeting the Department's varied needs, and that the Secretary shall ensure the demonstration program encompasses a significant and representative portion of the Department's administrative support missions (to include those performed by the Coast Guard, the Federal Aviation Administration, and the National Aeronautics and Space Administration, whose aircraft are currently operated by the FAA): Provided further, That the

Secretary shall report to the House and Senate Committees on Appropriations on results of this evaluation of the fractional ownership concept in the performance of the administrative support mission no later than twelve months after final passage of this Act or within 60 days of enactment of this Act if the Secretary decides not to conduct such a demonstration for evaluation including an explanation for such a decision and proposed statutory language to exempt the Department of Transportation from Office of Management and Budget guidelines regarding the use of aircraft.

SEC. 333. None of the funds in this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than three full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $1,000,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 334. Section 3030(b) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by adding at the end the following:

''(72) Wilmington Downtown transit corridor.

''(73) Honolulu Bus Rapid Transit project.''.

SEC. 335. None of the funds appropriated or made available by this Act or any other Act or hereafter shall be used (1) to consider or adopt any proposed rule or proposed amendment to a rule contained in the Notice of Proposed Rulemaking issued on April 24, 2000 (Docket No. FMCSA–97–2350–953), (2) to consider or adopt any rule or amendment to a rule similar in substance to a proposed rule or proposed amendment to a rule contained in such Notice, or (3) if any such proposed rule or proposed amendment to a rule has been adopted prior to enactment of this Section, to enforce such rule or amendment to a rule.

SEC. 336. Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note) is amended—

(1) in the subsection heading, by inserting ''OVER-THE-ROAD BUSES AND'' before ''PUBLIC'';

(2) in paragraph (1), by striking ''to any vehicle which'' and inserting the following: ''to—

''(A) any over-the-road bus; or

''(B) any vehicle that''; and

(3) by striking paragraphs (2) and (3) and inserting the following:

''(2) STUDY AND REPORT CONCERNING APPLICABILITY OF MAXIMUM AXLE WEIGHT LIMITATIONS TO OVER-THE-ROAD BUSES AND PUBLIC TRANSIT VEHICLES.—

''(A) STUDY AND REPORT.—Not later than July 31, 2002, the Secretary shall conduct a study of, and submit to Congress a report on, the maximum axle weight limitations applicable to vehicles using the Dwight D. Eisenhower National System of Interstate and Defense Highways established under section 127 of title 23, United States Code, or under State law, as the limitations apply to over-the-road buses and public transit vehicles.

''(B) DETERMINATION OF APPLICABILITY OF VEHICLE WEIGHT LIMITATIONS.—

''(i) IN GENERAL.—The report shall include—

''(I) a determination concerning how the requirements of section 127 of that title should be applied to over-the-road buses and public transit vehicles; and

''(II) short-term and long-term recommendations concerning the applicability of those requirements.

''(ii) CONSIDERATIONS.—In making the determination described in clause (i)(I), the Secretary shall consider—

''(I) vehicle design standards;

''(II) statutory and regulatory requirements, including—

''(aa) the Clean Air Act (42 U.S.C. 7401 et seq.);

''(bb) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

''(cc) motor vehicle safety standards prescribed under chapter 301 of title 49, United States Code; and

''(III)(aa) the availability of lightweight materials suitable for use in the manufacture of over-the-road buses;

''(bb) the cost of those lightweight materials relative to the cost of heavier materials in use as of the date of the determination; and

''(cc) any safety or design considerations relating to the use of those materials.

''(C) ANALYSIS OF MEANS OF ENCOURAGING DEVELOPMENT AND MANUFACTURE OF LIGHTWEIGHT BUSES.—The report shall include an analysis of, and recommendations concerning, means to be considered to encourage the development and manufacture of lightweight buses, including an analysis of—

''(i) potential procurement incentives for public transit authorities to encourage the purchase of lightweight public transit vehicles using grants from the Federal Transit Administration; and

''(ii) potential tax incentives for manufacturers and private operators to encourage the purchase of lightweight over-the-road buses.

''(D) ANALYSIS OF CONSIDERATION IN RULEMAKINGS OF ADDITIONAL VEHICLE WEIGHT.—The report shall include an analysis of, and recommendations concerning, whether Congress should require that each rulemaking by an agency of the Federal Government that affects the design or manufacture of motor vehicles consider—

''(i) the weight that would be added to the vehicle by implementation of the proposed rule;

''(ii) the effect that the added weight would have on pavement wear; and

''(iii) the resulting cost to the Federal Government and State and local governments.

