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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK DAYTON, a Senator from the State of Minnesota.

PRAYER

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

Almighty God, You give us what we need and not always what we want. You have programmed us for greatness. You will not flatter those who want flattery, but seek to show us that lasting joy is being servant leaders. Lead us out of the quagmire of self-aggrandizement and show us the path of self-sacrifice. Free us of demanding love on our terms and help us to do what love demands. May our quest for recognition be replaced by a quiet recognition that You are pleased. Help us to play our lives to an audience of One: You, dear Lord.

May the demands of public service become a delight and not a duty. Help us not to miss the joy that today holds, waiting to be unwrapped. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK DAYTON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 18, 2002.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

TERRORISM RISK INSURANCE ACT OF 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2600, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

Brownback amendment No. 3843, to prohibit the patentability of human organisms.

Ensign amendment No. 3844 (to amendment No. 3843), to prohibit the patentability of human organisms.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:45 a.m. shall be equally divided between the two managers.

The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the vote occur at 9:50 a.m. rather than 9:45 a.m., and that the time be equally divided.

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

The Senator from Connecticut.

Mr. DODD. Mr. President, I yield 2 minutes to my colleague from Nevada.

Mr. REID. Mr. President, this is a banking bill. This is a bill that came from the Banking Committee. It deals with a very important issue to the business community of this country. The Chamber of Commerce, for example, is going to score this. Their 3 million members believe this is important, as do the members of the Business Roundtable.

We have the support of organizations that are as diverse as the Taxicab, Limousine & Paratransit Association to the American Banking Association. This legislation is important to the financial well-being of this country. We have construction projects that are being stopped. We have construction projects that can't start.

I say to my friends, no matter how strongly their beliefs may be relating to cloning and therapeutic stem cell research, whatever we want to term it, it has nothing to do with this legislation. If the amendment becomes part of this legislation, the bill will be gone by the time it hits that backdoor. It has nothing to do with the underlying legislation, terrorism insurance, which is so badly needed.

I express my appreciation to those who have worked so hard to get to this point. Senator DODD has made statements on the floor time and time again indicating how important this legislation is. When he speaks, he speaks for the business community. Remember, the business community employs working men and women. This is important to the country. It is some of the most important legislation that has come before the Senate all year. We should invoke cloture, and we should do it when the vote starts at 9:50 today.

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

Mr. REID. Mr. President, I ask unanimous consent that the time run equally against both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

Mr. DODD. Mr. President, let me thank my colleague from Nevada, the distinguished majority whip, for his assistance and support on this matter, the terrorism insurance legislation.

In a few minutes we will be voting on cloture on this bill. I can't speak for the leadership, obviously, but I do know that as of last Friday at least, my sense was there was a consensus between the two leaders, based on the comments made on the floor, that even though the distinguished minority leader might under other circumstances be somewhat reluctant to support a cloture motion, I certainly interpreted his remarks to indicate that he understood why the majority leader was filing a cloture motion and asking for such a vote.

Last week we started debating the terrorism insurance bill on Thursday morning. By Friday, we had dealt with two amendments dealing with the substance of the bill. I was dealing with every other issue but terrorism insurance.

Now we have a cloning proposal before us. I have tried all weekend to draw some nexus between cloning and terrorism insurance, and my imagination fails me here. I don't see the linkage at all. My hope is, while there are certainly a lot of strong views on cloning, the issue of terrorism insurance requires the attention of this body, it requires this body to respond to this particular need and vote up or down on the matter. If they want to vote against it, vote against it.

My fear is, if we don't invoke cloture, we will then move to the Department of Defense authorization bill. After all the work that has been put into this effort over the last months, we may see the last of the terrorism insurance proposal.

For those out there who believe this issue deserves to be considered and resolved one way or the other, I strongly urge them to vote to invoke cloture.

I ask unanimous consent that an article in this morning's Washington Post, ''Firms Warned on Terrorism Insurance,'' be printed in the RECORD.

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

[From the Washington Post, June 18, 2002]

FIRMS WARNED ON TERRORISM INSURANCE

(By Jackie Spinner)

GMAC Commercial Mortgage Corp., one of the nation's largest lenders, is notifying its borrowers that they must have terrorism insurance or risk defaulting on their loans, the latest example of how a shortage of such coverage is hurting commercial real estate financing.

David E. Creamer, chairman and chief executive of GMAC Commercial Holding Corp., the mortgage company's corporate parent, said 85 percent to 90 percent of the loan agreements the company has reviewed this year are not in compliance because the property owners are not insured against terrorism when they renew their policies, putting the agreements in technical default.

''Almost every policy coming in doesn't have terrorism coverage,'' Creamer said. He declined to specify how many of GMAC's 40,000 mortgages have been reviewed so far as part of a routine check of their insurance policies.

Creamer said GMAC does not plan to foreclose on the properties that lack the coverage. But he said the company will work with the borrowers to get terrorism insurance, a course that some borrowers have avoided because of the high price and difficulty of obtaining the coverage after the Sept. 11 terrorist attacks.

In March, Simon Property Group Inc. sued GMAC for trying to force the mall owner to obtain terrorism coverage for its portfolio of shopping centers, including the Mall of America near Minneapolis. The suit was settled after Simon purchased two policies with $100 million limits.

According to the Bond Market Association, $7 billion worth of commercial real estate loan activity has been suspended or canceled because of a shortage of coverage.

Creamer said GMAC has turned down requests for more than $1 billion in new loans this year because the projects were not insured against terrorism.

''The real problem is not your bread-and-butter properties,'' Creamer said. ''It's your trophy properties in metropolitan U.S.A.''

The difficulty in obtaining insurance has prompted a call for federal action from insurers and business interests.

The Senate resumed debate yesterday on a bill that would create a one-year federal backup to help pay the insurance costs of a future terrorist attack. Under the terms of the bill, insurance companies would have to pay a portion of claims resulting from a terrorist attack. The amount would vary according to each insurer's market share. The government would then pay 80 percent of the remaining claims if the attack cost less than $10 billion and 90 percent if claims totaled more than $10 billion.

Senate Majority Leader Thomas A. Daschle (D-S.D.) plans to force a vote today on a procedural issue that would end debate on the bill. If he gets 60 votes, a final vote on the bill could come later in the day or tomorrow.

The House passed a competing measure last year that would require insurers to cover the first $1 billion in losses arising from a terrorist attack. The government would pay 90 percent of additional claims. The insurers and policyholders eventually would have to repay the money.

''There's a lot of lifting to be done yet,'' said Julie Rochman, senior vice president for the American Insurance Association, a trade group that supports a federal backup.

In the meantime, a growing number of lenders such as GMAC are trying to assess their risks in lending money to uninsured properties.

''I'd be surprised if there was a lender in this country that wasn't doing this,'' said Darrell Wheeler, a commercial mortgage backed securities analyst at Salomon Smith Barney Inc.

As lenders, ''it is their responsibility to make sure their borrowers are in compliance with their loan documents,'' Wheeler said. ''At the same time, if I'm a borrower, I'm facing very expensive insurance premiums. Most borrowers are trying to avoid that additional expense.''

Mr. DODD. This article makes the case that GMAC, the commercial mortgage corporation, one of the largest lenders, is notifying borrowers that they must have terrorism insurance or risk defaulting on their loans; again, making the point we made over and over that this issue of terrorism insurance is real.

I have talked about the problems occurring in the commercial mortgage-backed securities. We have had comments from the President, Governors from across the country, and others who are involved in this issue. There is a list in the newspaper this morning of organizations as wide ranging as real estate and chambers of commerce to labor groups calling on this body to vote this bill out and get to conference so we can resolve the differences with the other body.

There is a list this morning: Vote for S. 2600, Terrorism Risk Insurance Act of 2000. I will not bother at this point to read the names, but there is a long list of groups and organizations that represent thousands and thousands of workers who, if we do not deal with this bill, run the risk of losing their jobs.

The Chamber of Commerce has said that ''it is vital to pass this important legislation expeditiously,'' talking about the cloture vote.

From insurance agents and brokers:

Support cloture and oppose Gramm amendment to remove per company retentions.

From the Real Estate Roundtable:

We are writing to urge you to vote affirmatively on cloture and for final passage of the Terrorism Risk Insurance Act of 2002. These two votes will be scored as key votes for our organization.

The American Insurance Association: The same message.

The National Association of Realtors. This is a ''key'' vote for cloture on S. 2600.

Mr. President, we made the case over and over for many months as we have gone back and forth on this bill that each day that goes by, the case grows more serious and demands our attention.

I have had letters from 30 of our colleagues, from 18 Governors across the country, repeated letters and comments from the President of the United States and the Secretary of the Treasury, and others who urge us to step to the plate and bring up amendments, which we were willing to do last week without cloture. Now we have no other choice because we have received proposals, with all due respect to our colleague from Kansas and others, to bring up matters that the Senate may or may not grapple with in this Congress. To hurl these matters at this bill as we are trying to wrap up business we think is a huge mistake.

This is probably the last chance. For those who think there is going to be another day in this Congress on terrorism insurance, I fear there will not be. This is it. So in about 10 minutes, my colleagues will have a chance to decide whether we give final consideration to this bill or move on to other matters.

For those who vote against cloture, understand if things do happen, then the finger of culpability clearly gets pointed in the direction of those who

denied us an opportunity to vote on this bill.

I urge support of the cloture motion, and I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Texas.

Mr. GRAMM. Mr. President, I intend to vote against cloture. I urge my colleagues to also vote against cloture.

This boils down now to two issues, and they are very real issues. No. 1, the President has said he will not sign a bill that will make victims of terrorism subject to attacks by plaintiff's attorneys and subject to punitive damages. We think it is vitally important that we have an opportunity to deal with this issue and to have at least one more vote on it.

Secondly, we are in a situation now where this bill has evolved to the point that the taxpayer is virtually the payor of first resort, not last resort. When this bill was initially put together in a bipartisan compromise, supported by the administration, we had in a terrorist attack $10 billion of costs that the insurance industry had to bear before the Federal Government came in to pick up the tab.

This was critical for two reasons. No. 1, it provided incentives for insurance companies to syndicate, so no one insurance company insures the Empire State Building. There may be a lead company and then they syndicate to other companies to spread the risk.

No. 2, it was vitally important in terms of protecting the taxpayer. What has happened now, by going to a retention level by individual companies, is that we have reached a point where the taxpayer is put at exposure very early in the process. I think it circumvents what we are trying to do.

My biggest concern is, if we adopt this bill in its current form, that we are setting up sort of a hot-house plant that cannot exist and grow and work without permanent Government involvement.

I remind my colleagues, our objective was to have a 2- or 3-year program to bridge this gap to create a situation where the reinsurance market would emerge, where syndication would become the norm in high profile projects so that the Federal Government could get out of this industry and so that the cost of terrorism in terms of risk would be built into the term structure of interest rates.

The problem with this bill—and this bill made sense in December when we had 3 weeks before 80 percent of the insurance premiums in America were going to be due and the existing policies were going to expire, but today much of that insurance has been written, premiums have been collected, and to adopt a bill with retention rates as low as we have in this bill is to create economic windfalls and to destroy the incentive of the industry to do the things that need to be done to get the Government out of this business.

I remind my colleagues that I have been among the earliest and strongest supporters of having a bill, but what has happened now is the nature of this bill does not fit the reality of the world in which we live, in the world at the end of June when policies have been sold, premiums have been collected based on no Government backup, and now we are coming in with retention levels that are so low that in some cases the Federal Government is going to begin to pay when losses are in the tens of millions.

When we initially contemplated this bill, when the administration signed off on a compromise, there was a $10 billion retention. Mr. President, $10 billion was made by the people who collected the premiums before the taxpayer paid. That has now been dramatically changed with retention levels set on a company-by-company basis. I think this encourages companies to take on full projects, I think it moves us in exactly the wrong direction, and I think we have an opportunity to fix this. I believe it will be fixed if we deny cloture, and I urge my colleagues to vote against cloture and give us an opportunity to deal with punitive damages being imposed on victims of terrorism and give us an opportunity to have retention levels that protect the taxpayer, that do not create windfall gains and retention levels that encourage the development of reinsurance and syndication, something that is absolutely essential to get the Federal Government out of this business within 2 or 3 years. I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. DASCHLE. Mr. President, I wanted to come to the floor for a moment to express the hope that we can get cloture, that both Republican and Democratic Members can vote for cloture this morning and move on. I remind all of my colleagues that there will be 30 hours of debate at least potentially available to Senators with germane amendments. So there is absolutely no reason to vote against cloture.

I might just say for the record, prior to the time we take this vote, we began negotiations on this matter months and months ago. We have offered virtually every conceivable proposal I can think of to be able to bring this bill to the floor under unanimous consent. We asked unanimous consent on many occasions and were unable to get that consent. We even offered to bring up the House bill with a limit of five relevant amendments on either side, and that was not successful.

I am at a loss for how we will proceed under these circumstances if we are not able to get cloture today. My intention would be to put the bill back on the calendar and move directly to the Defense authorization bill if we fail to get cloture today. Only after we would have in writing the number of Senators required to bring the bill back would I be able to reschedule this legislation. So this is our chance. This is our window. This is our opportunity. Colleagues on both sides of the aisle have made it very clear it is important we take up the Defense authorization bill. So we are not going to extend the debate on this legislation. We will either get cloture, deal with germane amendments, and move on or we won't get cloture, and we will move on in any case.

So that is our option this morning, and I am very hopeful we can achieve that. I hope colleagues will understand we have been tolerant, we have been patient, we have been innovative, and we have been imaginative. I can't think of anything else we can be in an effort to get this job done.

I know there is a great deal of interest in it. But the time has come for us to bring this to closure if, indeed, Senators want a terrorism insurance bill this work period.

So I urge my colleagues to vote for cloture, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. LOTT. Mr. President, I yield myself time under leader time. I know it is time for us to vote, but I will be brief.

First of all, I believe we are close to finishing this bill. I understand there are very few remaining issues we would actually have to dispose of even though there were some 41 amendments filed on this legislation: 14 on the Republican side of the aisle, 27 on the Democratic side. I am not sure how many of them are germane or how many would actually have to be offered. I know the manager of the legislation filed 21 of them, and perhaps some of them have been accepted. I don't know how many of those have been worked through. But clearly there were some problems with this legislation that needed to be addressed.

It is my hope we can complete this important legislation and get it to conference and then get a bill that we can accept and the President can sign.

There is a little bit of revisionist history that has been going on here. You remember last year in December very good work was done by members of the committee on both sides of the aisle, a bill that could probably have whizzed right through here. But over a period of time, the limits on liabilities were taken out, which is a concern of a number of Members on this side, and also the per-company limits were changed, or they were put into place in the legislation at a very low level where Federal funding would actually get to kick in.

Those are two of the major problems that still exist. That could have been worked out if we had gone to the bill that was originally offered in committee or over these many months we have been trying to get an agreement of how to proceed.

We have been unable to debate this measure at much length, although I said last week that I understood why Senator DASCHLE filed cloture.

We have other issues we need to go on to, but I think in this case cloture may actually delay it a day. If we get cloture, it could take us sometime into tomorrow. It looks to me as if there is only four, maybe five amendments that actually would have to be debated and considered and voted on.

I think we could probably get an agreement on the number of amendments and get a time limit and actually get votes on those amendments, perhaps not. But they are certainly relevant even though I am not sure whether they would be germane postcloture. I know Senator MCCONNELL has two or three, Senator GRAMM has one, Senator BROWNBACK one; there may be two or three on that side. But I believe we could work this out and actually get the legislation completed today.

I continue to hope that would be the result, and if cloture is not invoked, I will try to get a consent that we just take up these three or four amendments and move to conclusion. So, obviously, we would like to get this work done, but it still has some problems and some amendments that really do need to be considered.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. GRAMM. I have 2 remaining minutes, I believe; is that right?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. GRAMM. I yield those 2 minutes to Senator MCCONNELL.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, we are very close to completing this bill. By invoking cloture we are going to be shut out of an opportunity to offer a few more amendments, just a handful as the Republican leader has indicated, that need to be considered. On the liability question, we have a clear letter from the administration indicating that if we don't deal with that properly, this bill will not become law. I do not think any of us believe, at this already late stage of the session, we ought to be clogging up legislative days with exercises in futility. So there are a couple more amendments on the liability issue that need to be voted upon.

I strongly urge our colleagues to vote against cloture and then let the Republican leader and the Democratic leader talk about how we can wrap this bill up in short order.

The ACTING PRESIDENT pro tempore. Does the Senator yield back his time?

Mr. GRAMM. How much more time do we have?

The ACTING PRESIDENT pro tempore. One minute.

Mr. GRAMM. Let me address for that 1 minute the whole issue about retention. When we started this debate, the Federal Government was going to be the backup insurer. We were going to have substantial retention by the private companies that have sold policies and collected premiums. They were going to pay up front, and in big losses the taxpayer was going to pay. When we got into December and 80 percent of the insurance policies were expiring, there was a movement toward individual company retentions to dramatically reduce the amount companies had to pay before the Government paid.

Now we are at the end of June. Companies have sold insurance policies. They have collected premiums. To come in now with retention levels in the tens of millions instead of tens of billions is to create an unintended, and I believe unwise and unfair wealth transfer but, more importantly, it discourages the kind of risk sharing that we need to ultimately get the Government out of this business.

I believe if the bill became law as it is now written, we would end up with the Government permanently in the terrorism insurance business. I think that would be a bad thing.

I urge my colleagues to vote no.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. DASCHLE. I yield 2 minutes of my leader time to the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, this is a 2-year bill. In fact, it is only a 1-year bill with the possibility of an extension of another 12 months. We are going to have a chance to debate the Gramm amendment if we get to cloture. If we don't have cloture, then, as the leader has indicated, we are going to move on to the Department of Defense authorization bill. So if you want to have a debate about what my colleague from Texas is proposing or my colleague from Kentucky, the only way to do this is to invoke cloture.

We have been at this since last fall trying to resolve these matters. My hope is we can. If we don't invoke cloture, then it is very difficult to get to these matters. We have the cloning issue and others that have been added to this debate, and it makes it very difficult to deal with the underlying issue.

I have indicated earlier that from the AFL–CIO to major groups in the country that are dealing with commercial lending they tell you this is an important piece of legislation. Every day we waste is jobs lost and more economic difficulty. So my hope is we can invoke cloture, debate the Gramm amendment, debate the amendment of my friend from Kentucky and others, and resolve this matter. Either vote for this bill or vote against it, but let's get it completed.

I yield back my time.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 410, S. 2600, the terrorism insurance bill:

Harry Reid, Hillary Rodham Clinton, Jean Carnahan, Charles Schumer, Kent Conrad, Tom Daschle, Richard Durbin, Jack Reed, Byron L. Dorgan, Christopher J. Dodd, Debbie Stabenow, Jay Rockefeller, Maria Cantwell, Jeff Bingaman, Daniel K. Akaka, Evan Bayh, Joseph Lieberman.

The ACTING PRESIDENT pro tempore. By unanimous consent the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on S. 2600, a bill to insure the continued financial capacity of insurers to provide coverage for risks from terrorism shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Texas (Mrs. HUTCHISON) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 65, nays 31, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—65

Akaka	Dodd	Lincoln
Allen	Domenici	Lugar
Baucus	Dorgan	McCain
Bayh	Durbin	Mikulski
Bennett	Edwards	Miller
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (NE)
Breaux	Fitzgerald	Reed
Byrd	Graham	Reid
Cantwell	Harkin	Rockefeller
Carnahan	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Torricelli
Corzine	Landrieu	Warner
Crapo	Leahy	Wellstone
Daschle	Levin	Wyden
Dayton	Lieberman	

NAYS—31

Allard	Gramm	Roberts
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hutchinson	Smith (NH)
Campbell	Kyl	Thomas
Craig	Lott	Thompson
DeWine	McConnell	Thurmond
Ensign	Murkowski	Voinovich
Enzi	Nelson (FL)	
Frist	Nickles	

NOT VOTING—4

Boxer	Hutchison
Helms	Kerry

The PRESIDING OFFICER (Mr. NELSON of Nebraska). On this vote, the yeas are 65, the nays are 31. Three-fifths of the Senators duly chosen and

sworn having voted in the affirmative, the motion is agreed to.

Mr. DODD. Mr. President, I ask unanimous consent that our two colleagues from Michigan be recognized to speak as if in morning business for a period not to exceed 10 minutes on a very important matter to the State of Michigan.

Mr. REID. Mr. President, reserving the right to object, I ask the Senator from Connecticut to modify his request so that this time will count against postcloture time.

Mr. DODD. I so modify the request.

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

The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair.

(The remarks of Mr. LEVIN and Ms. STABENOW pertaining to the submission of S. Res. 287 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Ms. STABENOW. 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. GRAMM. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. GRAMM. Mr. President, I have a markup with the members of the Banking Committee coming up. Given that last vote, it is not my intention to try to offer an amendment. The amendment I wanted to offer, which was a 3-year program, would not be germane postcloture because of the third year.

I want to sum up what I believe to be the chronology of this debate and express my concerns.

Senator MCCONNELL and I will offer amendments if the House bill is brought up in an effort to substitute this bill for it, and potentially on the naming of conferees. But I think, in terms of today and this bill, it is clear where the votes are.

Let me remind my colleagues that in the wake of 9–11, there was great skepticism in Congress about the need for terrorism insurance. I think any checking of the RECORD will show that I was one of the early supporters of an effort to have terrorism insurance. I believed then and I believe now that we need a bridge from our current situation where terrorism insurance is hard to get for high-profile projects, where it is expensive as we go through this process of rational investors determining what the real risks are.

I thought it was important we have a bridge program to give a Federal backup for a fairly short period of time until the market could adjust to this new reality and the threat of terrorism could be built into the structure of insurance premiums. I have to say, in the entire debate over the bill, the role of the Federal Government has been a role of a backup, where the Federal Government paid only in cataclysmic kinds of circumstances.

In the fall of last year, we reached a bipartisan compromise that was worked out among the leaders of the Banking Committee, the committee with jurisdiction. That bill had a $10 billion retention the first year for the insurance companies, $10 billion the second year, and then, if the Secretary of the Treasury decided a third year was needed, we had a $20 billion retention.

What ''retention'' means is that the insurance companies would pay the first $10 billion, and then the Federal Government would pay 90 percent of the $90 billion that might follow.

The argument that was made, from the very beginning really, boiled down to two points: One, that the people who were collecting the insurance premiums should have first liability and the Federal Government should be in a backup role.

The second argument was—and I think it was the more dominant argument; the more important argument, in my opinion—that our objective here is not simply to insert the Federal Government permanently into the insurance industry.

I note to my colleagues that, unlike World War II, where, when the Japanese bombed Pearl Harbor, we knew that war would end someday, and we knew we would prevail, and we knew there would be a formal ceremony ending that war—and, in fact, there was on the deck of the *Missouri*—this war, when it ends, will end with the dying gasp of some terrorist somewhere, and we will not be sure that he is the last one, and there will not be any formal agreement ending the hostilities.

So our objective here is to build a bridge to private coverage. That bill was agreed to in the fall by the Secretary of the Treasury on behalf of the President and by the leadership of the Banking Committee.

We agreed in that to ban punitive damages against the victims of terrorism. We had a press conference. It looked as if we had come up with a bipartisan consensus. Then there was objection to the ban on punitive damages against the victims of terrorism, and the bill did not go forward.

Then in December, in a last ditch effort, in which I am proud to say I participated, we tried to write a bill that would deal with a situation where, we were already halfway through December; 80 percent of the insurance policies in America—at least we were told at the time—were expiring on January 1, and so there would not be time for reinsurance to develop. There would not be time for extensive syndication, a basic procedure whereby an insurance company would insure the Empire State Building but then perhaps would lay off the risk to 20 other companies.

In December, a bill was worked on that had individual company retentions. For the largest companies in the industry, that retention is pretty substantial, over $1 billion. For small companies, that retention is quite small, in the tens of millions of dollars.

There are two problems with the bill before us which is based on the December draft. The first problem is, the situation is very different today than it was in December. Those policies did expire, and many were renegotiated at substantially higher premiums. It is now 7 months later. Insurance has been sold. Premiums have been collected. Those premiums are based on substantially higher risk with no government backup. Now we are being asked to pass a bill that maintains those retention levels that might have made sense in December, when 80 percent of the policies in the country were expiring and there was no time for reinsurance or syndication.

But in my opinion, to adopt this bill 7 months later when substantial numbers of policies have been sold at substantially higher prices, and those higher prices are part of the solution—I am not complaining about them because risks are higher—the point is, we are dramatically changing risk by having the Government pay 90 percent of the claim above these retention levels.

I have offered a compromise which would split the difference, which would have individual company retention the first year, for the first 12 months after the bill is signed into law. Then it would go to a $10 billion industry retention; and then if the President extended the program 1 more year, it would have a $20 billion retention.

Why is that important? It is important for two reasons. One is equity. These retention levels put the taxpayer at an unjustified risk. These low retention levels we have in this bill create a situation where policies were sold; premiums were collected; expectations were that there would not be a Federal backup. And now the Federal backup is coming in at individual company retention levels which are substantially lower than the level we looked at in October of last year.

This creates an unintended transfer of risk from the insurance companies to the taxpayer, where the insurance companies have collected premiums based on bearing that risk themselves.

That is an equity problem. We are putting the taxpayer at a level of exposure which is unjustified.

The second problem is of greater importance. If we simply are passing a bill that transfers wealth from the taxpayer to insurance companies, it is inequitable, in my opinion, at the level we are doing it. But it is not the end of the world, nor is it the first or last time we would have ever done any such thing. The problem is, the way the bill is now written, for the next 2 years, the incentive that insurance companies have to develop reinsurance—and reinsurance is a system whereby I sell a policy on a building, but then I share that risk through a reinsurance system which is developed. I share the profits, but I share the risk. That way the risks

end up being dispersed not just among all the insurance companies in America but literally all the insurance companies in the world.

As that market develops, there is another alternative called syndication whereby companies insure an asset but then they syndicate by having other companies take a piece of it. They in essence become the reinsurer.

Why is all this important? Why would anybody care about all these things? Why I care about it is because if we don't have substantial industry retention, we are dramatically reducing the incentive for the reinsurance market to develop. If we don't have substantial industry retention, we are creating an incentive for companies to take a larger share of risk because they are not having to bear the risk.

They have their industry retention, which for smaller companies can be in the tens of millions of dollars, and then the Federal Government comes in and pays 90 percent of the cost.

If we don't develop reinsurance, if we don't develop syndication as the norm, then we simply continue a system where the bulk of the risk is borne by the taxpayer. Two years from now, if we don't change this bill, we are going to be back here, and the same people who are saying today we have to have this bill are going to say: You have to extend this bill for another 2 years, another 10 years, forever.

The problem with the structure of the bill is that it acts as a disincentive to do the things the industry has to do in order to get the Federal Government out of the insurance business.

I am not yelling; I am not complaining about the insurance companies. I am not trying to put them in a position where I am vilifying them. I would say when we came out with our bill last October, there was great joy and celebration in that the insurance industry was going to have to bare a $10 billion retention, but the Federal Government was going to pay 90 percent of anything above that.

It was my perception, in talking to people, listening to people, that people thought that could be made to work. Granted, there were people who wanted the Government to bear more of the risk. The point is, there was a perception that this was something that could be made to work.

Now we have a situation where the retention level has been reduced dramatically. If I were running an insurance company, I would want the retention level to be zero. If I were running an insurance company, I would want to sell the insurance, collect the premium, and I would want the Government to pay the claims. So I never expect people to do what is not in their interest. If you do that, you are going to be disappointed.

But what has literally happened here is that we wrote a bill in December for an emergency situation where it was going to go into effect in less than 3 weeks. There was no time for reinsurance pools to develop; 80 percent of the policies in the country were going to expire on January 1. So in order to try to accommodate that short timeframe, we agreed, or at least many were willing to agree—the body never agreed—to retention levels that were dramatically lower.

I know nobody knows what ''retention'' means. It means the Government pays sooner and more.

That may have made sense in January, but it does not make any sense at the end of June when insurance policies have been sold and premiums have been collected based on no Government backup. So the whole reason for the lower retention levels in December has now passed.

What happened was, quite frankly, the industry saw these lower retention levels in December and said: That is what we want; we do not want those higher retention levels we agreed to in October; we want the lower retention levels.

The problem is they only made sense in January. They do not make sense in June. My lament—and that is all it is at this point because it is clear from the last vote that we are going to pass this bill—is that we are going to put the taxpayer at a much greater risk than is justified.

It is amazing to me that in October, the very people who thought the retention level at $10 billion was too low now are supporting retention levels that are a small fraction of the $10 billion retention we had agreed to in October. This creates tremendous inequity for the taxpayer. It creates an unintended wealth transfer. I think it is a problem, and I believe it should be fixed.

The second problem is much greater, however, and that is we are reducing, not eliminating, the incentive of the industry to syndicate and to develop reinsurance, and in the process, I believe we are taking a step toward having Government permanently in the insurance industry.

I am not going to convince anyone else—I think I have convinced about 35 Members of that, and I think that is probably the high water mark. I am not going to try to offer an amendment. I am ready to let this bill pass. But I will say that I still believe we are making a mistake. I still believe we need to find something—we should go back to the October retentions, but at the least we need something between the two.

We will have an opportunity, if the House bill is brought up to amend it with this bill, to vote on punitive damages. The President has said he will not sign a bill unless we deal with punitive damages. We will have an opportunity at some point to address these issues again. But to continue to debate it today uses up Senate time.

We should get on with the Defense authorization bill. I have a markup in 5 minutes on another issue of equal importance. As a result, I do not intend to try to use up the Senate's time. The Senate spoke on the cloture motion, and I am ready to pass the bill and address these issues some other day as we proceed in the process that ultimately leads toward a bill.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, the Senator from Texas and I, despite our disagreement at this particular moment, are very good friends. We both serve on the Banking Committee, and there is, as he points out, a very important markup occurring.

So I might get an understanding of where we are, are there amendments that will be offered to this bill, or can we go to third reading?

Mr. GRAMM. I am ready to go to third reading on the bill. I do not think we are going to achieve anything by offering amendments. I cannot offer the amendment I would like to because it brings in the third year, and it would not be germane. At this point to offer an amendment would be to simply delay something rather than to seek a constructive change. The thing to do is to go to third reading and pass the bill. I would be willing to do it on a voice vote. Then we will take it from there.

Mr. DODD. Mr. President, I will take some time to respond to the comments of my colleague from Texas, and he raises not illegitimate concerns.

I say to my colleague from Texas, we have always known we were sailing in uncharted waters. We have never done anything like this. I would be the last one to stand before my colleagues and say with absolute certainty what we proposed is going to work as perfectly as we would like it to work.

My colleague from Texas raises some legitimate questions, questions I really cannot answer because we do not absolutely know what is likely to occur over the next 12 months or 24 months if the bill is extended. I am not at this moment going to challenge it, in fact, even on these assertions he has made. At some point, I will respond to it in a way that raises some concerns if we do not have retention caps, and it is a complicated matter for most Members to understand what happens in light of smaller companies that cannot necessarily withstand the kind of hits that could come with a major terrorist attack. There is an argument on the other side of retaining what we have in the bill.

I also make the point to my colleague, which I have made repeatedly, we are going to go to conference with the House. They have a different bill. These are matters, clearly, that need to be brought up and thought about more, and we need to bring in people who spend their lives working in this area who can share with us responses to these kinds of questions. Senators deal on a matter such as this for a few hours, and we do not really understand—at least I do not, despite the fact I represent a State with a large insurance industry. These are very complicated and arcane insurance matters.

The Presiding Officer was an insurance commissioner in his State. He knows the matter, but even he has to say these are complicated matters in light of what has happened.

I appreciate the spirit in which my friend from Texas has made the suggestion we get past this bill and go to conference, but he has my commitment, Mr. President, and my word that I do not consider this to be the final word; that we have work to do before we come back. My colleague has made the point, and I have made the point that I do not want to see this go on. I do not want the Federal Government to be in the insurance business. I want to make sure we get off this as fast as we can.

I, like him, am concerned that 2 years may be unrealistic, but I also understand the tolerance level of my colleagues. That number was chosen as much for political reasons about how much our institution would be willing to bear politically as it was over the realities of what the marketplace is like in trying to cost this kind of a product.

Getting to conference is helpful. We will work on these matters and hopefully bring back a bill that is even improved from what we have before us today.

With that, I am going to yield to the distinguished majority whip and the leadership to determine what they want to do. My colleague from New York is here as well and may want to make comments, and then we can figure out whether to have a recorded vote or take a voice vote on the bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I first ask a question of my friend from Texas without losing my right to the floor, and that is, the Senator from Texas would not in any way object to the appointment of conferees?

Mr. GRAMM. We are not ready, Mr. President, to name conferees. I have to sit down with our people who have been involved in this debate and talk about how we want to go about it. I would be willing to step aside today and let the bill be passed, but in terms of bringing up a House bill or substituting this bill for it or naming conferees, we are going to have to have some meetings.

Part of our problem this morning—and I understand in trying to run the railroad that you have to set a time schedule—we did not get an opportunity to meet this morning—we being Republicans—before we had this vote. It is just going to be essential that I have an opportunity to sit down with our people.

My suggestion is we go ahead and pass the bill, and then we will have an opportunity to go to the Defense authorization bill, and then we will have an opportunity to sit down and my colleagues on the other side of the aisle will have an opportunity to sit down and maybe something can be worked out.

Mr. REID. Mr. President, there are some amendments, technical in nature, that the Senator from Connecticut will take a little time to do. I hope during the next few minutes we can work out a unanimous consent agreement to have a vote on this bill sometime this afternoon, perhaps allowing the Senator from Connecticut to do the housekeeping chores he has and to make sure there are no other amendments people wish to offer.

AMENDMENT NO. 3844

Mr. REID. Mr. President, what is the pending business on this bill?

The PRESIDING OFFICER. The pending business is the Ensign second-degree amendment to the Brownback first-degree amendment.

Mr. REID. Mr. President, I make a point of order that the Brownback amendment No. 3843 is not germane.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

Mr. REID. And with it falls the Ensign amendment?

The PRESIDING OFFICER. That is correct.

Mr. DODD. Mr. President, I yield whatever time my colleague from New York may consume.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Chair.

Mr. President, I first thank the Senator from Texas for at least at this point—one never knows—seeing the handwriting on the wall. Sometimes that handwriting seems to become an invisible ink, but at least at this point we have seen that.

I wish to make a couple of points.

The Senator from Texas sees the bill one way, and I respect that, and that is the balance between private industry and Government. Obviously, he has built a whole career on minimizing the Federal Government role in every walk of life. It is a philosophy he espouses with a great deal of integrity, intelligence, and fervor, and he has been mighty successful at it, a little too successful over the last 20 years.

However, there is another way to look at this bill, and that is in our post 9–11 world. We are so uncertain of what will be happening next: will there be other terrorist incidents? How will they affect us? How many lives will be lost? What should we do to protect ourselves now that we are in a totally brave new world?

The bottom line is a simple one, I say to my colleagues, and that is, our No. 1 one goal should be keeping the economy on track during this brave new world. If that means altering the balance between Government involvement and private involvement, so be it.

I do not want to see the insurance industry make unnecessary or excessive profit; no question about it. Under the present situation, their profits are quite large, and how much of that is due to terrorism insurance and how much of that is due to just the natural ebb and flow with the investments they make going down, so their rates go up—the opposite happened in the late nineties—we do not know.

The bottom line for me is this: That under the present situation, billions of dollars of projects are not going forward, particularly in large economic concentrations, particularly in large cities, none suffering more than my own.

The bottom line is this: Further billions of dollars of refinancing is not occurring, all because the uncertainty means that for an insured to offer a policy at all, they err on the side of caution and charge such high rates that there is a huge crimp on economic policy.

If this happened because of some market phenomena, so be it; that is the market. This is happening because of an untold, if you will, geopolitical phenomenon: This new world of terrorism in which we live. Therefore, to look simply from the prism of how much Government involvement there ought to be, without looking at the larger effects on the economy that our problems since 9–11 have caused the insurance industry—and it has ricocheted to the economy as a whole. The fact is that the insurance industry was not clamoring for this bill at all. They were sort of happy to let the present situation continue for a while.

It was really the banking industry and, above all, the real estate industry which saw so many new projects go by the wayside that put pressure to make this bill happen. The insurance industry, wisely, is going along with this, but they were not the impetus post-January 1 when they learned that they could continue to be viable in terms of their responsibilities to their shareholders but perhaps not be viable in terms of the broader responsibility to keep our economy going and not give the terrorists a victory.

Therefore, yes, there is the age-old conflict between government and the private sector. But something transcends that. That is the fear, the uncertainty, that we all have. Those are the classic times when Federal Government involvement is more called for. In wartime, naturally, the Federal Government has more say over our economy. No one has ever fought that notion. We are in wartime, whether we have declared war or not. We all know it. Every time we hear a loud explosion, even a car backfiring, people turn around and ask, What is this? We are in a different world. That happens economically speaking, as well.

I say to my friend from Texas, this is not simply the question, Should it be the Government at 10 percent and private sector at 90 percent? Certainly under these circumstances, the less Government involvement, the better, does not apply because there are external ramifications that go far beyond the insurance industry itself. My friend from Texas said we knew World War II was over and that is why the Government would step in. They did not know a week after Pearl Harbor was bombed that World War II would be over in 1945—the Japanese were overrunning

the Pacific, and the Germans controlled the European continent. All they knew was, for this country to survive in a war setting, the Government would have to be fully involved.

I urge my colleagues to look at this on the merits, to not let a predisposition of an ideological notion blur the view of what we have to do. I hope we will move this bill quickly.

I thank my colleague from Texas, again, for understanding this bill should move forward, even if he vehemently disagrees with it. I thank all of my colleagues, including the Senator from Connecticut, who has worked long and hard, along with the chairman of our committee, Senator CORZINE, as well as my 17 Republican colleagues who made it clear they were going to put the prosperity of our economy above any ideological notion or notion of party.

We are finally beginning to see the light at the end of the tunnel. We have a way to go. The Senator from Texas is one of the most skilled parliamentarians around, and I guess he will have a few other tricks up his sleeve. For the moment, I hope the bipartisan coalition we put together which says if we do not do something and, frankly, if we do not increase the Federal role, not only will the insurance industry falter—it may not; it is doing well—but, more importantly, our economy will stumble. That is something we cannot afford. That will be a victory for the terrorists themselves.

I look forward to moving this bill, to come to a conference where we can solve this problem, not just looking at the balance between Government and the insurance industry but, rather, the broader effects on the whole wide economy, and get something on the President's desk to help those who lost their jobs in the construction industry, those in the projects that are not going forward, with all the uncertainty in the economy. Money is being sucked out because insurance rates are going through the roof. So many in my city and other cities need this bill quickly.

Yes, the Senate has spoken. I hope it will be allowed to speak by helping move legislation into law quickly. For our economic viability, we need it.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Connecticut.

Mr. DODD. Before my colleague from New York leaves—and we are heading in the same direction to the Banking Committee to deal with accounting reform which is being marked up today—I express my gratitude to him and to Senator CORZINE, as well.

Obviously, the Senator from New York speaks about this issue of terrorism insurance with a voice that adds a bit more clarity, if I may say so, than other Members. I am from a neighboring State. We lost people in Connecticut, as were lost in the Pentagon and the airline that went down in Pennsylvania, but particularly for the people of New York and particularly the people of New York City, the events of September 11 have a poignancy that the rest of the country understands.

We deal with this issue of terrorism insurance, and there is a tendency to get lost in the trees, be arguing about whether the Government will be an insurance company and how this will work. Those are not insignificant questions. I know my colleagues believe those are important issues. Sometimes we lose sight of the fact that there is an economic slowdown occurring and people have a heightened sense of anxiety because of the events of September that we did not have before.

We may talk about the failure of the intelligence community and the like, that may or may not be true, but certainly what was true was a failure almost of imagination that something such as this could happen on our own shores. What we are trying to do with this bill, and why the Senator from New York was so critically important in helping to put this together, is to see if we can get back on our feet to offer our constituents a sense of confidence that, despite the events of September 11, we are coming back and trying to do that in so many different areas.

One critical area is the economy because, in addition to what this may cost—God forbid our country is attacked again—in terms of lives lost and hardship suffered, is the cost in terms of the price of premiums on insurance policies. Our Presiding Officer has raised legitimate concerns about that. We know that in the absence of this bill, the prices are apt to go much higher. In fact, I am confident they would.

One of the goals of this bill is to try to dampen down that demand for the increased price of these premiums so our consumers, the owners of these buildings, the people who rent, the people who work in these buildings, the people who rent to open up shops and the like, are going to have less of a cost than they might have otherwise.

We have tried to fashion this in a way that will make it possible to occur without just setting a premium cost that would be outrageous. And so I am grateful to the Senator from New York and others who have made at least getting the bill out of the Senate possible, and I second his concerns about whether or not we can actually finish this up and get a bill to the President that will allow us to complete this work.

As he has said, and I repeat, this is about a 1-year bill, maybe a 2-year bill. It is conceivable someone may argue we need a third year, 36 months, and I would not argue too strenuously against that for all the obvious reasons.

This is a very limited proposal to try to jump-start this critically important element in our economy. The longer we delay, the harder it is to do that. So my hope is the Senator from Texas and others would allow us to go forward, get a conference done, get a bill to the President, and see if we can't make a difference for this bottleneck that has occurred in our economy that makes it possible for the flow of commerce to occur as easily as it should as we try to get back on our feet as a nation.