''(E) COST-BENEFIT ANALYSIS.—The report shall include an analysis relating to the axle weight of over-the-road buses that compares—

''(i) the costs of the pavement wear caused by over-the-road buses; with

''(ii) the benefits of the over-the-road bus industry to the environment, the economy, and the transportation system of the United States.

''(3) DEFINITIONS.—In this subsection:

''(A) OVER-THE-ROAD BUS.—The term 'over-the-road bus' has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

''(B) PUBLIC TRANSIT VEHICLE.—The term 'public transit vehicle' means a vehicle described in paragraph (1)(B).''.

SEC. 337. None of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol.

SEC. 338. None of the funds appropriated by this Act or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Department of Transportation and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the users fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2001 appropriations Act.

SEC. 339. In addition to the authority provided in section 636 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as included in Public Law 104–208, title I, section 101(f), as amended, beginning in fiscal year 2001 and thereafter, amounts appropriated for salaries and expenses for the Department of Transportation may be used to reimburse an employee whose position is that of safety inspector for not to exceed one-half the costs incurred by such employee for professional liability insurance. Any payment under this section shall be contingent upon the submission of such information or documentation as the Department may require.

SEC. 340. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation or weather reporting. The prohibition of funds in this section does not apply to negotiations between the Agency and airport sponsors to achieve agreement on ''below-market'' rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for ATC facilities.

SEC. 341. None of the funds provided in this Act or prior Appropriations Acts for Coast Guard Acquisition, Construction, and Improvements shall be available after the fifteenth day of any quarter of any fiscal year beginning after December 31, 1999, unless the Commandant of the Coast Guard first submits a quarterly report to the House and Senate Committees on Appropriations on all major Coast Guard acquisition projects including projects executed for the Coast Guard by the United States Navy and vessel traffic service projects: Provided, That such reports shall include an acquisition schedule, estimated current and year funding requirements, and a schedule of anticipated obligations and outlays for each major acquisition project: Provided further, That such reports shall rate on a relative scale the cost risk, schedule risk, and technical risk associated with each acquisition project and include a table detailing unobligated balances to date and anticipated unobligated balances at the close of the fiscal year and the close of the following fiscal year should the Administration's pending budget request for the acquisition, construction, and improvements account be fully funded: Provided further, That such reports shall also provide abbreviated information on the status of shore facility construction and renovation projects: Provided further, That all information submitted in such reports shall be current as of the last day of the preceding quarter.

SEC. 342. Notwithstanding any other provision of law, beginning in fiscal year 2004, the Secretary shall withhold 5 percent of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if a State is not eligible for assistance under section 163(a) of chapter 1 of title 23, United States Code, and beginning in fiscal year 2005, and in each fiscal year thereafter, the Secretary shall withhold 10 percent of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if a State is not eligible for assistance under section 163(a) of title 23, United States Code. If within three years from the date that the apportionment for any State is reduced in accordance with this subsection the Secretary

determines that such State is eligible for assistance under section 163(a) of chapter 1 of title 23, United States Code, the apportionment of such State shall be increased by an amount equal to such reduction. If at the end of such three-year period, any State remains ineligible for assistance under section 163(a) of title 23, United States Code, any amounts so withheld shall lapse.

SEC. 343. CONVEYANCE OF AIRPORT PROPERTY TO AN INSTITUTION OF HIGHER EDUCATION IN OKLAHOMA. (a) IN GENERAL.—Notwithstanding any other provision of law, including the Surplus Property Act of 1944 (58 Stat. 765, chapter 479; 50 U.S.C. App. 1622 et seq.), the Secretary of Transportation (or the appropriate Federal officer) may waive, without charge, any of the terms contained in any deed of conveyance described in subsection (b) that restrict the use of any land described in such a deed that, as of the date of enactment of this Act, is not being used for the operation of an airport or for air traffic. A waiver made under the preceding sentence shall be deemed to be consistent with the requirements of section 47153 of title 49, United States Code.

(b) DEED OF CONVEYANCE.—A deed of conveyance referred to in subsection (a) is a deed of conveyance issued by the United States before the date of enactment of this Act for the conveyance of lands to a public institution of higher education in Oklahoma.

(c) USE OF LANDS SUBJECT TO WAIVER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the lands subject to a waiver under subsection (a) shall not be subject to any term, condition, reservation, or restriction that would otherwise apply to that land as a result of the conveyance of that land by the United States to the institution of higher education.

(2) USE OF LANDS.—An institution of higher education that is issued a waiver under subsection (a) may use revenues derived from the use, operation, or disposal of that land only for weather-related and educational purposes that include benefits for aviation.

(d) GRANTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if an institution of higher education that is subject to a waiver under subsection (a) received financial assistance in the form of a grant from the Federal Aviation Administration or a predecessor agency before the date of enactment of this Act, then the Secretary of Transportation may waive the repayment of the outstanding amount of any grant that the institution of higher education would otherwise be required to pay.

(2) ELIGIBILITY TO RECEIVE SUBSEQUENT GRANTS.—Nothing in paragraph (1) shall affect the eligibility of an institution of higher education that is subject to that paragraph from receiving grants from the Secretary of Transportation under chapter 471 of title 49, United States Code, or under any other provision of law relating to financial assistance provided through the Federal Aviation Administration.

SEC. 344. Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032–2033) is amended by striking paragraph (38) and replacing it with the following—

''(38) The Ports-to-Plains Corridor from Laredo, Texas to Denver, Colorado as follows:

''(A) In the State of Texas the Ports-to-Plains Corridor shall generally follow—

''(i) I–35 from Laredo to United States Route 83 at Exit 18;

''(ii) United States Route 83 from Exit 18 to Carrizo Springs;

''(iii) United States Route 277 from Carrizo Springs to San Angelo;

''(iv) United States Route 87 from San Angelo to Sterling City;

''(v) From Sterling City to Lamesa, the Corridor shall follow United States Route 87 and, the corridor shall also follow Texas Route 158 from Sterling City to I–20, then via I–20 West to Texas Route 349 and, Texas Route 349 from Midland to Lamesa;

''(vi) United States Route 87 from Lamesa to Lubbock;

''(vii) I–27 from Lubbock to Amarillo; and

''(viii) United States Route 287 from Amarillo to the Oklahoma border.

''(B) In the State of Oklahoma, the Ports-to-Plains Corridor shall generally follow United States Route 287 from the Texas border to the Colorado border. The Corridor shall then proceed into Colorado.''.

SEC. 345. MODIFICATION OF HIGHWAY PROJECT IN POLK COUNTY, IOWA. The table contained in section 1602 of the Transportation Equity Act for the 21st Century is amended in item 1006 (112 Stat. 294) by striking ''Extend NW 86th Street from NW 70th Street'' and inserting ''Construct a road from State Highway 141''.

SEC. 346. CAP AGREEMENT FOR BOSTON ''BIG DIG''. No funds appropriated by this Act may be used by the Department of Transportation to cover the administrative costs (including salaries and expenses of officers and employees of the Department) to authorize project approvals or advance construction authority for the Central Artery/Third Harbor Tunnel project in Boston, Massachusetts, until the Secretary of Transportation and the State of Massachusetts have entered into a written agreement that limits the total Federal contribution to the project to not more than $8,549,000,000.

SEC. 347. PARKING SPACE FOR TRUCKS. (a) FINDINGS.—Congress finds that—

(1) in 1998, there were 5,374 truck-related highway fatalities and 4,935 trucks involved in fatal crashes;

(2) a Special Investigation Report published by the National Transportation Safety Board in May 2000 found that research conducted by the National Highway Traffic Safety Administration suggests that truck driver fatigue is a contributing factor in as many as 30 to 40 percent of all heavy truck accidents;

(3) a 1995 Transportation Safety Board Study found that the availability of parking for truck drivers can have a direct impact on the incidence of fatigue-related accidents;

(4) a 1996 study by the Federal Highway Administration found that there is a nationwide shortfall of 28,400 truck parking spaces in public rest areas, a number expected to reach 39,000 by 2005;

(5) a 1999 survey conducted by the Owner-Operator Independent Drivers Association found that over 90 percent of its members have difficulty finding parking spaces in rest areas at least once a week; and

(6) because of overcrowding at rest areas, truckers are increasingly forced to park on the entrance and exit ramps of highways, in shopping center parking lots, at shipper locations, and on the shoulders of roadways, thereby increasing the risk of serious accidents.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress and the President should take immediate steps to address the lack of safe available commercial vehicle parking along Interstate highways for truck drivers.