So, again, I will respond more directly at another time to the concerns raised by the Senator from Texas about the retention rates and the fear I would have that, if we didn't have some individual company retention rate caps, what that could do to the ability of smaller companies to actually be in the marketplace. This could end up being just a bill that is good for four or five insurance companies, and there are many out there that are not big but would like to be in this market, need to be in this market that could not afford to be in this market without having some realistic caps on an individual company-wide basis. So there is a strong argument for that approach that should not be lost on our colleagues when that debate occurs.

When that does occur, we will make the case and hopefully finish this bill. Again, I thank my colleague from New York.

Mr. SCHUMER. If my colleague will briefly yield, again, I thank him, as I have before, for his leadership, for his steadfastness. This is not an easy issue. This is not one where you can go home and make a stem-winder of a speech. It is not a crowd pleaser, but it is necessary. His leadership on this has been top of the line, and I thank him for it and hopefully we can work together and get a law.

Mr. DODD. Mr. President, as I understand it, just to inform the Presiding Officer, there will be a vote on this bill sometime a little later today. I know there are some technical amendments that are being worked on right now to resolve those if we can. And then the leadership will set the time and the circumstances when that vote would occur. But my guess is it will be a little later in the day. In the meantime, I know there is some consideration about laying this bill aside temporarily and moving to another matter, possibly the Department of Defense authorization bill. But I leave it for the distinguished majority whip and the majority leader to make the announcements as to how we will proceed. But at this point I would assume that debate on this bill, at least for the present, is over and we will have a recorded vote on the underlying Senate bill sometime later this afternoon.

With that, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HISPANIC EDUCATION

Mr. REID. Madam President, we speak frequently of America's security needs and we do it with understanding. It is important to understand, though, that the strength and security of our Nation requires more than bombs and bullets and our brave men and women in uniform. The future of our great country will be determined by our children and our grandchildren, and their futures in turn will be shaped by the education they receive today.

So what is a higher priority for America than educating our children and making sure all children have the tools and opportunity to succeed?

In the future, classrooms and communities all across America will resemble those we already see in the State of Nevada where students from racial and ethnic minorities comprise an increasing percentage of the school population. The Presiding Officer knows about which I speak, being from the State of Florida which is diverse in nationalities, ethnic groups, religions. It is a State of great diversity, as is Nevada.

This is new in Nevada. It has been longstanding in Florida. Nevada's schools now serve a large and rapidly growing number of Latino students, including many with limited English language proficiency. The Clark County School District, Las Vegas, is the sixth largest school district in America, with about 240,000 students. Over 25 percent of those students are Hispanic, and we support programs that provide all students the resources they need. Therefore, we must keep in mind the educational needs of Hispanic children. They have special needs in many instances.

My Democratic colleagues and I will host our third annual Hispanic Leadership Summit this week. We have invited 100 Hispanic leaders from across the country to share their ideas and work together on key issues facing the Hispanic community. Certainly education will continue to be a top priority for the Democratic caucus.

Health care, jobs, the economy, immigration, and civil rights will also be among the priorities on our agenda, and we will speak about these subjects with Hispanic leaders who will come to Washington this week.

Though education is viewed as a local issue because most decisions are made by local leaders, school boards, principals, teachers and parents, the Federal Government should and does play an important role in helping to educate our youth.

Congress and President Bush agreed last year to work together to improve the quality of education in America's public schools. We worked in a bipartisan manner to reauthorize the Elementary and Secondary Education Act and passed a strong educational reform program that requires States to set high standards for every student and strengthen Federal incentives to boost low-performing schools and significantly improve educational achievement.

The legislation even had a catchy name: The No Child Left Behind Act. Unfortunately, though, President Bush has not backed up his rhetoric with the resources our children need. Just 1 month after signing educational reform into law, the so-called No Child Left Behind Act, he proposed a budget to cut almost $100 million in funding for the No Child Left Behind Act. To highlight the impact of the Federal budget, for example, on Nevada's schools, I hosted an Appropriations Committee field hearing in Las Vegas this spring. We heard compelling testimony about programs that have worked and passionate appeals for continued support.

I, for one, will do all I can to restore funding for successful educational programs that President Bush wants to cut. My Democratic colleagues will join with me in this effort.

The Secretary of Education conducted townhall meetings in Las Vegas shortly after our hearing—actually north of Las Vegas—as part of the President's Commission on Education Excellence for Hispanic Americans.

I am pleased Secretary Paige visited Las Vegas so he could learn about the challenges that teachers and students face. While the entire Nation is struggling with overcrowded classrooms and teacher shortages, these problems are particularly severe in Nevada, the fastest growing State in the country.

At the hearing that I held, one of the witnesses was a young man by the name of Alberto Maldonado. This was a hearing of the Appropriations Committee. Alberto was born in Mexico City and moved to Las Vegas when he was 15 years old. At age 15, he did not speak a word of English, and he was mainstreamed into the schools. He enrolled in the 10th grade at Las Vegas High School.

On the first day of school, Alberto was terrified. He walked into the school not understanding a word of English or certainly much of our culture. He now recalls with gratitude, he testified, the names of his teachers in his English Language Learners Program and how they influenced his life. Ms. Hernandez and Ms. Williams taught him English words and sentence construction. Mr. Luna helped him learn about English culture, and Ms. Monroy helped him learn to write English and to read advanced materials.

Just 1 year after this young man, who could not speak a word of English, enrolled in his new school, he passed the Nevada High School Proficiency Examination in reading, writing, and mathematics. In his senior year, he served as vice president of the Student Organization of Latinos. After graduating from Las Vegas High School, Alberto attended community college and went on to work with mentally and physically challenged children.

He is a bright young man, and the reason I am sharing his story today is because right now, there are tens of thousands just like Alberto in Clark County—students who need to participate in the English Language Learners Program if they are to have any hope of achieving the American dream.

It is estimated there are 40,000 students just like Alberto. By the 2004–2005 school year, there will be almost 90,000 who will need these services. I cannot understand why, at a time when our Nation needs to support education more than ever, our President wants to freeze funding for English Language Acquisition and Bilingual Education Programs.

Nevada also has the Nation's highest dropout rate. It is nothing I am proud of, but it is a fact. One out of every 10 high school seniors in Nevada drops out of school. This does not count those who dropped out before they even got to high school.

The Dropout Prevention Program, which was authorized as part of the No Child Left Behind Act, which was pushed strongly by Senator BINGAMAN and me, is the only Federal educational program specifically targeted to dropouts. The Hispanic community suffers from a persistently high dropout rate, higher than any other ethnic group. Yet the President wants to eliminate this dropout prevention program.

It is the only program, I repeat, that deals with dropouts. I hope he will reconsider the administration's plans to eliminate a program of such great importance for youth across America, including Hispanic students who already have a high risk for dropping out of school.

There is another program called the GEAR UP program which supports early college awareness for low-income youth starting in middle school and helps them complete high school and enter college. Over one-third of the students in the GEAR UP program are Hispanic.

This program is critical for Hispanic students who are more likely than any other students to drop out of high school and, consequently, less likely than others to attend and complete college. Again, I have a hard time understanding how, as our Latino population continues to increase, the President wants to freeze funding for yet another program that is critical to the long-term success of Hispanic Americans. But this is yet another example of saying the right thing without paying for it.

The No Child Left Behind Act provides a blueprint for educational reform. Real reform cannot occur without real resources. Without adequate funding, it is reform in name only. That is not enough. We can do better. We must do better.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

TERRORISM RISK INSURANCE ACT OF 2002—Continued

Mr. REID. Madam President, I ask unanimous consent that at 4:30 p.m. the bill now before the Senate be read the third time and the Senate vote on final passage, without intervening action or debate, with the 30 minutes prior to that vote equally divided between Senators DODD and GRAMM, or their designees, and paragraph 4 of rule XII being waived.

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

Mr. REID. Madam President, there are a number of Senators who have expressed a desire to offer amendments. We are anxious to have them come forward. For example, Senator SPECTER can come anytime he wants, except between 12:30 and 2:15, to offer his amendment. We look forward to that. If other Senators wish to do the same, the floor is open for those Senators.

I say to my Republican colleagues, this is the efficient way to do business. We know it was a tightly contested vote to obtain cloture. Senator GRAMM did the right thing in saying we will try to do things in conference or at some later time. This will expedite getting to the Defense authorization bill, which is so important for the country, something that the President and Secretary Rumsfeld have said time and time again we need to do. We will do that. The bill, the Defense authorization bill, should have adequate time to have a full and complete debate. It is always a bill that is controversial, just because of its nature and the size of it in dollars. It is something we will get to and complete before the July 4 recess.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. EDWARDS. Madam President, are we in morning business?

The PRESIDING OFFICER. We are not.

Mr. EDWARDS. I ask unanimous consent I be allowed to speak for up to 7 minutes as in morning business.

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

THE ETHICAL RESPONSIBILITY OF LAWYERS AFTER ENRON

Mr. EDWARDS. Madam President, I want to say a few words about the responsibilities of lawyers in corporate America.

In recent weeks we have learned about high-flying corporations that came crashing to the ground after top executives played fast and loose with the law. And we have heard how ordinary employees and shareholders can lose their life savings when millionaire managers break the rules.

For the most part, the public has focused on the role of the managers and the accountants in allowing this kind of misconduct to happen, and of course that is critical.

But the truth is that executives and accountants do not work alone. Wherever executives or accountants are at work in America today, lawyers are looking over their shoulders. And if the executives and accountants are breaking the law, you can be sure part of the problem is that the lawyers aren't doing their jobs. The findings of the jury in the Andersen case only highlight the role of lawyers in American business today.

I know from personal experience what the responsibility of a lawyer is. I was proud to practice law for 20 years. I was proud to fight for my clients, regular people who had been wronged by powerful interests. When I took on a client, I recognized my duty to that client: to represent him or her zealously, but to do so within the limits of the law.

The lawyers for a corporation—the lawyers at an Enron, for example—they have different kinds of clients from the clients I had. But they have the same basic responsibility: to represent their clients zealously, and to represent them within the limits of the law.

My concern today is that some corporate lawyers—not all, but some—are forgetting that responsibility.

Let me get a little more specific. If you are a lawyer for a corporation, your client is the corporation. You work for the corporation and for the ordinary shareholders who own the corporation. That is who you owe your loyalty to. That is who you owe your zealous advocacy to.

What we see lawyers doing today is sometimes very different. Corporate lawyers sometimes forget they are working for the corporation and the shareholders who own it.

Instead, they decide they are working for the chief executive officer or the chief operating officer who hired them. They get to thinking that playing squash with the CEO every week is more important than keeping faith with the shareholders every day. So the lawyers may not do their duty to say to their pal, the CEO, ''No, you cannot break the law.''

In my view, it is time to remind corporate lawyers of their legal and moral obligations—as members of the bar, as officers of the courts, as citizens of this country.

The American Bar Association ought to take a leading role here, something they have not done thus far.

The Securities and Exchange Commission has an essential part to play as well. For some time, the SEC promoted the basic responsibility of lawyers to take steps in order to stop corporate managers from breaking the law. The rule for lawyers that the SEC promoted was simple: If you find out managers are breaking the law, you tell them to stop. And if they won't stop, you go to the board of directors, the people who represent the shareholders, and you tell them what is going on.

After promoting the simple principle that lawyers must ''go up the ladder'' when they learn about misconduct, the SEC gave up the fight. They gave up the fight in part because the American Bar Association opposed their efforts.

In my view, it is time for the ABA and SEC to change their tune. Today I am sending a letter to the Chairman of the SEC, Harvey Pitt, asking him to renew the SEC's enforcement of corporate lawyers' ethical responsibility to go up the ladder.

In answer to a petition from 40 leading legal scholars, the SEC has already signaled that it probably will not take up the challenge I am talking about. I believe that is wrong. If Mr. Pitt responds to my inquiry by saying that the SEC plans to do nothing, then I believe we will probably need to move in this body to impose the limited responsibility I have discussed.

I ask unanimous consent that the full text of my letter to Mr. Pitt be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, June 18, 2002.

Hon. HARVEY PITT,
Chairman, Securities and Exchange Commission, Washington, DC.

DEAR CHAIRMAN PITT: I am writing to you about the responsibilities of lawyers under the federal securities laws.

In the wake of the Enron scandal, the public has focused on the role of accountants in maintaining the integrity of our free market system. In my view, it is time to scrutinize the role of lawyers as well. When corporate managers are engaged in damaging illegal conduct, the lawyers who represent the corporation can sometimes stop that conduct simply by reporting it to the corporate board of directors. Yet lawyers do not always engage in such reporting, in part because the lawyers' duties are frequently unclear. While the lawyers' inaction may be good for the inside managers, it can be devastating to the ordinary shareholders who own the corporation.

The American Bar Association's Model Rules of Professional Responsibility have not recognized mandatory and unambiguous rules of professional conduct for corporate practitioners, and rules at the state level are varied and often unenforced. During the 1970s and 1980s, as you know, the SEC instituted proceedings under Rule 2(e) (now rule 102(e)) to enforce minimum ethical standards for the practice of federal securities law. The SEC has since stopped bringing these types of actions. On March 7, 2002, forty legal scholars wrote a letter to you suggesting, among other things, that the Commission require a lawyer representing a corporation in securities practice to inform the corporation's board of directors if the lawyer knows the corporation is violating the Federal securities laws and management has been notified of the violation and has not acted promptly to rectify it. In a March 28, letter, your then-general counsel, David M. Becker,

indicated that, absent congressional action, the SEC would leave this matter to state authorities.

It seems to me that a lawyer with knowledge of managers' serious, material, and unremedied violations of federal securities law should have an obligation to inform the board of those violations. Particularly in view of the uncertainty surrounding current ABA and state rules, my view is that this obligation should be imposed as a matter of federal law or regulation. Recognition and enforcement of this important but limited obligation could prevent substantial harms to shareholders and the public.

I would appreciate receiving your answers to the following two questions at your earliest convenience:

1. Absent further congressional action, does the SEC plan to act to enforce a minimum standard of professional conduct for lawyers in securities practice along the lines I have suggested?

2. If your answer to the preceding question is no, would you be willing to assist me in carefully crafting legislation to impose this duty on lawyers?

I look forward to hearing from you.

Yours Sincerely,

JOHN EDWARDS.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BAYH).

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the vote now scheduled for 4:30 be set at 4:45 today, with the remaining provisions of the unanimous consent agreement in effect.

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

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I may proceed for 5 minutes.

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

IN MEMORY OF DR. RICHARD J. WYATT

Mr. DOMENICI. Mr. President, it is with great sadness that I rise today to remember a man who played such an important role in mental health. I would like to make a few remarks to honor Dr. Richard J. Wyatt, a friend of mine and my wife and my family and a distinguished advocate for the mentally ill.

On Friday, June 7, 2002, the mental health community lost an inspirational researcher and leader in the field of mental health to a long battle with cancer. Throughout his career, Dr. Wyatt received numerous awards and honors and was highly respected among his colleagues. He served as the chief of the Neuropsychiatry Branch at the National Institutes of Mental Health.

For 33 years, Richard played a leading role in understanding the biological basis of mental illness. His work pioneered the view that Schizophrenia is not the result of bad parenting or frailty of character, but it is due to a diagnosable and treatable disorder of the brain. This creative understanding of the basis of brain disease led to new treatments with antipsychotic medicines easing the burden of the disease.

In addition, Richard and his wife, Dr. Kay Jamison, worked to end the stigma attached to mental diseases. Richard focused on research and the biological effects of Schizophrenia. Kay wrote books about her personal struggles with depression and how to overcome it. Together, they co-produced a series of public television programs that provided information on manic depression. All of their efforts helped to raise public awareness of brain disorders.

Not only did Dr. Wyatt receive praise for his work on mental health, but he was a strong and courageous individual who fought a lifelong battle with cancer. In a letter to a friend diagnosed with cancer, Dr. Wyatt candidly discussed his experiences and shared his insights into overcoming this disease.

Mr. President, I ask for unanimous consent that the February 13, 2001, Washington Post article entitled, ''Words to Live By'' be printed in the RECORD following my remarks. I believe this article is truly inspiring and exemplifies the qualities of this extraordinary individual.

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

(See exhibit No. 1.)

Mr. DOMENICI. From myself and my wife, Nancy, we wish to express our heartfelt condolences to Richard's friends and family. To his wife, Kay, we send our greatest sympathies for the loss of your husband, and we thank you for your work as well. Dr. Wyatt's strength of character, and his compassion and work on behalf of the mentally ill will truly be missed.

EXHIBIT NO. 1

[From the Washington Post, Feb. 13, 2001]

WORDS TO LIVE BY

Drawing on knowledge born of hard experience, Washington psychiatrist Richard J. Wyatt penned this personal note of advice after a close friend and fellow physician was diagnosed with cancer. A cancer veteran himself, he underwent two years of aggressive radiation and chemotherapy to fight Hodgkin's disease in his thirties. When at age 60 he was diagnosed with Burkitt's lymphoma, he withstood another course of chemo and a bone marrow transplant. Since he wrote the letter, he's begun a third fight—this time against lung cancer. In the letter's introduction, he voices the hope that the ''battle-won knowledge'' he offers here ''will help others facing this difficult journey.''

DEAR JIM, I wouldn't have the audacity to write this if I hadn't fought cancer three times myself. But maybe you'll find the following advice helpful. I also offer the comforting and indisputable fact that I am here today to offer it.

Try not to sweat the big things. Once you have made the decision to put yourself in the hands of a good oncologist, it is his or her job to fret. If you find that you are second-guessing him on big issues, you have the wrong person. Your job is to concern yourself with the small things. It also helps to find a treatment facility that makes you feel secure. I was treated at Johns Hopkins. The doctors, as I expected, were superb. And one cannot say enough about the quality of the nursing care at Hopkins. Everyone, including the housekeepers, takes pride in their work.

Finally, as you know from the adage, a doctor who is his own doctor has a fool for a patient. In short, despite the temptation, do not try to compete with your doctor. How to choose an oncologist: Carefully. Most people have no basis for choosing a specialist other than the recommendation of their internist or family physician. In most cases this works well. My internists are superb, and they could not have been more helpful at a number of important stages of my care. But they have only a limited number of people they know well enough to make referrals to.

The local oncologist is unlikely to have treated Burkitt's lymphoma or other unusual cancers, and even if he has some experience, it is likely to be slim. And he won't have the support team to deal with the many complexities that will arise.

You want to be at an academic center where there is a great deal of experience, and where nobody does anything without it being questioned. The local oncologist can work with the academic oncologist, particularly if there is a geographic distance involved. The question I would ask, probably of the local oncologist, is, ''Who would you ask to treat your family member if he or she could go anywhere in the country?''

Do not be shy about this, and do not worry about offending your doctors by asking such questions. This may be among the most important questions you ever ask.

As an aside, when I went out to Stanford for my Hodgkin's treatment, the radiation oncologist there said he could do better than the other people I was considering when I asked him this question. The other oncologists I was considering were as good as they get. But the Stanford doc turned out to be one of the best physicians I have come across. His well-placed self-assurance probably saved my life.

Protect your veins. This is one of those small things I told you that you should worry about. Think of every venipuncture as a nosebleed where you must apply continuous pressure to the puncture wound for five minutes, even though the person drawing your blood will want to just put a bandage on it. Your arm will soon enough look like a maple tree in the fall, but there is no need to hurry the seasons. Try to get as much out of a single needle stick as possible. If you are going to need blood drawn twice in the same day, a device (a heparin lock) can be left in your arm which will prevent the need for a second sick. And start squeezing rubber balls. My arm veins have never been better.

A bad hair year. I have noticed that neither of us has high-maintenance hair. As far as I'm concerned, the only reason for having hair is to keep our heads warm. (If I were a woman, I might feel differently.) You have the wisdom to live in a warm climate, but when it does get cold, wear a hat. One of my fellow patients tied a bandanna around his head, which I thought looked pretty snazzy, but because of some medication-induced numbness and tingling in my hands, I was having enough trouble with buttons and shoelaces.

And there are some major benefits to hair loss. If all goes well, you have many months of not shaving. Just think of Yul Brenner and Michael Jordan. And James Carville. You will not be experiencing the radiation I

received for Hodgkin's disease. It burned up a lot of me. Twenty-seven years after my radiation treatments, I still do not have any inconvenient sweat glands. I can wear my shirts for weeks without any telltale signs. And since both of us are academics, not one will notice the wrinkles.

Get your finances in order. Make sure everything is in one place where your wife can find it, and in a form she can understand. I note that the night before Sen. John McCain had surgery for his melanoma, he said that his wife, Cindy, was going through their insurance policies. It got a laugh, but she was right. I have all my financial papers in a black three-ring notebook in plain sight, and I update it pretty often. Visit your accountant to see if you are over the limits you can leave a spouse and kids without it being taxed. Wills, powers of attorney and so forth are a must. Do not forget your friends.

Nausea and vomiting. This time the chemotherapy is mild and fairly innocuous. Even a year ago, despite undergoing rather rigorous treatment, I had very little nausea or vomiting—a big difference from 27 years ago. Today there are good medications to prevent nausea and vomiting. Most of the time last year I got an IV dose a few minutes before receiving the day's medications. The pill form also worked well, even when they were dumping Drano directly into my cerebral spinal fluid. Burkitt's cells are apparently scoundrels: If there allowed to, they hide in the brain.