SEC. 348. STUDY OF ADVERSE EFFECTS OF IDLING TRAIN ENGINES. (a) STUDY REQUIRED.—The Secretary of Transportation shall provide under section 150303 of title 36, United States Code, for the National Academy of Sciences to conduct a study on noise impacts of railroad operations, including idling train engines on the quality of life of nearby communities, the quality of the environment (including consideration of air pollution), and safety, and to submit a report on the study to the Secretary. The report shall include recommendations for mitigation to combat rail noise, standards for determining when noise mitigation is required, needed changes in Federal law to give Federal, State, and local governments flexibility in combating railroad noise, and possible funding mechanisms for financing mitigation projects.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress the report of the National Academy of Sciences on the results of the study under subsection (a).

SEC. 349. Within the funds made available in this Act, $10,000,000 shall be for the costs associated with construction of a third track on the Northeast Corridor between Davisville and Central Falls, Rhode Island, with sufficient clearance to accommodate double stack freight cars, to be matched by the State of Rhode Island or its designee on a dollar-for-dollar basis and to remain available until expended; $2,000,000 shall be for a joint United States-Canada commission to study the feasibility of connecting the rail system in Alaska to the North American continental rail system; $400,000 shall be allocated for passenger rail corridor planning activities to fund the preparation of a strategic plan for development of the Gulf Coast High Speed Rail Corridor; and $250,000 shall be available to the city of Traverse City, Michigan comprehensive transportation plan.

SEC. 350. (a) FINDINGS.—The Senate makes the following findings:

(1) The United States Coast Guard in 1999 saved approximately 3,800 lives in providing the essential service of maritime safety.

(2) The United States Coast Guard in 1999 prevented 111,689 pounds of cocaine and 28,872 pounds of marijuana from entering the United States in providing the essential service of maritime security.

(3) The United States Coast Guard in 1999 boarded more than 14,000 fishing vessels to check for compliance with safety and environmental laws in providing the essential service of the protection of natural resources.

(4) The United States Coast Guard in 1999 ensured the safe passage of nearly 1,000,000 commercial vessel transits through congested harbors with vessel traffic services in providing the essential service of maritime mobility.

(5) The United States Coast Guard in 1999 sent international training teams to help more than 50 countries develop their maritime services in providing the essential service national defense.

(6) Each year, the United States Coast Guard ensures the safe passage of more than 200,000,000 tons of cargo cross the Great Lakes including iron ore, coal, and limestone. Shipping on the Great Lakes faces a unique challenge because the shipping season begins and ends in ice anywhere from 3 to 15 feet thick. The ice-breaking vessel MACKINAW has allowed commerce to continue under these conditions. However, the productive life of the MACKINAW will end in 2006.

(7) Without adequate funding, the United States Coast Guard would have to radically reduce the level of service it provides to the American public.

(8) The allocation to the Committee on Appropriations of the Senate of funds available for the Department of Transportation and related agencies for fiscal year 2001 was $1,600,000,000 less than the allocation to the Committee on Appropriations of the House of Representatives of funds available for that purpose for that fiscal year. The lower allocation compelled the Subcommittee on Transportation of the Committee on Appropriations of the Senate to recommend reductions from the funding requested in the President's budget on funds available for the Coast Guard, particularly amounts available for acquisitions, that may not have been imposed had a larger allocation been made, or had the President's budget not included $212,000,000 in new user fees on the maritime community. The difference between the amount of funds requested by the Coast Guard for the Acquisition, Construction, and Improvements account and the amount made available by the Committee on Appropriations of the Senate for those acquisitions conflicts with the high priority afforded by the Senate to Acquisition, Construction, and Improvements procurements, which are of critical

national importance to commerce, navigation, and safety.

(9) Due to shortfalls in funds available for fiscal year 2000 and unexpected increases in personnel benefits and fuel costs on the 2000 operating expenses account, the Commandant of the Coast Guard has announced reductions in critical operations of the Coast Guard by as much as 30 percent in some areas of the United States. If left unaddressed, these shortfalls may compromise the service provided by the Coast Guard to the public in all areas, including drug interdiction and migrant interdiction, aid to navigation, and fisheries management.

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

(1) the committee of conference on the bill H.R. 4425 of the 106th Congress, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, or any other appropriate committee of conference of the second session of the 106th Congress, should approve supplemental funding for the Coast Guard for fiscal year 2000 as soon as is practicable; and

(2) upon adoption of this bill by the Senate, the conferees of the Senate to the committee of conference on the bill H.R. 4475 of the 106th Congress, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, provided there is sufficient budget authority, should—

(A) recede from their disagreement to the proposal of the conferees of the House of Representatives to the committee of conference on the bill H.R. 4475 with respect to funding for Acquisition, Construction, and Improvements;

(B) provide adequate funds for operations of the Coast Guard in fiscal year 2001, including activities relating to drug and migrant interdiction and fisheries enforcement; and

(C) provide sufficient funds for the Coast Guard in fiscal year 2001 to correct the 30 percent reduction in funds for operations of the Coast Guard in fiscal year 2000.