I think you will want to start the pill form of anti-nausea medication about an hour before treatment, and take it about every eight hours for the next 24 hours. Your anti-cancer drugs may sit in the body longer than the ones I received, but I think most of them set on their target receptors within a few minutes.

An aside about spinal taps: If you need to have one, to prevent headaches, remember to lie on your back for two or more hours after each tap. Out of nine spinal taps, I had only one mild headache, but it did last about a week.

Although by previous standards there was essentially no nausea or vomiting, I recommend carrying a purple surgeon's glove in your pocket at all times, just in case. I am not sure why all the gloves have suddenly become purple, but Barney seems to have had a pervasive influence. I had to use the glove only once, but it saved my wife's car from that indelible stink. Since you have had much less practice and therefore probably do not have my Olympic-quality aim, you might want something larger than a surgeon's glove. Think leaf bag.

Tastes and foods. I developed strong aversions to many foods and tastes I normally like. One of the most surprising was my sudden dislike of chocolate. I have since learned that this reaction is quite individualized. I think I almost drove my wife to murder demanding that my food be prepared in specific ways and then rejecting it. Nor is this something that suddenly goes away. Fortunately, it appears to be in women's genes to be patient with us.

A year later, my appetite has yet to return. But then again there are not many men our age without a potbelly. You would be surprised by the number of friends who are slightly heavier than they would like, and who would be pleased to merge with you or offer to provide a transplant of their extra tonnage. They, and others, have offered many suggestions for increasing my appetite. One of my more endearing nurses advised me to have a beer before meals. Ensure, a ''Sun Chip and Benecol [a special kind of margarine] diet,'' Remeron [an antidepressant], Megace [a hormone] and marijuana have all been strongly encouraged. Of these, I like the idea of marijuana the best, but it is illegal and, despite a real effort under a porch when I was 14, I never learned to inhale. No matter what I have tried, I find I am as good at pushing food around a plate as I was when I was a child.

Dry mouth. You will have it. Ice chips work well. A great gift was a Chap Stick. I have used it to its nubbins and it is the only one I never lost.

Amusement. Get a comfortable lounge chair for home, a high wattage light for reading and a good TV videotapes. These should not be in the bedroom (see below). The best gifts I received during this time were books on tape, so you will want a good headset and tape player. If you have not already done so, start with Harry Potter.

Apparently, flowers attack you when your immune system is down, so somehow you have to figure out a way to discourage friends from sending those large ''get well soon'' bouquets. Our cleaning lady got a lot of beautiful hand-me-down roses in the last year. They come pretty much only in the beginning, so she has no conflict of interest in seeing me get better.

Chivalry, sex and movies. Have a place you can go at 2 a.m. when you cannot sleep and do not want to disturb your wife. You may want to subscribe to an extra movie channel. In the early hours of the morning, you can never be sure what will pop up on cable TV, but the porn flicks went to waste—I, at least, lost any libido I might have had left.

My wife has been great about renting movies, and we usually have a large stack at anyone time. Make the most of whatever you can of political coverage and hope for a good scandal. My bout with Hodgkin's coincided with the Watergate hearings. Few people appreciate Richard Nixon like I do. A year ago I had John McCain and his exciting campaign. Actually, I suggest starting some sort (any sort) of rumor about one of our current or former Washington luminaries. How about something involving a randy act with one of the baby pandas at the zoo? Root for the absurdities of another Ken Starr, Bob Barr . . . the list is long.

Sleep. With the permission of your doctor, have a supply of sleeping pills on hand. I have always used Valium because it has been around the longest. Because it is now off patent, it is also cheap. I buy one large bottle every 10 years. I think you said you like Ambien. Let me warn you that in the last few years I have seen two people, although older than us, become pretty goofy on Ambien. You might warn your wife about your potential for goofiness, because it is a little hard to assess on your own.

Thinking. By the way, I am not sure most oncologists realize the extent of it, but the anti-cancer drugs affect one's cognition. The change is subtle and you will probably be the only one who knows it has occurred. This is not the time to expand your ideas on superstring theory.

While in the hospital with the bone marrow transplant, I received a great many medications. Just before they discharged me, I had a fever of unknown origin and one night became delirious. My wife and I are still arguing whether it lasted for a few hours or may more. You know which side she is on. My oncologist, who is generally pretty blunt, says he was not there and has refused to get involved in the discussion. In a more tactful manner than is usual for him, he did say that such deliriums usually last for days or weeks. The delirium did go away and has nothing to do with the more subtle cognitive change mentioned above.

Pain and enemas. I had some bone pain with the Hodgkin's and used small amounts of codeine with aspirin. When the pain was at its worst, I used Valium as well. My treatment last year was fairly pain-free. The problem with opiates, which I enjoy otherwise (do not pass up a shot of Demerol if you are going to need a biopsy or surgery), is that they are constipating. Do not allow yourself to get constipated. Colace and sena work pretty well, but if you start getting bottled up, enemas (yuck!) have worked well for me. Fleet's or its generic equivalent has done the trick on a number of occasions. It's probably a good idea to have several around the house. Just don't leave them in the living room or where the dog can get at them.

Invisible shield. After chemotherapy, your chance of developing shingles will be pretty high (assuming, of course, that like most people our age, you have had chickenpox). There are now several antiviral agents available which, if started with the first symptoms, can greatly reduce the amount you will suffer from this scourge. Unfortunately, by the time you recognize the symptoms, describe them to your doctor, get a prescription, have that prescription approved by your HMO or insurance company and get the drug at your pharmacy, several days or more will have passed.

Aware of this problem, I asked my physician to write a prescription before the symptoms developed. My insurance company has been fairly generous throughout my illness, but it took more than two weeks for them to send the drug. It came a week before my symptoms developed.

If you want to know how worthwhile this exercise was, consider this. When I had Hodgkin's disease, shingles got the better of me for many weeks; it was on both sides of my body and spread vertically across all my ribs. I still get pain in these areas every winter when I go out into the cold. But this time, just one rib was involved. And it itched more than it hurt. I think I may be left with a small residual seven months later, but it is trivial. I have read that adding small doses of the antidepressant amitriptyline [Elavil] to the antiviral agents helps prevent the post-shingles pain.

The sporting life. To the degree you can, exercise. It may not be possible at first. But as soon as you feel up to it, give it a try, even if you only walk around the block. (Believe me, the first time you complete this herculean task, you will be very impressed with your physical prowess.)

I still try to get on the treadmill every day, as I have done most of my life, even if the workout isn't what you would call herculean. The only time I missed it recently was a two-week period last month when I contracted pneumonia and hadn't yet responded to antibiotics.

Before my latest cancer diagnosis, I got shoved out of bed every morning to be at the gym by 6:15. Mostly, while there, I was too out of breath and my pulse too rapid to do anything but read the newspaper, but I got on the treadmill every day even if I had to hold onto the rails for balance. I think the balance problem is related to weakness, but it could also have been the Drano.

Cancer talk. This issue is one that may be left over from our parents' generation. They did not talk much about cancer, but I have always been willing to talk about mine. This is a secret I did not want to try to keep. And just how do you explain sudden baldness, needle tracks and a great imitation of Casper the Ghost?

Some of my best discussions have been in oncologists' waiting rooms. There is almost always a wait, so there is plenty of time to meet others going through more or less the same thing. At least for me and my wife, the time spent in oncologists' waiting rooms has been an unofficial form of group therapy, and I have never met a person there I did not like. It is rather remarkable how being in

the same boat on a rather rough sea pulls people together. I believe all those studies that say that group psychotherapy improves the survival time of patients with cancer. My experience is that such therapy doesn't have to be formal; it develops spontaneously.

Spiritual issues. This has not been my strong suit, but despite living in a somewhat cynical society, you and I both have many friends who pray. For the most part they do so in private. Few have Joseph Lieberman's exuberance. As you will find out, however, when they perceive you need them, they let you know they are there for you.

And you will find that those friends who don't pray will also find wonderful ways of encouraging you.

One more thing. In case you have ever wondered why you got married and had kids, this is it. This is your best chance ever to get a lot of attention. Breakfast in bed is a good start.

Love,

RICHARD.

IN RECOGNITION OF LAS VEGAS, NEW MEXICO

Mr. DOMENICI. Mr. President, I rise today to bring attention to the special distinction of Las Vegas, NM, as recently highlighted by the Los Angeles Times. Perhaps more faithfully than any other community in the Southwest, this charming city continues to hold fast to its rich Hispanic and European heritage, and colorful ''Wild West'' history.

Firmly rooted in Hispanic traditions, Las Vegas was christened ''Nuestra Senora de los Dolores de Las Vegas Grandes,'' or ''Our Lady of the Sorrows of the Great Meadows,'' by sheep and cattle ranchers of Spanish heritage who settled there in 1835. Las Vegas prospered as a major trading point on the Santa Fe Trail, giving rise to a great proliferation of adobe homes and commercial buildings. As trade burgeoned, the trail and the nearby Atchison, Topeka, and Santa Fe Railroad brought in a larger variety of settlers and architecture, including other European influences, and the town grew to include a large number of Victorian buildings. As the Los Angeles Times points out, Las Vegas currently boasts over 900 structures listed on U.S. and New Mexico registries of historic buildings, an outstanding number of monuments to the varied cultural influences that have shaped the town for more than a century and a half.

The Los Angeles Times also noted that ''this Las Vegas, in fact, has so much history, the town's not sure what to do with it all.'' Las Vegas has played host to both illustrious guests and infamous Wild West personalities. Theodore Roosevelt and his Rough Riders convened there for a reunion in 1899, a year after they stormed San Juan Hill. Both Ulysses S. Grant and Emperor Hirohito of Japan took advantage of the Montezuma Castle hot mineral springs resort outside town. The same vibrant traffic that made the town boom brought in some of the most colorful characters of the Old West: outlaw Billy the Kid and bank robber Jesse James made appearances in Las Vegas, and controversial gunman ''Doc'' Holliday performed a stint as the town's dentist.

Though the town was established by a land grant from the Mexican government to several Spanish families, Gen. Stephen Kearny of the U.S. Army arrived on the scene in 1846 by way of the Santa Fe trail and sparked the Mexican American War by declaring the town's residents to be citizens of the United States. Henceforth, the town clung tenaciously to its roots, resulting in a vibrant and authentic Hispanic community unlike any other in the Southwest.

Although the boom begun by the railroad left Las Vegas behind, and stagnation sometimes haunted the town's economy, Las Vegas continued to embrace its home-grown values and place an emphasis on preservation as it sought other means of development. I believe Las Vegas, with its history and charm, is poised for a 21st century renaissance. It has the ingredients—a ready workforce, access to transportation and metropolitan services, a higher- education base, and the desire to be a prosperous and growing community. I have worked through my Rural Payday initiative to help bring new telecommunications-related jobs to Las Vegas, and we are working on other projects to bring more jobs to the area. The socalled information superhighway, like the railroads of the 1800s, can be the region's next conduit for growth.

The people of Las Vegas and San Miguel County hold a very special place in my heart. They make New Mexico particularly proud for staying true to their values and heritage. Possibly no other locale that so purely embodies the real historic and cultural elements that distinguish our state from any other. I commend Las Vegas' residents for their active preservation efforts, and congratulate this community on its remarkable place in New Mexico's cultural life.

Mr. President, I ask unanimous consent that the text of the Los Angeles Times article from June 16, 2002, be printed in the RECORD.

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

[From the Los Angeles, Times, June 16, 2002]

NO SIN CITY, THIS VEGAS SAVORS ITS RICH HERITAGE

THE SMALL COMMUNITY IN NORTHERN NEW MEXICO TREASURES ITS OLD BUILDINGS, UNLIKE ITS GLITTERY NAMESAKE IN THE NEVADA DESERT

(By Tom Gorman)

This is the other Las Vegas—not where 40-years-old casinos are imploded because they're no longer fashionable, but where 140-year-old storefronts still have purpose.

The mob missed this place, but not the ruthless Billy the Kid, who was run out of town after pistol-whipping the sheriff, and bank robber Jesse James, who relaxed in its hot mineral baths. Probably neither visited the town dentist, ''Doc'' Holiday.

Nevada's Las Vegas may have its conventions, but it was here where Theodore Roosevelt and his Roughriders held a reunion, attracting 10,000 admirers, a year after they stormed San Juan Hill in 1898. Hotel guests in Nevada's Vegas include flash-in-the-pan celebrities, but the old Montezuma Castle mineral springs resort here played host to Ulysses S. Grant and Emperor Hirohito of Japan.

This Las Vegas, in fact, has so much history, the town's not sure what to do with it all.

More than 900 buildings in this city of 15,700 are listed on New Mexico and U.S. registries of historic buildings. Most are clustered downtown, still used as homes, offices and storefronts, just as they were more than a century ago when this was New Mexico's boomtown.

But more buildings were constructed here from 1880 to 1900 than can be used today.

''In other cities, old buildings are torn down in the name of progress and are replaced with big new buildings,'' Mayor Henry Sanchez said. ''But we were too poor to tear our buildings down poverty saved our History''.

Now the city treasures its old buildings, and it has created a handful of preservation districts where the demolition of historic structures is banned.

The city is struggling to find tenants for the few dozen empty ones, in part because investors wary of water restrictions in the drought-ridden Southwest are afraid to launch businesses here and because of the cost of renovation.

Civic leaders also say they want to preserve the town's heritage and don't want to become another Santa Fe, 64 miles to the west, which is chided by Las Vegans as having forsaken its roots in favor of becoming a tony arts colony.

''Santa Fe is no longer a practicing Hispanic community,'' said Bob Mischler, an anthropology professor at New Mexico Highlands University here. ''Santa Fe has been taken over by outsiders who have created a whole new environment. We don't want to do that.''

The challenge here, Mischler said, is to preserve and capitalize on Las Vegas' Latino and European heritage.

Las Vegas was settled by Mexican sheep and cattle ranchers in 1835, attracted by the lush green meadows that gave the town its Spanish name.

Army Gen. Stephen Kearny, following the Santa Fe Trail, arrived here in 1846 and started the Mexican American War by proclaiming the town's residents to be American citizens. No shots were fired, and in time town commerce flourished by trading with nearby Ft. Union.

The economy that traders generated along the Santa Fe Trail through Las Vegas further enriched the town's merchants but was nothing compared to the arrival of the railroad in 1879, fostering 20 years of heated growth.

The town grew as two distinct halves—Latinos around the historic plaza, Easterners and Europeans around the rail district. Entrepreneurs from both cultures profited, and Las Vegas presented a confluence of architectural styles—from adobe and California mission to Queen Anne and Italianate—that grace the town to this day.

''Las Vegas has very few rivals in the West for frontier boomtown architecture,'' said Elmo Baca, until recently New Mexico's historic preservation officer.

But after the turn of the century, Las Vegas' fortunes waned as railroads expanded their reach to Albuquerque and other Western towns. Baca, a Las Vegas native, said the town still embraced its home-grown values.

''Ever since Kearny came here, we've had a healthy suspicion of outsiders,'' he said.

''We've held on dearly to our cultural heritage, perhaps at the expense of economic development.''

The frontier buildings were neither razed nor improved as the city's economy stagnated during the last century. Few businesses moved here; a factory made parachutes during World War II, and today the biggest employer is the government.

Not that progress isn't being made.

The city is renovating the railroad depot, at a cost of $500,000; the Montezuma Castle resort was renovated and is now used as one of 10 Armand Hammer United World College campuses around the world.

And the citizens committee for historic preservation purchased an 1895 mercantile building for its own use, investing about $500,000 to turn it into a Santa Fe Trail interpretive center.

Slowly, building owners are renovating their structures, although some remain empty. Among them: two century-old storefronts owned by the Maloof family, which settled here in 1892 and became wealthy New Mexico business owners and bankers. Today, one branch of the family owns the Sacramento Kings professional basketball team and a Las Vegas, Nev., casino hotel.

Among the town's boosters is Anne Bradford, who moved here from Carlsbad, Calif., nine years ago and spent $150,000 to turn a 109-year-old home into a bed-and-breakfast inn.

Her guests, she said, enjoyed this Las Vegas for what it is. ''People will always recognize our Las Vegas,'' she said. ''It'll always be a little bit behind. That's part of its charm.''

PAYING TRIBUTE TO DR. FRANK C. HIBBEN

Mr. DOMENICI. Mr. President, today I rise to pay tribute to Dr. Frank C. Hibben who passed away this past Tuesday, June 11, in my State.

Dr. Hibben was a world-renowned archeologist, anthropologist, big-game hunter, author, and philanthropist. He also held the title of Professor Emeritus of Anthropology at the University of New Mexico.

As a lifelong hunter and conservationist, Dr. Hibben played a key role in many of New Mexico's conservation and restoration programs. For 30 years, Dr. Hibben served on the New Mexico Fish and Game commission, including 28 years as chairman. In this capacity, he spearheaded efforts to introduce endangered, and exotic new species to the State of New Mexico in an effort to protect these dwindling game herds from around the world.

As a archeologist and professor, Dr. Hibben wrote numerous articles and books with an emphasis on big-game hunting and the American Southwest. For his work, he was awarded the University of New Mexico's Zimmerman award, a notable award given by the university to honor an alumnus who has contributed significantly to the university and the world at large.

However, in spite of his many achievements in archeology and conservation, I believe Dr. Hibben will be most remembered for his philanthropy. He was the founding Director of the UNM Maxwell Museum of Anthropology and played a key role in its development. In addition, he has been the lead advocate for the development of the Hibben Archaeological Research Center which is currently in development. Dr. Hibben donated $4 million of his own funds to construct this new center which would showcase the 1.5 million artifacts from the Chaco Culture National Historic Park.

New Mexico has lost an invaluable treasure in a man who's accomplishments cannot be overstated in their importance both to UNM and the State of New Mexico. I join with his friends and family in mourning their loss.

Mr. President, I yield the floor.

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

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

TERRORISM RISK INSURANCE ACT OF 2002—Continued

AMENDMENT NO. 3862

Mr. SPECTER. Mr. President, I call up amendment No. 3862.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 3862.

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

The amendment is as follows:

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

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

SEC. 10. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—

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

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

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

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

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

(c) FEDERAL JURISDICTION.—

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

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

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

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

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

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

(e) LIMITATION ON DAMAGES.—

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

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

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

Conviction under subparagraph (B) shall establish liability for punitive or exemplary damages resulting from the harm referred to in subparagraph (B) and the assessment of such damages shall be determined in a civil lawsuit.

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

(f) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way be construed to limit the ability of any plaintiff to seek any form of recovery from any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism.

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

SEC. 11. CRIMINAL OFFENSE FOR AIDING OR FACILITATING A TERRORIST INCIDENT.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339C. Aiding and facilitating a terrorist incident

''(a) OFFENSE.—Whoever, acting with willful and malicious disregard for the life or safety of others, by such action leads to, aggravates, or is a cause of property damage, personal injury, or death resulting from an act of terrorism as defined in section 3 of the Terrorism Risk Insurance Act of 2002 shall be subject to a fine not more than $10,000,000 or imprisoned not more than 15 years, or both.

''(b) PRIVATE RIGHT OF ACTION.—Any person may request the Attorney General to initiate a criminal prosecution pursuant to subsection (a). In the event the Attorney General refuses, or fails to initiate such a criminal prosecution within 90 days after receiving a request, upon petition by any person, the appropriate United States District Court shall appoint an Assistant United States attorney pro tempore to prosecute an offense described in subsection (a) if the court finds that the Attorney General abused his or her discretion by failing to prosecute.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''2399C. Aiding and facilitating a terrorist incident.'.

Mr. SPECTER. Mr. President, last week I voted against tabling the McConnell amendment which would have conditioned punitive damages for private parties arising out of a terrorist attack to situations where there had been a criminal conviction establishing malicious conduct. Had the McConnell amendment not been tabled, I intended to offer a second-degree amendment which I am now discussing. Since the McConnell amendment was tabled, I am now calling my amendment up as a first-degree amendment.

This amendment establishes a crime for anyone acting with willful and malicious disregard for the life or safety of others, and by such action leads to, aggravates, or is a cause of, property damage, personal injury, or death resulting from an act of terrorism.

This amendment further provides for a private right of action as follows: Any person may request the Attorney General to initiate a criminal prosecution of the criminal offense I just described. In the event the Attorney General refuses or fails to initiate such a criminal prosecution within 90 days, upon petition by any person, the appropriate U.S. district court shall appoint an Assistant United States Attorney pro tempore to prosecute the criminal offense if the court finds that the Attorney General abused his or her discretion by refusing or failing to prosecute.

In considering legislation to provide for Federal Government assumption of some of the losses resulting from terrorist attacks in order to provide insurance coverage, there has been considerable sentiment to curtail punitive damages. Understandably, the bill precludes punitive damages against the Federal Government.