SEC. 351. For the purpose of constructing an underpass to improve access and enhance highway/rail safety and economic development along Star Landing Road in DeSoto County, Mississippi, the State of Mississippi may use funds previously allocated to it under the transportation enhancements program, if available.

SEC. 352. Section 1214 of Public Law 105–178, as amended, is further amended by adding a new subsection to read as follows:

''(s) Notwithstanding sections 117 (c) and (d) of title 23, United States Code, for project number 1646 in section 1602 of Public Law 105–178—

''(1) the non-Federal share of the project may be funded by Federal funds from an agency or agencies not part of the United States Department of Transportation; and

''(2) the Secretary shall not delegate responsibility for carrying out the project to a State.''.

SEC. 353. ADDITIONAL SANCTION FOR REVENUE DIVERSION. Except as necessary to ensure public safety, no amount appropriated under this or any other Act may be used to fund any airport-related grant for the Los Angeles International Airport made to the City of Los Angeles, or any inter-governmental body of which it is a member, by the Department of Transportation or the Federal Aviation Administration, until the Administration—

(1) concludes the investigation initiated in Docket 13–95–05; and

(2) either—

(A) takes action, if necessary and appropriate, on the basis of the investigation to ensure compliance with applicable laws, policies, and grant assurances regarding revenue use and retention by an airport; or

(B) determines that no action is warranted.

SEC. 354. Hereafter, the New Jersey Transit commuter rail station to be located at the intersection of the Main/Bergen line and the Northeast Corridor line in the State of New Jersey shall be known and designated as the ''Frank R. Lautenberg Transfer Station'': Provided, That the Secretary of Transportation shall ensure that any and all applicable reference in law, map, regulation, documentation, and all appropriate signage shall make reference to the ''Frank R. Lautenberg Transfer Station''.

TITLE IV

DEPARTMENT OF THE TREASURY

BUREAU OF THE PUBLIC DEBT

SUPPLEMENTAL APPROPRIATION FOR FISCAL YEAR 2000

GIFTS TO THE UNITED STATES FOR REDUCTION OF THE PUBLIC DEBT

For deposit of an additional amount for fiscal year 2000 into the account established under section 3113(d) of title 31, United States Code, to reduce the public debt, $12,200,000,000.

This Act may be cited as the ''Department of Transportation and Related Agencies Appropriations Act, 2001''.

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MEASURE PLACED ON CALENDAR—H.R. 8

Mr. HATCH. Mr. President, I ask unanimous consent that H.R. 8 be placed on the Senate calendar.

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

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MEASURE PLACED ON CALENDAR—S. 2753

Mr. HATCH. Mr. President, I ask unanimous consent that S. 2753, introduced earlier today by Senator DASCHLE and others, be placed on the calendar.

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

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MEASURE READ THE FIRST TIME—S. 2752

Mr. HATCH. Mr. President, I understand that S. 2752, introduced by Senator THOMPSON today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2752) to amend the North Korea Threat Reduction Act of 1999 to enhance congressional oversight of nuclear transfers to North Korea, and to prohibit the assumption by the United States Government of liability for nuclear accidents that may occur at nuclear reactors provided to North Korea.

Mr. HATCH. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

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ORDERS FOR TUESDAY, JUNE 20, 2000

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes it business today, it stand in adjournment until 9:10 a.m. on Tuesday, June 20. I further ask that on Tuesday, immediately following the prayer, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that Senator GRASSLEY be recognized in morning business for up to 10 minutes, to be followed by Senator BIDEN for 10 minutes, and the Senate then resume consideration of the Department of Defense authorization bill.

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

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PROGRAM

Mr. HATCH. Mr. President, for the information of all Senators, the Senate will convene at 9:10 a.m. tomorrow and will shortly thereafter resume debate on the DOD authorization bill with the Dodd amendment in order regarding a Cuban commission. Also in the morning period, Senator MURRAY will offer her amendment relative to abortion. However, under a previous order, these votes and votes relative to hate crimes will occur in a back-to-back sequence at 3:15 p.m.

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ADJOURNMENT UNTIL 9:10 A.M. TOMORROW

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:45 p.m., adjourned until Tuesday, June 20, 2000, at 9:10 a.m.