In one sense, there is no more reason to preclude punitive damages against private defendants in this situation than in any other. For example, if a building owner chain-locked emergency exits, why should he or she be exempted from punitive damages because people are injured or killed by terrorist attack instead of by fire? Perhaps this is just another chapter in the continuing effort to reduce civil remedies for tortious conduct.

There is another sense that everyone should make some concessions in dealing with terrorists. In any event, this situation presents an opportunity to deal in a more meaningful way with malicious conduct causing injury or death.

It is my judgment that punitive damages have not been an effective deterrent for malicious conduct. Punitive damages are consistently reversed or reduced. Cases involving automobiles such as the Ford Pinto and the Chevrolet Malibu illustrate the practice of knowingly subjecting consumers to the risk of death or grievous bodily injury because it is cheaper to pay civil damages than to fix the deadly defect.

In the case of ''Grimshaw v. Ford Motor Company,'' 119 Cal. App. 3d 757, the driver died and a passenger suffered permanently disfiguring burns on his face and entire body when the Pinto's gas tank exploded in a rear-end collision. When attorneys got into Ford's records, it was disclosed that the gas tank had not been relocated to a safe place because the correction would cost $11 per car while the calculation for damages from civil suits was only $4.50.

So it is a dollars and cents calculation.

In the celebrated case ''Anderson v. General Motors,'' 1999 WL 1466627, a Chevrolet Malibu fuel tank ruptured in a rear-end collision causing six people to sustain serious burns. The design defect of the gas tank was not corrected because a cost-benefit analysis showed it would have cost General Motors $8.59 to fix the fuel system compared to $2.40 to pay the civil damages. The Pinto case resulted in a punitive damage award in the amount of $125 million, frequently cited as an excessive punitive damage award. Very infrequently is it noted that the trial court later reduced the award to $3.5 million.

Similarly, the Malibu verdict of $4.8 billion in punitive damages was reduced by the trial judge, with an appeal slashing it even more.

Punitive damage awards have resulted in virtually endless delays. In one of the most celebrated punitive damage cases, ''In re the Exxon Valdez,'' 270 F.3d 1215, started in 1989, the Ninth Circuit vacated some 12 years later the previously decided, largest-in-history $5 billion punitive damage award.

I ask unanimous consent that the text of a memorandum be printed in the RECORD at the conclusion of my presentation. This memorandum details punitive damage awards which were reversed and the lengthy period of time, demonstrating what I am submitting is the ineffectiveness of punitive damages in deterring malicious conduct.

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

(See exhibit 1.)

Mr. SPECTER. The principal problem with punitive damages or a principal problem with punitive damages, in addition to the long delays and the fact that the awards are reduced, is that if, at the end of the long litigation process punitive damages are collected, they come from the shareholders of the company. They come from General Motors. They come from Ford, or they come from some major corporation. That is why it has been my view that an effective deterrent would be to hold the individuals liable for their malicious conduct. And malicious conduct, as defined in this bill, is conduct which has a wanton disregard for the life or safety of another person.

From my experience as district attorney of Philadelphia, I know that people are very concerned about going to jail, much more concerned than if at the end of a long litigation process there may be the requirement for a corporation to pay punitive damages, especially in the context where we know from records from Ford Motor Company in the Pinto case that they made a calculated decision that it was cheaper to pay the damages.

Here you have an official locating a gas tank in the rear end of the car resulting in death, resulting in serious bodily injury again and again, and no deterrence, right back at it again and again.

A similar case, ''White v. Ford Motor Company,'' CV–N–95–279–DWH (PHA), involved a 3-year-old child who was run over, backed over by a Ford truck with a defective brake. Here, again, in ''White v. Ford Motor Company,'' the calculation was made that it is cheaper to pay the damages than it is to correct the defect.

That case resulted in a verdict of punitive damages of $150 million in a case tried in Reno, NV, and later reduced to $69 million. Years have passed and the matter is still under appeal.

The effective way of dealing with this kind of malicious conduct is to provide a criminal penalty. A criminal penalty was provided in a case involving Firestone tires, which were mounted on Ford vehicles which had disclosed numerous problems in 1998 and 1999. Some 88 deaths resulted when these tires gave way, the vehicles rolled over. Eighty-eight people were killed, hundreds were injured, and there was a calculation on the part of Ford and Firestone not to make that disclosure, not to file it with the appropriate Federal officials.

An internal Ford memorandum on March 12, 1999, considered whether governmental officials in the United States ought to be notified and a decision was made not to notify Federal officials, so they could keep on selling

the Firestone tires on the Ford cars. It is one of the really great tragedies. I had introduced legislation to make that conduct a crime.

With some modifications that provision was incorporated in Public Law 106–414 on November 1, 2000, creating a 15-year sentence for officials where they withhold information on defective products from governmental regulators.

Mr. President, in offering the amendment which I am currently discussing, the effort is being made to substitute an effective remedy which would hold corporate officials liable for the damages which they cause as a result of malicious conduct.

The provisions which were offered by Senator MCCONNELL in the amendment which was tabled last week required that a criminal conviction be established before someone would be liable for punitive damages, and that provision has been carried over to the amendment which I am offering today.

I have added to that amendment a provision for a private right of action. It is very difficult on some occasions to persuade the prosecuting attorney to initiate a criminal prosecution. That is a matter which is customarily viewed as discretionary.

The prosecutor—and I have had a lot of experience with this myself has many cases he has to try and may choose not to initiate the prosecution. So, in order to activate the provision for punitive damages, where someone is convicted of a crime with the requisite malicious conduct, my amendment provides that any person can ask the Attorney General of the United States to initiate a prosecution. If the Attorney General refuses to initiate the prosecution within 90 days, then the individual may petition the court for leave to be appointed as an Assistant United States Attorney pro tempore. In other words, on a private prosecution there would have to be a showing that the prosecuting attorney had abused his or her discretion in failing or refusing to initiate the prosecution. Such private actions are commonplace in U.S. courts.

New York has such a procedure, Minnesota, North Dakota, Florida, Arkansas, Iowa, Montana, Ohio, and Oklahoma. I ask unanimous consent that a memorandum be printed in the RECORD at the conclusion of my oral presentation which summarizes the specifics of where private prosecutions have been initiated.

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

(See exhibit 2.)

Mr. SPECTER. Mr. President, I think it is worthy of note that this was a subject of considerable interest to this Senator during my law school days. I wrote a comment which appears at Yale Law Journal, volume 65, page 209, ''Private Prosecution: A Remedy for Unwarranted District Attorneys' Inaction.''

As this package was put together, I think it offers some guidance for a way where there might be some relief from punitive damages; although, to repeat, I think they have resulted in very little by way of liability, for the reasons I have cited and the authorities I have cited.

I believe it is true the punitive damage possibility is a factor on leveraging settlement, but there have been enormous objections to punitive damages, and they have created quite a lot of public furor, as one can see in the $5 billion punitive damage award I discussed earlier. The public thinks it is being paid with real money; whereas, in fact, when we trace them down, the funds are not paid.

I think we need a comprehensive analysis. There is none to my knowledge as to what has resulted when punitive damages are sought, where punitive damages are obtained on a verdict, and what happens, how many of them are actually collected. It would be a good deal more difficult to quantify the effect of punitive damages as leverage on settlements, but I think that, too, would be worthy of study.

Most importantly, the justice system ought to be able to reach people who are malicious. Wanton disregard for the safety of another constitutes malice and supports a prosecution for murder in the second degree, which can carry a term up to 20 years. This bill carries a penalty up to 15 years because in the Federal system, that is the equivalent of a life sentence. Following the precedent of the Ford-Firestone matter, the 15-year penalty was provided.

I know this amendment is subject to being stricken as being non-germane. When the cloture motion was offered this morning, I voted in support of it, and it was agreed to. Sixty-five Senators voted in favor of it; 31 Senators voted against it. Voting in favor of the cloture motion, I was well aware that were it to pass, this amendment would be precluded, but I considered it much more important to get this bill moving to a conference so that we can have the Government standing behind certain insurance policies so we can move ahead with very important commercial transactions in this country which are now being held up.

It may be that this format will be useful in the conference committee where I believe the House has stricken punitive damages.

This may be an accommodation where punitive damages would still be available, but there would first have to be a criminal conviction. A more important part of the provision would be that those who are malicious and cause death or injury to other people would be held for a very serious criminal sanction.

EXHIBIT 1

The prototype case for the proposition that punitive damages litigation is ''virtually endless'' is In re the *Exxon Valdez*, the latest iteration of which is found at 270 F.3d 1215, (9th Cir. 2001). In the 2001 decision, the 9th Circuit vacated a previously-decided, largest-in-history, $5 billion punitive damages award, and remanded the case to the District Court to determine a lower award under standards specified in *BMW of North America, Inc.* v. *Gore*, 517 U.S. 559 (1996)(substantive due process review of punitive damage awards under the three ''guideposts'' of defendant reprehensibility, ratio analysis, and criminal penalties comparability), and *Cooper Industries, Inc.* v. *Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001)(requiring de novo review on appeal). Thus, litigation stemming from a March 1989 accident/oil spill continues into its 11th year—and, essentially, is back to ''square one'' on the issue of punitive damages. See also *Pacific Mutual Life Ins. Co.* v. *Haslip*, 499 U.S. 1 (1991)(ten-year litigation stemming from insurance agent's 1981 misappropriation of insurance premium payments).

The key cases cited in *Exxon Valdez*, *BMW of North America, Inc.* and *Cooper Industries, Inc.* themselves had lengthy procedural histories—the *BMW* case running from 1990–1997, and *Cooper* running from 1995 to the present. See also 2660 *Woodley Road Joint Venture* v. *ITT*, 2002 U.S. Dist. LEXIS 439 (D.Del., January 10, 2002)(granting motion for new trial on the issue of the size of punitive damages awarded in a 1997 commercial contract breach case); *Dallas* v. *Goldberg*, 2002 U.S. Dist. LEXIS 8829 (SDNY, May 20, 2002)(ruling on the admissibility of evidence in computing the amount of punitive damages in ongoing §1983 action stemming from a 1994 police incident); *Silivanch* v. *Celebrity Cruise Inc.*, 2000 U.S. Dist. LEXIS 12155 (August 23, 2000)(a procedural ruling on allocation of punitive damages stemming from a 1994 cruise exposure to ''Legionnaires' Disease''). State court cases are at least as striking. See, e.g., *Torres* v. *Automobile Club of Southern Cal.*, 937 P.2d 290 (Cal. 1997)(remanding for a new trial on all issues; litigation initially filed in 1986); *Moeller, et. al.* v. *American Guarantee Insurance Co.*, 707 So. 2d 1062 (Miss. 1996)(final decision in 1996 on case filed in 1982); *Abramczyk, et. al.* v. *City of Southgate*, 2000 Mich. App. LEXIS 530 (2000)(reversing award of punitive damages and remanding for new trial; litigation filed in 1996); *Dixie Insurance Company* v. *Mooneyhan*, 684 So. 2d 574 (Miss. 1996) (remanding for a new trial on the issue of punitive damages; litigation filed in 1987).

To summarize, then, litigation on the issue of punitive damage can—and does—stretch out over a period of years (numerous appellate cases show a pattern of at least 4–6 years and longer, as in the case of *Exxon Valdez* and *Cooper Industries*). Recent trends have caused one commentator to state as follows: ''The Supreme Court's . . . decision [in Cooper], with its mandate of de novo appellate review of punitive damages jury verdicts in all cases, may consign state and federal courts to an *endless round of institutional second-guessing* . . . .''

Cabraser, E.J. *Engle* v. *R.J. Reynolds Tobacco Co.: Lessons in State Class Actions, Punitive Damages, and Jury Decision-Making Unfinished Business: Reaching the Due Process Limits of Puntive Damages in Tobacco Litigation Through Unitary Classwide Adjudication*, 36 Wake Forest L. Rev. 979, 986 (2001)(emphasis added). Thus, the ''endless'' nature of punitive damages litigation will—at least according to this commentator (a tobacco litigation plaintiffs' attorney)—only get worse.

EXHIBIT 2

There are several states that through statute or care precedent allow a court to appoint a special prosecutor in the event that the district attorney is unable or unwilling to prosecute a case. The following is a summary of the applicable statute or case law in several states authorizing the replacement of prosecutors.

STATUTE

New York—NY CLS County §701 provides that when a district attorney cannot attend in a court in which he or she is required by law to attend or is disqualified from acting in a particular case, the criminal court may appoint another attorney to act as special district attorney ''during the absence, inability or disqualification of the district attorney.''

Pennsylvania—71 P.S. §732–205 provides that the Attorney General shall have the power to prosecute in any county criminal court upon the request of a district attorney who lacks the resources to conduct an adequate investigation or prosecution or if there is actual or apparent conflict of interest. Also, the Attorney General may petition the court to permit him or her to supersede the district attorney in order to prosecute a criminal action if he or she can prove by a preponderance of the evidence that the district attorney has failed or refused to prosecute and such failure or refusal constitutes an abuse of discretion.

Minnesota—Minn. Stat. §388.12 provides that a judge may appoint an attorney to act as or in the place of the county attorney either before the court or the grand jury.

North Dakota—If a judge finds that the state's attorney is absent or unable to attend the state's attorney's duties, or that the state's attorney has refused to perform or neglected to perform any of his duties to institute a civil suit to which the state or county is a party and it is necessary that the state's attorney act, the judge shall (1) request that the district attorney take charge or the prosecution or (2) appoint an attorney to take charge of the prosecution.

Tennessee—Tenn. Const. art. VI, §6 provides that in all cases where the Attorney for any district fails or refuses to attend and prosecute according to law, the Court shall have power to appoint an Attorney pro tempore.

CASE LAW

Florida—*Taylor* v. *Florida*, 49 Fla. 69 (1905)—The Supreme Court of Florida held that absent an express legislative statement prohibiting a court from doing so, in the event the state attorney refuses to represent the state, that a court has the inherent power to appoint another attorney.

Arkansas—*Owen* v. *State*, 263 Ark 493 (1978)—The Supreme Court of Arkansas held that ''[i]t is well settled that the circuit judge had the power to appoint a special prosecuting attorney.'' Various other state courts have embraced the inherent power concept of a court to appoint a special prosecutor in a criminal case. See *White* v. *Polk County*, 17 Iowa 413 (1864); *Territory* v. *Harding*, 6 Mont. (1887); *State* v. *Henderson*, 123 Ohio St. 474 (1931); *Hisaw* v. *State*, 13 Okla. Crim. 484 (1917).

Mr. SPECTER. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, I would like to note for the record two previous statements I made on this subject, one on September 7, 2000, appearing in the CONGRESSIONAL RECORD beginning at page S–8188, and also a statement on September 15, 2000, appearing in the CONGRESSIONAL RECORD on page S–8625. I would note that my statement of September 7, 2000, provides some more detailed facts concerning the Ford-Firestone issue and discusses several other cases involving punitive damages.

I note one other consideration, and that is, I am aware that in subscribing to the requirement that there is a criminal prosecution as a basis for an award of punitive damages, that does require proof beyond a reasonable doubt. On punitive damages, there have been varying standards applied, for example, clear and convincing evidence. And while proof beyond a reasonable doubt is obviously more than a preponderance of the evidence, it is my view that where you deal with these horrendous kinds of cases—the Pinto, where there is a calculation regarding the gas tank in the rear of the car, or the Ford-Firestone case—in these kinds of cases where we are really looking to make an example, that the proof will be there for proof beyond a reasonable doubt.

Having had some considerable experience prosecuting criminal cases, it has been my view that in most situations the vagaries of burdens of proof—beyond a reasonable doubt, clear and convincing evidence, preponderance of the evidence—really are not the ultimate determinants. But to the extent that proof beyond a reasonable doubt is an additional burden, I think the gain in moving in this direction to impose criminal liability is certainly worth it from the point of view of public policy.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent the order for the quorum call be rescinded and that I be recognized as in morning business.

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

HUMAN CLONING

Ms. LANDRIEU. Madam President, I understand we are going to be voting on a very important bill at about 3:45, in just 20, 25 minutes. I support the bill on terrorism insurance creating a mechanism for us to create a system in this country for a new kind of insurance, unfortunately, one for which there has become an apparent need since September 11, and without which there would be a great hardship for our banking and financial industries and also for our real estate developers. Frankly, all businesses—many in Louisiana—are affected across our Nation.

So I am going to be supportive of this terrorism insurance bill, and have been supportive of it in the process of trying to bring it to the floor for a final vote.

But I want to take a few minutes, before we actually vote on that bill, to speak on an issue that is not directly before the Senate but is something in which many of us are involved, and for which we are trying to come up with some solutions. This is the very important issue involving the subject of cloning. It involves issues related to potential research in cloning.

We believe this is a subject the Senate and Congress is going to have to address, and we are attempting to address it. There are various differences of opinion about how to do that. So I come to the floor to speak for a minute while we have some time.

First of all, as you know, Madam President, and as many of my colleagues know, I am working with Senator BROWNBACK and Senator FRIST and others to try to fashion a position on this bill that would basically create a moratorium of some type—either long term, short term, or intermediate term—because we believe this is an issue with serious ethical considerations and one that we, as a Congress, and as leaders, should have to give very careful consideration to before we would go forward.

That has been the essence of our approach, just trying to slow things down so that perhaps we could get enough information to say that we should not, at any time, under any circumstance, go forward with human cloning. But the basis of our approach has been a moratorium to give us more time to get some of this important information out to the public.

This is an issue of great concern to the public. Generally, I think people want to be supportive of ethical kinds of research, particularly for the development of cures for diseases. Juvenile diabetes comes to mind; also cures for cancer and spinal cord injuries.

We want to be very supportive of ethical approaches to research to provide cures for people who are suffering: children, adults, older people. I think this Senate has gone on record, in a truly bipartisan fashion, supporting the increase in funding for the National Institutes of Health, and it has been a remarkable increase in funding. I, for one, have been very strongly supportive of that funding and want it to continue.

But I want to spend a moment talking about some of the problems—ethical and otherwise—associated with the process of human cloning and to suggest that the Feinstein-Kennedy approach, which basically would be asking the Senate, if you will—and why I am not supporting that approach—and Congress to consider, for the first time, sanctioning or legalizing human cloning.

I do not think there is enough information for us to make that decision. Let me give you a couple of reasons.

First of all, some of the proponents of human cloning—people who say we should go forward with human cloning—try to make a distinction between human cloning and therapeutic cloning or reproductive cloning or nuclear transfer.

One of the points I want to make is that human cloning is human cloning

is human cloning. It is just a matter of where you stop the process. The process is exactly the same. Terms have been used to describe it in a variety of different ways. There may be many terms, but there is just one process. There may be many names, but there is one process.

As shown on this chart, it is the one process that we are talking about. There are not two or three or four processes; there is one process. That process involves an unfertilized egg and a cell from an adult stem cell. The nucleus is removed and put into this unfertilized egg, and it becomes basically an embryo.

The Feinstein-Kennedy-Specter approach says that we should basically authorize this for the first time, say it is legal, authorize it, and engage in the creation of a human embryo—not a plant, not an animal, but a human embryo; and then just say at a certain point—whether it is 12 days or 14 days or 16 days—that embryo would then be destroyed, basically before it is implanted. That is the Feinstein-Kennedy-Specter approach.

Senator BROWNBACK and I—because of many similar concerns and some different concerns—and Senator FRIST believe the line should be drawn at this point until we can make a better determination about the risks and benefits associated with human cloning; that is, to stop the process before it begins.

One of the reasons we believe this—although the law might try to draw a line here after the embryo has been created—is because it is going to be very difficult, if not impossible, to enforce this line because somewhere, some time, that line is going to be pierced and we will end up having a cloned embryo implanted. Then the question is, What do you do then?

The possibilities of passing any kind of so-called compromise that would legalize and authorize human cloning for the first time in our Nation's history could get us on to a very slippery slope. That is why some of us are urging to slow it down, have more study, and have a short-term moratorium, which even President Clinton, in his term as President, said—of course, when Dolly, the sheep, was created—that is exactly what we should do until we get more information about the benefits and risks associated with cloning.

So it is not only President Bush who is urging us to slow down, but both Democrat and Republican administrations. And you can understand why. It puts us on a very slippery slope if we—and I hope we do not; and I am going to fight to make sure we do not—start with the premise that we can legalize human cloning, authorize it, potentially even fund it with Government funding; that we at least legalize it so that millions of private dollars flow into the research on human cloning, harvesting, creating these millions of embryos in labs all around the country and supporting their development in labs all around the world—harvesting them and destroying them, harvesting them and destroying them, harvesting them and destroying them.

Then, at some point, because these are not Government-run labs, these are private sector labs, these are people who will be working—to give everybody the benefit of the doubt, let's say most people are working on some potential cures for diseases, although they may be far in the distance, but it is not inconceivable, and it is common sense to believe that at some point somebody—a scientist, a patient, a woman, a couple—is going to push the envelope, implant what is a legal clone, and then look at us or go call a press conference and say: Now what? It is a clone that has been created because we have legalized it. It is a clone. We will have legalized it, if we pass a bill that does legalize it. And then the question is, What are you going to do about it?

Once a clone is implanted, what do we do if it is delivered or born healthy? That is one issue. What if it is born grossly mutilated, which is probably, based on the Dolly, the sheep, experiment and research, going to happen because 275 embryo trials were used to create Dolly, the sheep. All of them ended in death or destruction to the creature, the clone being created, and then finally a clone was successfully delivered.

For us to think that this is the time—there has been only one hearing in a Senate committee on this subject, at least in recent years; perhaps there were some many years ago, but I don't think so—to move forward with a bill that would authorize human cloning is at best premature and, frankly, in my opinion, at this particular point, wholly unproven technology with tremendous ethical questions and great difficulty in trying to police what would basically be an authorized legal process of creating for the first time in America human clones.

That is as simple as I can state it. There is not a difference between therapeutic cloning or nuclear transfer. There are many names for it, but it is one process. It is the same process. The issue is, should we start that process and, if so, where should we stop it. Another question is, Could you really stop it once it is started?

The other reason I am suggesting a pause, a moratorium of some nature, maybe 2 years, 3 years, 4 years, enough time for us to develop a blue ribbon panel of scientists, not with preordained notions but truly a group of scientists who can help us as a nation figure out what would be, if any, benefits of human cloning, we have to realize that right now in the body of the law we are not even engaging in the full range of stem cell research that holds tremendous potential for the discovery of cures for many of these diseases.

We have very limited research on stem cells going on in this country, either adult or embryonic stem cells. Why? Because we have not even come to a consensus on that. Human cloning takes us many steps past that issue. We can work on nonclones. We can work on noncloned embryos and still get a tremendous amount of benefit without the terrible ethical consideration this raises.

The third issue is, if you think about it, even in a macro sense, even those of us who are not trained as doctors or scientists could understand that one issue that might compel a person, a family, a grieving parent over a fatally ill child or a spouse over another fatally ill spouse would be if the research or the benefits could not be derived from regular embryos or from stem cells on nonclones, and the only way to cure this person's particular disease would be to get something harvested from a clone. That is the rejection issue.

If everything else has been exhausted, none of the other methods or procedures is working in other areas, then perhaps we would have to get tissue or research or some piece of a cell from a cloned embryo. We are so far from making that determination. I have not read one scientific study, one legitimate group of scientists anywhere, not any prize winners, not any research has been done or even theorized that that would be the only way, the rejection issue, to overcome the objections to cloning.

Those of us who are urging a moratorium are not against research. We are strongly—many of us—supportive of stem cell research. But to rush headlong into a process that will for the first time legalize human cloning because there might be a slight benefit, which is totally unproven, to get over a rejection issue by using a human clone is a real stretch, and it is very premature.

What I am hoping is that we can continue this debate for Members to come to the floor and speak about some of these issues at the appropriate time. We don't want to hold up other important bills. But this is a very important bill for our Nation. It will set a pace, a direction for our research.

I am hoping in the next several days and weeks we can come up with a compromise on this issue that will not authorize the creation of clones but that will allow us some more time to study the benefits of human cloning, if there are any, if it can be proven, and if those benefits outweigh the grave risk, the tremendous risk associated with legalizing human cloning, and then trying to stop the implantation of the clones. I think it puts our society at a great risk, at a great disadvantage, to try to regulate something we have never tried to regulate before.

The Feinstein-Kennedy approach is not a ban on human cloning; it is an exception to the ban on human cloning. It would authorize and legalize human cloning for the first time in our Nation's history. We have to be very careful before we open what could be a Pandora's box or at least get us on a slippery slope towards a system where we

have actually legalized and authorized the development of human clones.

If this study comes out and the research suggests the only way to find cures for this disease for this particular individual might be to explore the benefits or to explore the opportunities in a clone, maybe some ethical considerations would be outweighed if a life could be saved or if this is the only way to save a life. But we are not anywhere near that.

I urge my colleagues to take a very close look at what Senator BROWNBACK and Senator FRIST and I will suggest as a compromise to get us through these next years, using our good values and our common sense and our ethics, always promoting good research and good science, but not getting ourselves in a direction where we cannot pull back and causing our population to have to deal with the birth of a first human clone.

To then have to ask ourselves, why didn't we do something more to stop this and what do we do now that we have the first clone alive and in the world—we have to think about it.

I hope we can come to terms with this issue. That is why I wanted to spend some time speaking about it.

It is a very exciting time in science. We are exploring and inventing and discovering things people even 25 or 30 or 40 years ago thought could never possibly be. There are some wonderful things about science and discovery, but there are limits that sometimes need to be placed. We have now for the first time in human history come to terms with the fact that we can create not a plant clone, not an animal clone, but the potential to create a human clone.

The question before the Congress is, Should we start that process? I am saying as simply as I can, before we start, we had better be sure of what we are going to do, when basically the line we draw is breached, as surely as it will be one day, and make sure we can draw a line and set a framework in place that minimizes the chances of a human clone being born in our lifetime or forever.

I think it is definitely worth debating and worth considering. I yield back the remainder of my time. I see my colleague from the great State of Connecticut is with us.

Before I yield the floor, I ask unanimous consent to have two articles by Charles Krauthammer printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 10, 2002]

RESEARCH CLONING? NO.

(By Charles Krauthammer)

Proponents of research cloning would love to turn the cloning debate into a Scopes monkey trial, a struggle between religion and science. It is not.

Many do oppose research cloning because of deeply held beliefs that destroying a human embryo at any stage violates the sanctity of human life. I respect that view, but I do not share it. I have no theology. I do not believe that personhood begins at conception. I support stem cell research. But I oppose research cloning.

It does no good to change the nomenclature. The Harry and Louise ad asks, ''Is it cloning?'' and answers, ''No, it uses an unfertilized egg and a skin cell.''

But fusing (the nucleus of) a ''somatic'' cell (such as skin) with an enucleated egg cell is precisely how you clone. That is how Dolly the sheep was created (with the cell taken not from the skin but from the udder). And that is how pig, goat, cow, mouse, cat and rabbit clones are created.

The scientists pushing this research go Harry and Louise one better. They want to substitute the beautifully sterile, high-tech sounding term SCNT—''somatic cell nuclear transfer''—for cloning. Indeed, the nucleus of a somatic cell is transferred into an egg cell to produce a clone. But to say that is not cloning is like saying: ''No, that is not sex. It is just penile vaginal intromission.'' Describing the technique does not change the nature of the enterprise.

Cloning it is. And it is research cloning rather than reproductive cloning because the intention is not to produce a cloned child but to grow the embryo long enough to dismember it for its useful scientific parts.

And that is where the secularists have their objection. What makes research cloning different from stem cell research—what pushes us over a moral frontier—is that for the first time it sanctions the creation of a human embryo for the sole purpose of using it for its parts. Indeed, it will sanction the creation of an entire industry of embryo manufacture whose explicit purpose is not creation of children but dismemberment for research.

It is the ultimate commodification of the human embryo. And it is a bridge too far. Reducing the human embryo to nothing more than a manufactured thing sets a fearsome desensitizing precedent that jeopardizes all the other ethical barriers we have constructed around embryonic research.

This is not just my view. This was the view just months ago of those who, like me, supported federally funded stem cell research.

The clinching argument then was this: Look, we are simply trying to bring some good from embryos that would otherwise be discarded in IVF clinics. This is no slippery slope. We are going to put all kinds of safeguards around stem cell research. We are not about to start creating human embryos for such research. No way.

Thus when Senators Tom Harkin and Arlen Specter were pushing legislation promoting stem cell research in 2000, they stipulated that ''the stem cells used by scientists can only be derived from spare embryos that would otherwise be discarded by in vitro fertilization clinics.'' Lest there be any ambiguity, they added: ''Under our legislation, strict federal guidelines would ensure [that] no human embryos will be created for research purposes.''

Yet two years later, Harkin and Specter are two of the most enthusiastic Senate proponents of creating cloned human embryos for research purposes.

In testimony less than 10 months ago, Senator Orrin Hatch found ''extremely troubling'' the just-reported work of the Jones Institute, ''which is creating embryos in order to conduct stem cell research.''

The stem cell legislation Hatch was then supporting—with its ''federal funding with strict research guidelines,'' he assured us—was needed precisely to prevent such ''extremely troubling'' procedures.

That was then. Hatch has just come out for research cloning whose entire purpose is ''creating embryos in order to conduct stem cell research.''

Yesterday it was yes to stem cells with solemn assurances that there would be no embryo manufacture. Today we are told: Forget what we said about embryo manufacture; we now solemnly pledge that we will experiment on only the tiniest cloned embryo, and never grow it—and use it—beyond that early ''blastocyst'' stage.

What confidence can one possibly have in these new assurances? This is not a slide down the slippery slope. This is downhill skiing. And the way to stop it is to draw the line right now at the embryo manufacture that is cloning—not just because that line is right, but because the very notion of drawing lines is at stake.

[From the Washington Post, July 27, 2001]

A NIGHTMARE OF A BILL

(By Charles Krauthammer)

Hadn't we all agreed—we supporters of stem cell research—that it was morally okay to destroy a tiny human embryo for its possibility curative stem cells because these embryos from fertility clinics were going to be discarded anyway? Hadn't we also agreed that human embryos should not be created solely for the purpose of being dismembered and then destroyed for the benefit of others?

Indeed, when Senator Bill Frist made that brilliant presentation on the floor of the Senate supporting stem cell research, he included among his conditions a total ban on creating human embryos just to be stem cell farms. Why, then, are so many stem cell supporters in Congress lining up behind a supposedly ''anti-cloning bill'' that would, in fact, legalize the creation of cloned human embryos solely for purposes of research and destruction?

Sound surreal? It is.

There are two bills in Congress regarding cloning. The Weldon bill bans the creation of cloned human embryos for any purpose, whether for growing them into cloned human children or for using them for research or for their parts and then destroying them.

The competing Greenwood ''Cloning Prohibition Act of 2001'' prohibits only the creation of a cloned child. It protects and indeed codifies the creation of cloned human embryos for industrial and research purposes.

Under Greenwood, points out the distinguished bioethicist Leon Kass, ''embryo production is explicitly licensed and treated like drug manufacture.'' It becomes an industry, complete with industrial secrecy protections. Greenwood, he says correctly, should really be called the ''Human Embryo Cloning Registration and Industry Facilitation and Protection Act of 2001.''

Greenwood is a nightmare and an abomination. First of all, once the industry of cloning human embryos has begun and thousands are being created, grown, bought and sold, who is going to prevent them from being implanted in a woman and developed into a cloned child?

Even more perversely, when that inevitably occurs, what is the federal government going to do: Force that woman to abort the clone?

Greenwood sanctions licenses and protects the launching of the most ghoulish and dangerous enterprise in modern scientific history: the creation of nascent cloned human life for the sole purpose of its exploitation and destruction.

What does one say to stem cell opponents? They warned about the slippery slope. They said: Once you start using discarded embryos, the next step is creating embryos for their parts. Frist and I and others have argued: No, we can draw the line.

Why should anyone believe us? Even before the President has decided on federal support

for stem cell research, we find stem cell supporters and their biotech industry allies trying to pass a bill that would cross the line—not in some slippery-slope future, but right now.

Apologists for Greenwood will say: Science will march on anyway. Human cloning will be performed. Might as well give in and just regulate it, because a full ban will fail in any event.

Wrong. Very wrong. Why? Simple: You're a brilliant young scientist graduating from medical school. You have a glowing future in biotechnology, where peer recognition, publications, honors, financial rewards, maybe even a Nobel Prize await you. Where are you going to spend your life? Working on an outlawed procedure? If cloning is outlawed, procedure? If cloning is outlawed, will you devote yourself to research that cannot see the light of day, that will leave you ostracized and working in shadow, that will render you liable to arrest, prosecution and disgrace?

True, some will make that choice. Every generation has its Kevorkian. But they will be very small in number. And like Kevorkian, they will not be very bright.

The movies have it wrong. The mad scientists is no genius. Dr. Frankensteins invariably produce lousy science. What is Kevorkian's great contribution to science? A suicide machine that your average Hitler Youth could have turned out as a summer camp project.

Of course you cannot stop cloning completely. But make it illegal and you will have robbed it of its most important resource: great young minds. If we act now by passing Weldon, we can retard this monstrosity by decades. Enough time to regain our moral equilibrium—and the recognition that the human embryo, cloned or not, is not to be created for the sole purpose of being poked and prodded, strip-mined for parts and then destroyed.

If Weldon is stopped, the game is up. If Congress cannot pass the Weldon ban on cloning, then stem cell research itself must not be supported either—because then all the vaunted promises about not permitting the creation of human embryos solely for their exploitation and destruction will have been shown in advance to be a fraud.

TERRORISM RISK INSURANCE ACT OF 2002—Continued

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Madam President, I rise to speak in favor of S. 2600, the Terrorism Risk Insurance Act of 2002. Before I get to the substance of the measure, I thank and praise my colleague and friend from Connecticut, Senator DODD, for his extraordinary work in drafting a practical, effective solution to the terror insurance crisis.

As we all know, this has been an arduous and, at times, frustrating process. Senator DODD has proven to be not only tenacious but almost divinely patient in pursuit of this legislation. I congratulate him and thank him for the success that I am confident this bill will enjoy when it is voted on a little more than an hour from now.

I wish to speak for a moment about why this is so important, perhaps as a summary as we approach the vote.

Property and casualty insurance is not an optional matter for businesses in our country. Nearly every business I know of buys insurance to protect its equipment, its property, its stock, to guard against liability, and to safeguard its employees, for instance, under State workers compensation laws. Property and casualty insurance is required by investors and shareholders. Of course, it is required by banks that lend for construction of new buildings or other projects.

In the event property and casualty insurance for major causes of loss is not available or is prohibitively expensive, businesses face very painful choices and, in fact, will probably end up being paralyzed. Construction projects will come to a halt, and banks will not lend. If one multiplies this across an economy, the impact will be quite severe and particularly difficult and painful at this time as our economy remains uncertain and flat.

We are here today because the ability of businesses to continue buying insurance will be placed at severe risk if we fail to address the way life and risk have changed since the attacks on America of September 11. Underwriting an insurance policy obviously requires companies to assess that risk and to estimate damages in a way that is much more tangible than most of us have done, although we know our lives and our history were changed on September 11.

For those in business and in the business of insurance or reinsurance, this comes down to an attempt to evaluate that risk in terms of probabilities and ultimately dollars and cents.

In the case of claims for damages caused by terrorist attacks, there is obviously no easy way to do this. There are so many uncertainties, but one thing is certain, and that is that losses from terrorist attacks, as we have already painfully seen and felt, can cost tens of billions of dollars, and under worse case scenarios, possibly hundreds of billions of dollars.

Insurance is a very competitive industry, but what most Americans, although most have contact with some form of insurance, may not realize is that insurance companies need and buy their own insurance. In other words, they are dependent on so-called reinsurers that help them spread the risks that they assume when they sell insurance to us and cover their losses.

When reinsurers will not renew their contracts unless they contain terrorism exclusions or limitations, there are going to be an awful lot of insurance companies that will not be able to provide terrorism coverage, in most cases not at any cost but in other cases only at a prohibitive cost. That is not just a possibility today; that is a very real probability.

Across the country, insurers are in danger of losing their contracts with reinsurers because of the reinsurers' unwillingness to accept the risks of possible terrorist attacks. If this happens, and the insurers are not able to include terrorism exclusions or limitations, insurers may not be able to offer any policy at any price.

This is not a matter of speculation anymore. Notices have effectively gone out, discussions have occurred, letters have been exchanged between reinsurers and insurers and those who are insured, as we read in the paper today.

That uncertainty on the part of the insurance industry has now come to the point where it is haunting consumers and will hurt consumers, purchasers of insurance, developers, businesses, and real estate owners. American businesses will not be able to get the policies they need at a reasonable price. They will not be able to get the financial protection they require.

There is nothing we can do in Congress within the limits of our Constitution, as I read it, to require by law that insurance companies write policies that they do not want to write because of what they evaluate to be a market and financial factor, but we can and must avoid creating the conditions that force reinsurers to drop insurers and insurers to drop American businesses or charge such exorbitant rates that they may as well be dropping them off their rolls.

We have to intervene in this process to create a backup, to create enough security for reinsurers to reenter the market and for insurers to continue to insure American businesses and keep them going and growing hopefully at this stage in our economic history.

In recognition of this serious crisis, State regulators are already considering terrorism exclusions, as they must, consistent with their responsibilities to oversee the solvency of the insurance industry, but State laws will only patch the problems and leave businesses without the insurance they need to continue operating. They will not eliminate the crisis. It is clear, therefore, that we in Congress must act, and this sensible legislation is clearly the way to do it. This legislation will provide businessowners with the opportunity to buy insurance against terrorism claims and to do so in the private market as well. It would establish a temporary Federal backstop for insurance to cover against damages resulting from terrorist attacks, a program that would last for a year and gives the Secretary of the Treasury authority to extend the program for another year.

This temporary backstop is intended to provide the insurance industry with time to assess the dramatically changed risk of claims resulting from terrorist attacks.

As the industry determines how to price the risk and determine appropriate premium levels for terrorism insurance, hopefully the need for the Federal emergency backstop we are creating will lessen.

I do point out that what this legislation will accomplish is not unprecedented. In fact, the Federal Government has a history of partnering, if I can put it that way, with the insurance industry to provide coverage for risks that are just too big or unpredictable

or uninsurable, literally, for the industry to handle alone. I cite as examples the flood insurance programs, the crop insurance programs, or the nuclear liability insurance programs that the Federal Government is involved in as a supplement or assist or backstop to private insurance industries. Those risks are, in some ways, actually more insurable than terrorism, but in each case the Federal Government stepped in because we understood the very real risk of people having their policies dropped and being left without basic protection.

In the interest of economic security and in some sense of consistency, we now have to offer the American people a similar guarantee after September 11 that insurance coverage will be offered in the case of terrorism.

Again, I congratulate Senator DODD and all those who have worked with him, as well as members of the Banking Committee, and, not surprisingly, because of the suffering endured in New York in human and economic terms, our colleagues from New York, Senator SCHUMER and the occupant of the chair, Senator CLINTON. I thank them all for their leadership. I thank everyone for the ultimate spirit of accommodation that will, I am confident, allow this bill to pass. We need it to become law as soon as possible, and I am hopeful that today's action will be to exactly that result before it is literally too late.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I ask unanimous consent that I be recognized to speak as in morning business.

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

FAIRDRUGPRICES.ORG

Ms. STABENOW. Madam President, I appreciate my colleague from Connecticut speaking about the bill that is before us, and I certainly share his beliefs about the need for terrorism insurance and hope we will be passing this bill shortly. I found, though, that as I was listening to him today, I was thinking about another kind of terror, and insurance we need to be providing, and that is the terror that too many of our citizens, particularly our seniors, experience when they find themselves in a situation with an illness and they cannot afford the medications they need to be well.

I think of the terror a breast cancer patient feels when she is told she needs tamoxifen and cannot afford the $136 a month, which it is in Michigan, to purchase that tamoxifen. I think of the terror a family with a disabled child feels when they cannot get the medicine they need, or the terror of a small business man or woman when they see their health care premiums rise 30 to 40 percent this year. They know the majority of that is because of the explosion in the costs of prescription drugs. So there are a number of ways in which we need to be addressing terror and fear in our country.

I rise today to urge my colleagues, on both sides of the aisle in the Senate, to come together and support a comprehensive Medicare prescription drug benefit, to support the bill that my colleagues, Senator GRAHAM and Senator MILLER, have introduced—I am pleased to be a cosponsor of that bill—as a comprehensive response to the terror our seniors are experiencing when they are not able to get the desperately needed medications they need to remain in their home, to remain healthy, to be able to continue to live their lives.

I was very concerned to see over the weekend and to read today about the actions the House Republicans are taking at this very moment. I was hoping, when we pointed out the inadequacies in the bills they have been talking about, they would make corrections so that we could move together on a comprehensive bill that is effective for our seniors and actually helps them.

I am very concerned, when I see the numbers, about what is happening. The bills that are being put forward by the Republicans appear to have very little positive effect and in some cases could even be argued to hurt the situation. Families USA has come up with an analysis, and I will quote from their analysis, about the percentage of out-of-pocket expenditures that seniors would have at various levels of their drug costs under the House Republican plan. For a senior who needed to spend $1,000 a year, they would find they would still pay 81 percent of that $1,000 under the House plan. If they had a $2,000 bill per year, they would still pay about 65 percent. If they had a $3,000 bill per year, they would pay about 77 percent out of their pocket. If they had a $4,000 bill per year, they would be paying 83 percent of it. I cannot believe all of the effort by our colleagues in the House that is going into passing this kind of prescription drug legislation for our seniors. That is not good enough. We can do better.

I am so pleased our leader has made a personal commitment to make sure we bring this bill up in July and we vote on this bill for Medicare prescription drug coverage. I am very pleased our bill would in fact provide real coverage of 60 percent, 70 percent, of the bill. We would cover the majority of the prescription drug bill for our seniors.

So I am urging once again that our citizens across the country get engaged in this debate to make sure that what happens in the Congress is the right action. There are a number of consumer groups and senior groups that have come together across the country to form a Web site, fairdrugprices.org. I urge people to go to this Web site, log on, and sign the petition that they have set up calling on all of us to create a meaningful prescription drug benefit and lower prices for everyone: For the senior, for the farmer, the small business, the large business, anyone who is paying the high prices of prescription drugs. If you go to fairdrugprices.org, you can get involved, sign a petition, communicate with us about what needs to be done. I urge everyone who is listening today to do that.

I am very concerned that as we are debating the priorities of the country—and last week we were debating whether or not to extend a tax cut that we know goes overwhelmingly to those at the very top in terms of the estate tax and the extension of the tax cut that was put into place for 10 years.

It bothers me when I see that in the year 2012, when this would be extended, the tax cut would cost $229 billion, which is three times more than they want to dedicate in the House for prescription drug help, three times more than what they are willing to provide for our seniors and people who are disabled or families who have disabled children, three times more for a tax cut to the very wealthiest Americans who, it is my guess, are not worried about whether or not they can buy their medicine. They are not having to struggle and go into the pharmacy, look at the bill after they give their prescription, and walk away with the pills still sitting on the counter because they were not able to afford to pay for them.

My guess is that the folks who are being proposed for another tax cut are not deciding whether they are going to cut their pills in half or take them every other day or not at all.

I support efforts on tax relief, and I support our family-owned businesses and farmers not having to pay the estate tax, but I also know there is a way to set priorities that will make sure we are keeping the promise of Medicare that was set up in 1965.

In 1965, one of the great American success stories was passed by this Congress, and that was the promise of health care coverage for our seniors and the disabled. But because we have changed the way we provide health care today, people are not going into the hospital, probably not going in for an operation; instead, they have the ability—all of us do, and a blessed opportunity—to remain at home, to receive prescriptions rather than having an operation. But Medicare does not cover those outpatient prescriptions.

So the great American success story that was passed in 1965 is no longer providing the promise of health care. We are committed to making sure that we modernize Medicare, that we update it to cover the prescription drugs. I worry, as I see all of the effort going on in the other side of the building by our Republican colleagues, all of the effort of not only one committee but two committees, and two bills, and then we look at what they are providing, and we see that on average they are providing 20 percent of the costs of prescription drugs. That means 80 percent is being paid for out of the pockets of

our seniors. I suggest that is not the best priority for our country.

I am very concerned that this is a complicated system they are setting up. There are gaps between $2,000 of out-of-pocket expenses a year and $4,500 or $5,000—we are not sure which number they will end up with—but that gap leaves no help for a senior with a bill from $2,500 to $5,000. That gap between $2,000 and $5,000 is a gap leaving seniors to pay the premium while receiving no assistance.

There are serious problems. I am told half of Medicare beneficiaries will receive no drug coverage for at least part of the year. Half of the Medicare beneficiaries will receive no help for at least part of the year under the proposal now being considered in the House of Representatives.

I am also concerned that rather than relying on the Part B premium as we have provided health care to this point to a private sector/private sector-public sector working together on Medicare, they are discussing having private insurance companies create prescription drug-only policies and relying on private insurance companies to provide this coverage.

We hear the insurance companies do not want to write those policies. If those were profitable policies, they would already be writing the policies. It is not profitable to write prescription-only policies for people who need prescriptions. The idea is to spread the risk between those who are healthy and those who need care. Those who are likely to want an insurance policy for prescription drugs probably are using prescription drugs. Insurance industry folks say they are not interested.

What do our Republican colleagues do? They give dollars to the insurance companies to provide this coverage rather than providing it under Medicare. The Republican bill allows Medicare to pay insurance companies more in order to write these policies rather than just using the Medicare process that has worked so well.

There are a lot of flaws. They are using a structure that does not work with private insurance companies rather than having the clout of 40 million seniors under Medicare, enabling a lowering of the prices, using a system that is tried and true; they want to bring in a new system. The reality is there is no interest in the private sector to provide this type of insurance.

We see on the other side of the aisle, and the other side of the building, two committees working on legislation that, in fact, will do little to help our seniors, those with disabilities who need help with prescription drugs. We can do better. We have the opportunity to do better.

I share from this morning's New York Times a portion of a column by Paul Krugman, outlining what is happening. I encourage Members to read this. He says:

. . . the Senate Democrats have a plan that can be criticized but is definitely workable. The House Republicans, by contrast, have a plan that would quickly turn into a fiasco—but not, of course, until after the next election.

He then goes on to say:

. . . Senate Democrats have a plan that is sensible and workable, but House Republicans surely won't agree to anything resembling that plan. Senate Democrats might be bullied into something resembling the House Republican plan, but since that plan is completely unworkable, that's the same as getting no drug plan at all—which, I suspect, is what the Republican leaders really want in any case.

We are not going to be bullied into a plan that does not do the job. There is no doubt in my mind. We have a commitment. Our seniors have heard for too long, too many election cycles, that Medicare will cover prescription drugs. I know a lot of seniors are saying nothing will ever change. Yet the prices keep going up, the need for care keeps going up, and the choices the seniors have to make keep getting bigger and bigger and bigger.

We can do better than that. We in the Senate are committed to doing better than that. I urge everyone listening today to engage in this fight with us. There are six drug company lobbyists for every one Member of the Senate. We need the people's voice. We are willing and able and determined to bring a comprehensive Medicare prescription drug bill to the floor of the Senate in July. We urge everyone to get involved in this debate.

There are substantive differences in plans and how they will affect seniors and families. We need to get through the smoke and mirrors and down to the facts, look at comparisons, have honest critiques, and pass a bill that works and makes sense. It is time to completely fulfill the promise of 1965 with the passage of Medicare, and 2002 is a great time to do it. It is long overdue.

I invite people to engage in this debate and make sure the best proposal passes and passes quickly. I suggest reviewing www.fairdrugprices.org and get involved.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REED). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TERRORISM RISK INSURANCE ACT OF 2002—Continued

The PRESIDING OFFICER. The Chair notes that the time between the two Senators is equally divided.

Mr. GRAMM. Mr. President, we are coming down to a vote at 4:45. I intend to vote no. I don't expect many other Members to vote no, nor am I encouraging people to vote no. But I want to try to explain the problem I have and explain a little bit of the history of this bill so people know where we are coming from.

I think we have about 14 minutes each. Is that right?

The PRESIDING OFFICER. The Senator from Texas has approximately 10 minutes 30 seconds.

Mr. GRAMM. Mr. President, when terrorism insurance was first proposed, the whole logic was that we were going to have the Federal Government step in to help provide insurance coverage and pay claims when there was a cataclysmic event.

When we first started debating this issue in the House of Representatives, insurance companies had to pay back money that was paid by the Federal Government over $1 billion. When we debated it in the Senate, we concluded that if it had to be paid back, you were not providing the assistance we sought, but we were sure when we initially debated this subject we had a very substantial amount of money that the companies had to pay before the Federal Government got in the business of having to pay. The amount the companies have to pay before the Federal Government starts paying is called ''retention.''

When we first started to debate this issue, and when we reached an initial bipartisan agreement in October, I believe it was that companies were required to pay $10 billion before the Federal Government came in to pay claims. Above that $10 billion, the Federal Government was to pay 90 percent of the next $90 billion. The logic of the retention—the amount that the insurance companies had to pay—was basically, No. 1, that the insurance companies are selling this insurance and collecting premiums. The fact that they would cover the initial cost was imminently logical.

No. 2, we wanted to protect the taxpayer unless there was a cataclysmic event.

Thirdly, the whole objective of our bill was to try to encourage the development of reinsurance and to encourage syndication so that no one insurance company would write an insurance policy on the Empire State Building. There might be a lead insurance company that would write the policy. But then they would syndicate and sell off part of the insurance to other companies, or they would simply go into a reinsurance market and sell all or part of the policy—the idea being to distribute the risk not just throughout the United States but throughout the world.

When we reached an agreement in October, the companies had to pay $10 billion before the taxpayer got involved. Many Members of the Senate thought that was too low. We reached an agreement. We announced it, and the White House signed off on it.

We also protected victims of terrorism from punitive damages and predatory losses.

In December, we still had not passed a bill. We were 3 weeks away from 80 percent of the insurance policies in America expiring. There was a belief

that if we did pass a bill right at the end of the session there would not be enough time for syndication and reinsurance to develop. So the bill that was written at that time had an individual company retention but not a $10 billion retention.

This is still very much confused by the media in writing on this subject.

The net result is that the biggest insurance company in America—AIG—has a retention of about $1.6 billion. The smallest insurance companies in the country might have a retention that would be in the tens of millions. That means that is what they have to pay before the taxpayer pays.

That has several problems.

No. 1, companies have already collected premiums. Premiums have gone up. They had to go up because risks have gone up. But premiums have gone up, and insurance companies have collected these premiums. When they wrote the insurance policy, they had no taxpayer backup whatsoever. Now we are coming along, and instead of having $10 billion that the industry has to pay before the taxpayer pays, in some cases some insurance companies will have to pay only millions of dollars before the taxpayer steps in and pays.

It doesn't take a great knowledge of economics or arithmetic to figure out that when people wrote policies and collected premiums based on having to pay the full cost if a claim was made and the Government is going to come in and pay 90 percent of the claim above only a few million dollars in the case of some insurance companies, that you are going to create a very substantial shifting of wealth from the taxpayers to the people who have written the policies, if there is a major claim. And, at a minimum, you are shifting a substantial amount of risk from the insurance company to the Federal Government.

I am one of a handful of Members of the Senate who thought we ought to do a bill. In fact, at one point, I was one of the few people willing to stand up and say so.

I have always believed if we were going to do a bill we had to have a substantial industry retention so the people collecting the premiums paid first, and also so that we had an incentive for industry to syndicate to spread the risk, and an incentive to develop reinsurance.

I am very concerned that the bill, as it is now written, represents an unwarranted shift of risk from the insurance companies to the taxpayer. If there is, God forbid, another attack, it will mean the shifting of billions of dollars from the taxpayer to the insurance companies.

But the biggest concern I have is not about taxpayer risk or about the unintended shift of billions of dollars to private interests from the taxpayer. The biggest concern I have is that by reducing the amount that the companies have to pay before the Government pays, that we are going to reduce the incentive that companies will have to spread the risk to syndicate, to develop reinsurance, and that 2 years from now, when the bill expires, none of these secondary markets will have developed, the Government will have become the primary risk taker, and we will end up extending this indefinitely.

In World War II we had a Government program, but we knew World War II was going to end with the signing of a peace treaty. This war is going to end with the death of some terrorist, and we are not going to know he was the last terrorist in the world.

So I am very concerned that unless we raise this retention level, unless we make companies that have collected the premiums pay a substantial amount of money before the taxpayer pays, that we are never going to get the Government out of this area of insurance.

Our whole focus from the beginning—in fact, I have never heard a Democrat or Republican suggest otherwise—has been that this was a bridge to help us get through this period of great uncertainty so that ultimately these risks could be built into insurance rates.

That is where we are. I think we are making a mistake by not requiring the people who collected these premiums to pay a substantial amount of money first. I think we are planting the seeds to get Government permanently in the insurance business.

Something happened, and it is perfectly reasonable that it would happen. When we were talking about the industry having to pay $10 billion before the taxpayer paid, the industry was delighted that they were going to have the backup of the taxpayer. But in December it was suggested that the industry could pay tens of millions of dollars before the taxpayer paid. And even though all those insurance policies expired on January 1, many of them were rewritten at substantially higher premiums. I am not complaining. Premiums have to go up because risks have gone up. But now to suggest that we should not make the industry pay up to $10 billion before the taxpayer pays, I think, is basically going back on the deal in which we engaged.

I do not doubt that if I were in the insurance business I would probably want the Government to pay the whole claim, and I would want to collect the policy, I would want to collect the premiums. But I think we have a gross overreach here that puts the taxpayer at risk at an unjustifiable level.

Finally, and most importantly, I am concerned that the incentives we are creating here will induce companies not to syndicate, not to spread risk as much as they would; and, as a result, the Government will pay sooner. I am worried that secondary markets will not develop and the Government will not be able to get out of the insurance business. And I am very much concerned that 2 years from now we will be right back here, and the argument will be made that there is no syndication, that there is no secondary market, and, therefore, the Government has to stay in the terrorism insurance business.

We can fix that by changing this bill. We have not done that. That is why I am opposed to it.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, if I may, I want to engage, before some final comments, in a couple of housekeeping matters.

AMENDMENT NO. 3862

First, Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is amendment No. 3862.

Mr. DODD. Mr. President, I make a point of order that the Specter amendment is not germane post cloture.

The PRESIDING OFFICER. The point of order is well taken and the amendment falls.

AMENDMENTS NOS. 3872, 3874 THROUGH 3879, 3881, 3883, 3884, 3885 THROUGH 3887, 3889, AND 3890

Mr. DODD. Mr. President, I ask unanimous consent it be in order for the Senate to consider en bloc the following amendments; that the amendments be considered and agreed to en bloc, and the motion to reconsider be laid upon the table en bloc, without further intervening action or debate: amendments Nos. 3872, 3874 through 3879, 3881, 3883, 3884, 3885 through 3887, 3889, and 3890.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Will the Senator yield?

Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Did the Senator include 3884?

Mr. DODD. I did.

Mr. GRAMM. I would just like to say that we do not have any objection. These are amendments that were agreed to.

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

The amendments (Nos. 3872, 3874 through 3879, 3881, 3883, 3884, 3885 through 3887, 3889, and 3890) were agreed to, as follows:

AMENDMENT NO. 3872

On page 5, line 3, insert ''or vessel'' after ''air carrier''.

AMENDMENT NO. 3874

On page 9, line 19, strike ''the period'' and all that follows through line 22 and insert the following: ''the 1-year period beginning on the date of enactment of this Act; and''.

AMENDMENT NO. 3875

On page 10, beginning on line 2, strike ''the period'' and all that follows through ''2003'' on line 3, and insert ''the 1-year period beginning on the day after the date of expiration of the period described in subparagraph (A)''.

AMENDMENT NO. 3876

On page 10, line 17, insert before the semicolon '', including workers' compensation insurance''.

AMENDMENT NO. 3877

On page 11, line 4, strike the period and insert the following: ''; or

''(iii) financial guaranty insurance.''.

AMENDMENT NO. 3878

On page 11, line 14, strike ''all States'' and insert ''the several States, and includes the territorial sea''.

AMENDMENT NO. 3879

On page 11, between lines 14 and 15, insert the following:

(14) RULE OF CONSTRUCTION FOR DATES.—With respect to any reference to a date on this Act, such day shall be construed—

(A) to begin at 12:01 a.m. on that date; and

(B) to end at midnight on that date.

AMENDMENT NO. 3881

On page 24, line 7, strike ''2003'' and insert ''the second year of the Program, if the Program is extended in accordance with this section''.

AMENDMENT NO. 3883

On page 21, strike lines 1 through page 22, line 14 and insert the fillowing:

(1) IN GENERAL.—The Program shall terminate 1 year after the date of enactment of this Act, unless the Secretary—

(A) determines, after considering the report and finding required by this section, that the Program should be extended for one additional year, beginning on the day after the date of expiration of the initial 1-year period of the Program; and

(B) promptly notifies the Congress of such determination and the reasons therefor.

(2) DETERMINATION FINAL.—The determination of the Secretary under paragraph (1) shall be final, and shall not be subject to judicial review.

(3) TERMINATION AFTER EXTENSION.—If the Program is extended under paragraph (1), the Program shall terminate 1 year after the date of commencement of such extension period.

(b) REPORT TO CONGRESS.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(1) regarding—

(A) the availability of insurance coverage for acts of terrorism;

(B) the affordability of such coverage, including the effect of such coverage on premiums; and

(C) the capacity of the insurance industry to absorb future losses resulting from acts of terrorism, taking into account the profitability of the insurance industry; and

(2) that considers—

(A) the impact of the Program on each of the factors described in paragraph (1); and

(B) the probable impact on such factors and on the United States economy if the Program terminates 1 year after the date of enactment of this Act.

AMENDMENT NO. 3884

On page 12, strike lines 15 through 19 and insert the following: ''of enactment of this Act, on a separate line item in the policy, at the time of offer, purchase, and renewal of the policy; and

''(B) in the case of any policy that is issued before the date of enactment of this Act, as a line item described in subparagraph (A), not''.

AMENDMENT NO. 3885

On page 15, line 3, strike ''the period'' and all that follows through line 6, and insert ''the 1-year period beginning on the date of enactment of this Act—''.

AMENDMENT NO. 3886

On page 16, beginning on line 4, strike ''the period'' and all that follows through ''2003'' on line 6, and insert the following: ''the 1-year period beginning on the day after the date of expiration of the period described in subparagraph (A)''.

AMENDMENT NO. 3887

On page 16, between lines 19 and 20, insert the following:

(D) PROHIBITION ON DUPLICATIVE COMPENSATION.—dThe Federal share of compensation for insured losses under the Program shall be reduced by the amount of compensation provided by the Federal Government for those insured losses under any other Federal insurance or reinsurance program.

AMENDMENT NO. 3889

On page 23, line 19, insert ''5(d),'' before ''and''.

AMENDMENT NO. 3890

On page 23, line 25, strike ''10(b)'' and insert ''9(b)''.

Mr. DODD. I thank my colleague from Texas.

Mr. President, let me point out, one of these amendments is an amendment that was raised by our colleague from Florida, Senator BILL NELSON. I thank him for his work on that amendment. I appreciate the willingness of the Senator from Texas to agree to that change we made in the legislation.

Mr. President, if I may, I would like to speak on this bill in the few remaining minutes we have before the vote. This bill has been 9 months in the process.

I would like to begin by thanking my good friend from Texas. We began together on this legislation a long time ago, a few weeks after the tragic events of September 11. In fact, I recall, very vividly, my friend from Texas leaning over to me and saying we ought to do something in the area of terrorism insurance, not that we called it that at that particular time, but it was the same idea that is contained in the legislation before the Senate today.

So despite whatever differences we may have at this particular moment, I would like to acknowledge his active involvement with this issue. He is one of the few people who was consistently interested in trying to get something done here over these many months.

It has taken us a long time. This is an arcane subject matter. We are literally doing something we have never done before, at least that I know of.

Back in World War II, for acts of war, the Federal Government acted as an insurance company. But, obviously, we are not duplicating that here. We are trying to provide a temporary backstop, if you will, to allow this market to redevelop over the coming months.

So I thank my colleague from Texas for his involvement, despite the fact he may disagree with the product we are going to be voting on in a few short moments.

I would like to thank the leadership. I thank Senator DASCHLE and Senator REID who have been tremendously helpful in putting this bill together. I thank Senator LOTT and others who understood the importance of raising this issue. I thank Senator SARBANES, the Chairman of the committee, and Senator CORZINE, who has been tremendously helpful on this. Senator SCHUMER has also been tremendously helpful.

I would also like to thank the 17 members of the minority this morning who voted to invoke cloture. Without their support, we would not be voting on this measure today and moving this process along.

Additionally I would like to express my gratitude to President Bush and Treasury Secretary Paul O'Neill. They were very involved in the last few days in getting support for this particular effort. So I thank all of them.

This is an important moment. This particular proposal or ideas like it have been sought by a very diverse group of people in the country. Organized labor to real estate, insurance groups—small businesses and large—the list is very long of those insurance consumers who have demanded that we act in this area.

And why? Very simply, there is a major problem continuing to grow out there. We have seen it growing every day. There was a headline even today in the local newspaper here in Washington talking about a major problem with the number of mortgage holders, the GMAC Corporation.

We heard the other day from the commercial mortgage-backed security industry, and the some $7 billion in decline they have experienced in the first quarter. We have a real bottleneck occurring in major construction projects, real estate, and development projects across the country in cities large and small.

Yesterday, in my home State of Connecticut, Simon Konover, a wonderful developer in my State, has a small hotel, not a large one, at Bradley International Airport. And he can get no terrorism insurance. That is not a major development project—it is a small hotel at a regional airport—and he cannot get terrorism insurance at any cost. So this isn't just major development; it is also small projects where, at any cost, you cannot get this product. And if you can get it, it is very costly, as my colleague from Texas has already stated. And I agree with him.

This bill is designed to, one, free up that bottleneck, to get the process moving again.

We will know shortly whether or not what we have done is going to provoke that response. We believe it will. This is a 12-month bill with a possible 12-month extension. It is going to take a Herculean effort to get more than that. Our colleagues believe that 2 years is about what they are willing to try at this particular program. So remember, we are talking about 12 months with a possible extension of 12 more in order to get this moving.

This legislation is critically important for American workers. We hope it

will dampen the tremendous increase that could occur, in the absence of this bill being done, in premium costs. And it is going to make available a product that we think is going to be critically important so that people such as Simon Konover in my State will be able to obtain insurance against terrorist acts. It is going to mean that smaller insurance companies can be involved in this, not just large insurers.

One of the reasons we put retention caps on individual companies is because without doing that you force insolvency upon smaller insurance companies. Consumers would have very limited choices where that product was unavailable, God forbid we do have an event. The idea that insurers are going to go out and gouge their customer base for 1 year with the hopes then of retaining that customer base after this bill expires is unrealistic, in my view.

I have told my colleague from Texas that, as we go into conference, if we can get to conference, I am willing to try to work out something that will at least deal with some of the issues he has raised with the potential problems he sees in the retention area.

On tort reform, the House has significant tort reform. We have some tort reform in this bill. All of us understand we are going to probably come back with some additional limited tort reform. That is the way things work out when you have a conference between the House and the Senate. I am confident that will be the case as well. I hope our colleagues will support this effort.

As I say, it has been 7 months. We are hearing from various groups all across the country that believe this is an important issue to address. We know we are trying to deal with homeland security to protect our personal security from terrorist attack. We also need to be talking about economic security and restoring confidence into this marketplace, This is a product that consumers need and must be made available by the private sector. If we perform our duties today and provide this critical backstop, I believe that it will result in the industry then stepping up to the plate and freeing up this bottleneck I have described in the terrorism insurance area.

There is no guarantee it is going to happen. I can't promise absolutely. But I know this much: If we do nothing, I guarantee you will get skyrocketing premium costs. You may not get this product available to those who need it, and those that are able to obtain the product will pay exorbitantly high premiums for minimal coverage.

We have to conference with the House to work out the differences. I hope at this hour, at this day, we will not walk away from this problem. There are 100 of us here trying to craft legislation. We all bring different ideas to the table. It is not easy to come to a compromise on this kind of an effort, but we have. My hope is that my colleagues will support us, that we will get the bill done. We can send it to the President, and we will try to resolve the issue this problem has posed for all of us.

STATE PREEMPTION

Mrs. BOXER. Mr. President, I recognize the need to move forward on this terrorism insurance bill. I had filed an amendment regarding the state preemption language in this bill. I will not offer that amendment, but I wonder if the Senator from Connecticut will engage in a colloquy with me about that provision.

Mr. DODD. I would be happy to.

Mrs. BOXER. I thank the Senator.

This bill would preempt state law with regard to the prior approval or a waiting period of terrorism risk insurance. Specifically, section 7 states, ''rates for terrorism risk insurance covered by this Act and filed with any State shall not be subject to prior approval or a waiting period, under any law of a State that would otherwise be applicable.''

This language would preempt the law of the State of California and 21 other States where prior approval mechanisms for increases in insurance rates have been put into place to keep insurance companies from gouging consumers.

The bill before us does allow States to invalidate excessive rates after the fact. But it will do nothing for consumers who have already paid too much. Prior approval mechanisms are the only way to protect consumers before sky-high rates go into effect.

I understand that my colleagues who support this legislation want terrorism insurance made available as quickly as possible. And that is the reason for his preemption—to speed up the process. I agree.

So to meet both the need for quick insurance availability and the desire to allow states to review rates for at least some period before they go into effect, I had proposed an amendment to replace the blanket State preemption language in the bill with more narrow language. My amendment would have said that terrorism risk insurance would not be subject to a waiting period greater than 60 days under any State law.

This would allow California and other States to retain oversight for prior approval over egregious increases in terrorism insurance rates while also making sure that the insurance is made available quickly.

Given the number of Americans involved, the taxpayer exposure to risk, and the leverage that insurers will have over consumers, I believe we must allow States to protect consumers. I hope my colleague from Connecticut will be willing to work with me on this.

Mr. DODD. One of the guiding principles of this bill is that, to the extent possible, State insurance law should not be overridden. To that end, the bill respects the role of the State insurance commissioners as the appropriate regulators of policy terms and rates.

Due to the urgency of the problems that currently exist in the marketplace for terrorism coverage, however, the bill requires that once the Federal program is in place, the States must allow rates for terrorism coverage to take effect immediately, without being subject to a preapproval requirement or a waiting period. The States would, of course, retain full authority to disapprove any rates that violate State laws, which are inadequate, unfairly discriminatory, or excessive.

I understand that my colleague from California, Senator BOXER, has some concerns about this provision and its effects. I appreciate her interest in this issue, and I want to assure my colleague that I will work with her as this bill moves to conference to try to address her concerns, and to ensure that this provision is as narrowly crafted as possible.

CLARIFICATION OF LEGISLATIVE LANGUAGE

Mr. BROWNBACK. Mr. President, I would like to correct the RECORD on a point that I made during a brief floor discussion between myself and Senator SPECTER.

At the time, I was under the impression, given a previous understanding with the leadership, that my legislative language on the issue of human cloning had been provided to the majority leader. Included in my legislative language is a section that pertains to the patenting of human embryos.

I am now informed that apparently that legislative language was never exchanged.

I apologize for any confusion that this misunderstanding may have caused.

Mrs. FEINSTEIN. Mr. President, I would like to take this time to express my support for the Terrorism Risk Insurance Act.

Exposure to terrorism is not only a threat to our national security, but is also a threat to the United States and global economies. The full extent of insured losses from September 11 has been estimated at $70 billion.

There is no doubt that these terrorist attacks have resulted in the most catastrophic loss in the history of property and casualty insurance.

Even though the insurance industry committed to pay losses resulting from the attacks, they have indicated a reluctance to continue offering terrorism insurance because the risk of future losses is unknown.

I and my staff have heard from my constituents in California, who have already suffered from this constriction of the terrorism insurance industry.

Some are insurance providers, who have written to say that they are afraid that their companies will not survive if they are forced to endure another terrorist event without a Federal backstop for terrorism reinsurance.

Some are businesses whose premiums have risen so drastically in the past nine months that they too, risk insolvency.

San Francisco's own Golden Gate Bridge, Highway, and Transportation

District, which manages the Golden Gate Bridge, recently had to renew its insurance policy. The new policy costs $1.1 million per year for $50 million in coverage which does not include terrorism coverage, despite assertions by Governor Davis last year that the bridge was a target for the terrorist attacks.

Last year's policy cost $125,000 for $125 million in coverage, including coverage for damage due to a terrorist act.

This legislation will provide desperately needed stability to the terrorism insurance market.

It provides a Federal backstop so that the industry can have the confidence to issue new policies, and it enables financial services providers to again finance new commercial property acquisitions and construction projects.

This bill also has some important limits on Federal exposure to losses.

First, it is designed to be temporary. The length of the program will be one year, with the option for the Secretary of the Treasury to extend it an additional year.

Second, the bill clarifies that the Federal Government does not bear any responsibility for insurance losses due to punitive damage awards.

Punitive damages awards are issued when a defendant has acted in a willful and malicious manner. I don't believe the American taxpayer should be left holding the bag if such judgments are awarded.

It is my hope that the passage of this legislation will enable the Golden Gate Bridge, Highway, and Transportation District, as well as other, similarly affected, companies and organizations, in California and across the Nation, to obtain the terrorism insurance coverage they need to adequately protect their patrons during these uncertain times.

Mr. DODD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 2 minutes 10 seconds.

Mr. REID. If the Senator will yield for a unanimous consent request, I ask unanimous consent that the time for the vote be extended for 3 minutes on this side and 3 minutes on this side.

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

Mr. GRAMM. Mr. President, I yield the Senator from Pennsylvania 3 minutes.

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on the point of order which was sustained as to Amendment No. 3862, which was my amendment. I had been on the floor awaiting the making of such a point of order on germaneness. I wanted to make a very brief comment; that is, that the amendment which I have provided was germane when it was filed, which was pre-cloture. I understand that post-cloture it is not. I voted for cloture notwithstanding the fact that I knew it would render my amendment non-germane because of my view of the importance of passing this bill.

I wanted to comment briefly on the amendment because it may yet surface in the conference. Senator MCCONNELL had offered an amendment which would have eliminated punitive damages unless there was a criminal conviction. I supplemented that amendment by putting in a provision that it would be a Federal crime for someone to be malicious and disregard the safety of others, contributing to damages or death in the event of a terrorist attack, and also an additional provision for a private right of action so that in the event the prosecuting attorney did not act, that a private citizen could petition the court on the failure or refusal of the Attorney General to act so that would activate a criminal prosecution and provide a basis for punitive damages but, more importantly, to move to an area where there is real responsibility for somebody who acts maliciously, resulting in the death of another person.

Punitive damages doesn't reach real responsibility. Punitive damages, as I amplified earlier today, are seldom granted but, where they are, come out of the pockets of the shareholders. To hold someone liable to go to jail where they are malicious, resulting in someone's death, that is a sanction which means something. That would provide the basis then for a later punitive damage claim.

This may be the basis for action in conference. I wanted to take a brief period of time to explain that provision. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before I yield to my colleague from New York, I wish to thank several staff people as well—we don't do that enough here—Alex Sternhell and Jessica Byrnes from my own staff. Sarah Kline, Aaron Klein, Steve Kroll, Wayne Abernathy, Stacie Thomas, Ed Pagano, Jim Ryan, Jonathan Aldelstein, Jim Williams, Kate Scheeler, Roger Hollingsworth . I would also like to thank Laura Ayoud with Senate Legislative Counsel for her contribution to this process. We thank all of them for their efforts, the leadership staff as well for their support.

Is Senator CORZINE going to seek any time at all? We have 4 minutes remaining on this side; is that correct?

The PRESIDING OFFICER. Four minutes twenty seconds.

Mr. DODD. I yield 3 minutes to my colleague from New York and then 1 minute to my colleague from New Jersey.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Let me, once again, thank the Senator from Connecticut for his leadership and steadfastness, his sensibleness. I also thank my colleague from Texas who has been, even though he didn't get his way on everything, a very constructive force in moving this bill forward. I appreciate that.

I approach this in a few ways. I am delighted that the single company cap, so vital to making this legislation work, which I spent a lot of time working on in the early days, has stayed in the bill. I am particularly grateful that the city I represent, New York, and its metropolitan area, will have this bill because terrorism has put a crimp in our economy the way it has in no other city in terms of higher costs, lost new projects, and delays in existing projects.

This legislation is probably as vital to New York as just about anything we will do with the exception maybe of the generosity that this body and the other have shown to New York in terms of the funding we have received.

Most importantly, this has been a test, a test of whether we can meet the post 9–11 challenge. It will be like many tests in the future. First, government is going to have to play a larger role. The ideology that anything the government does is bad and we must shrink it at all cost is over in many areas. The private sector could not solve this problem alone, plain and simple. That is why we came to bipartisan agreement that the Federal Government's role should be increased. We can quibble about how much and where, but it was definitely needed. That will be repeated in years to come.

Second, this is a problem where the legislature stepped to the plate. The bottom line is this: There was not clamoring from the average citizen for this proposal. Yes, some real estate developers, some bankers, some insurance companies, but not much else. Given the division we had here, it would have been easy to forget it.

But we did step to the plate. We are passing what I consider to be not the ideal bill—my ideal bill would have had the Federal Government write all terrorist insurance, something I worked on with Treasury Secretary O'Neill should, God forbid, the next attack occur—but it is a good product, it is a reasonable product, and it does the job in the short term.

Over and over, we are going to be asked as a government to step forward and solve a problem before it gets out of control without the public importuning us to do it. That will occur on an issue such as nuclear security. That will occur on an issue such as making our health supply system better. It is the kind of challenge we face in the post 9–11 world: Real, but anticipatory, dealing with a problem that could get worse and spiral out of control if we do not act, and we have to show the leadership because it will not be our constituents pushing us.

I salute the Senator from Connecticut, the Senator from Texas, the Senator from New Jersey, and all my colleagues who worked so hard on this bill.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I second the salute of the Senator from Connecticut. This is a tremendous step

forward in protecting our economy, not protecting insurance companies. This is about jobs. It is about making sure we have economic growth going forward. It is a bridge. It is not a long-term creation of an insurance function by the Government, but it is a response that the Government needs to build a bridge to a better marketplace and a more secure economy. This will make a difference to all of America's economic growth, not just regionally.

I am really quite pleased we are going to have a chance to vote in a minute to do something that will move our economy forward in the post-September 11 period.

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

Mr. REID. Mr. President, the majority leader will be here shortly. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 252, H.R. 3210, the House-passed terrorism insurance bill; that all after the enacting clause be stricken; that the text of S. 2600, as amended, if amended, be inserted in lieu thereof; that the bill be read a third time and the Senate vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. We might come to a point where we are ready to do this. We are not ready to do it now, and I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announced that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

Mr. NICKLES. I announced that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The result was announced—yeas 84, nays 14, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—84

Akaka	Dodd	Lott
Allard	Domenici	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Reed
Breaux	Graham	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Byrd	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carnahan	Hollings	Shelby
Carper	Hutchinson	Smith (OR)
Chafee	Inhofe	Snowe
Cleland	Inouye	Specter
Clinton	Jeffords	Stabenow
Cochran	Johnson	Stevens
Collins	Kennedy	Thompson
Conrad	Kohl	Thurmond
Corzine	Landrieu	Torricelli
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wellstone
DeWine	Lincoln	Wyden

NAYS—14

Burns	Grassley	Santorum
Campbell	Hutchison	Sessions
Craig	Kyl	Smith (NH)
Enzi	McConnell	Thomas
Gramm	Nickles	

NOT VOTING—2

Helms	Kerry

The bill (S. 2600), as amended, was passed as follows:

S. 2600

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 ''Terrorism Risk Insurance Act of 2002''.

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(2) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

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

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

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

(b) PURPOSE.—The purpose of this Act is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term ''act of terrorism'' means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(ii) to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel described in paragraph (3)(A)(ii); and

(iii) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act or event shall be certified by the Secretary as an act of terrorism if—

(i) the act or event is committed in the course of a war declared by the Congress; or

(ii) losses resulting from the act or event, in the aggregate, do not exceed $5,000,000.

(C) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act or event as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

(2) BUSINESS INTERRUPTION COVERAGE.—The term ''business interruption coverage''—

(A) means coverage of losses for temporary relocation expenses and ongoing expenses, including ordinary wages, where—

(i) there is physical damage to the business premises of such magnitude that the business cannot open for business;

(ii) there is physical damage to other property that totally prevents customers or employees from gaining access to the business premises; or

(iii) the Federal, State, or local government shuts down an area due to physical or environmental damage, thereby preventing customers or employees from gaining access to the business premises; and

(B) does not include lost profits, other than in the case of a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632) and applicable regulations thereunder) in any case described in clause (i), (ii), or (iii) of subparagraph (A).

(3) INSURED LOSS.—The term ''insured loss''—

(A) means any loss resulting from an act of terrorism that is covered by primary property and casualty insurance, including business interruption coverage, issued by a participating insurance company, if such loss—

(i) occurs within the United States; or

(ii) occurs to an air carrier (as defined in section 40102 of title 49, United States Code) or to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; and

(B) excludes coverage under any life or health insurance.

(4) MARKET SHARE.—

(A) IN GENERAL.—The ''market share'' of a participating insurance company shall be calculated using the total amount of direct written property and casualty insurance premiums for the participating insurance company during the 2-year period preceding the year in which the subject act of terrorism occurred (or during such other period for which adequate data are available, as determined by the Secretary), as a percentage of the aggregate of all such property and casualty insurance premiums industry-wide during that period.

(B) ADJUSTMENTS.—The Secretary may adjust the market share of a participating insurance company under subparagraph (A), as necessary to reflect current market participation of that participating insurance company.

(5) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(6) PARTICIPATING INSURANCE COMPANY.—The term ''participating insurance company'' means any insurance company, including any subsidiary or affiliate thereof—

(A) that—

(i) is licensed or admitted to engage in the business of providing primary insurance in any State, and was so licensed or admitted on September 11, 2001; or

(ii) is not licensed or admitted as described in clause (i), if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor thereto;

(B) that receives direct premiums for any type of commercial property and casualty insurance coverage or that, not later than 21 days after the date of enactment of this Act, submits written notification to the Secretary of its intent to participate in the Program with regard to personal lines of property and casualty insurance; and

(C) that meets any other criteria that the Secretary may reasonably prescribe.

(7) PARTICIPATING INSURANCE COMPANY DEDUCTIBLE.—The term ''participating insurance company deductible'' means—

(A) a participating insurance company's market share, multiplied by $10,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the 1-year period beginning on the date of enactment of this Act; and

(B) a participating insurance company's market share, multiplied by $15,000,000,000, with respect to insured losses resulting from an act of terrorism occurring during the 1-year period beginning on the day after the date of expiration of the period described in subparagraph (A), if the Program is extended in accordance with section 6.

(8) PERSON.—The term ''person'' means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(9) PROGRAM.—The term ''Program'' means the Terrorism Insured Loss Shared Compensation Program established by this Act.

(10) PROPERTY AND CASUALTY INSURANCE.—The term ''property and casualty insurance''—

(A) means commercial lines of property and casualty insurance, including workers' compensation insurance;

(B) includes personal lines of property and casualty insurance, if a notification is made in accordance with paragraph (6)(B); and

(C) does not include—

(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(ii) private mortgage insurance, as that term is defined in section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901); or

(iii) financial guaranty insurance.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(12) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and each of the United States Virgin Islands.

(13) UNITED STATES.—The term ''United States'' means the several States, and includes the territorial sea of the United States.

(14) RULE OF CONSTRUCTION FOR DATES.—With respect to any reference to a date in this Act, such day shall be construed—

(A) to begin at 12:01 a.m. on that date; and

(B) to end at midnight on that date.

SEC. 4. TERRORISM INSURED LOSS SHARED COMPENSATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insured Loss Shared Compensation Program.

(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (e).

(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under subsection (e), unless—

(1) a person that suffers an insured loss, or a person acting on behalf of that person, files a claim with a participating insurance company;

(2) the participating insurance company provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program—

(A) in the case of any policy covering an insured loss that is issued on or after the date of enactment of this Act, on a separate line item in the policy, at the time of offer, purchase, and renewal of the policy; and

(B) in the case of any policy that is issued before the date of enactment of this Act, as a line item described in subparagraph (A), not later than 90 days after that date of enactment;

(3) the participating insurance company processes the claim for the insured loss in accordance with its standard business practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the participating insurance company submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written verification and certification—

(i) of the underlying claim; and

(ii) of all payments made for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) MANDATORY PARTICIPATION; MANDATORY AVAILABILITY.—Each insurance company that meets the definition of a participating insurance company under section 3—

(1) shall participate in the Program;

(2) shall make available in all of its property and casualty insurance policies (in all of its participating lines), coverage for insured losses; and

(3) shall make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

(d) PARTICIPATION BY SELF INSURED ENTITIES.—

(1) DETERMINATION BY THE SECRETARY.—The Secretary may, in consultation with the NAIC, establish procedures to allow participation in the Program by municipalities and other governmental or quasi-governmental entities (and by any other entity, as the Secretary deems appropriate) operating through self insurance arrangements that were in existence on September 11, 2001, but only if the Secretary makes a determination with regard to participation by any such entity before the occurrence of an act of terrorism in which the entity incurs an insured loss.

(2) PARTICIPATION.—If the Secretary makes a determination to allow an entity described in paragraph (1) to participate in the Program, all reports, conditions, requirements, and standards established by this Act for participating insurance companies shall apply to any such entity, as determined to be appropriate by the Secretary.

(e) SHARED INSURANCE LOSS COVERAGE.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—Subject to the cap on liability under paragraph (2) and the limitation under paragraph (6), the Federal share of compensation under the Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the 1-year period beginning on the date of enactment of this Act—

(i) shall be equal to 80 percent of that portion of the amount of aggregate insured losses that—

(I) exceeds the participating insurance company deductibles required to be paid for those insured losses; and

(II) does not exceed $10,000,000,000; and

(ii) shall be equal to 90 percent of that portion of the amount of aggregate insured losses that—

(I) exceeds the participating insurance company deductibles required to be paid for those insured losses; and

(II) exceeds $10,000,000,000.

(B) EXTENSION PERIOD.—If the Program is extended in accordance with section 6, the Federal share of compensation under the

Program to be paid by the Secretary for insured losses resulting from an act of terrorism occurring during the 1-year period beginning on the day after the date of expiration of the period described in subparagraph (A), shall be calculated in accordance with clauses (i) and (ii) of subparagraph (A), subject to the cap on liability in paragraph (2) and the limitation under paragraph (6).

(C) PRO RATA SHARE.—If, during the period described in subparagraph (A) (or during the period described in subparagraph (B), if the Program is extended in accordance with section 6), the aggregate insured losses for that period exceed $10,000,000,000, the Secretary shall determine the pro rata share for each participating insurance company of the Federal share of compensation for insured losses calculated under subparagraph (A).

(D) PROHIBITION ON DUPLICATIVE COMPENSATION.—The Federal share of compensation for insured losses under the Program shall be reduced by the amount of compensation provided by the Federal Government for those insured losses under any other Federal insurance or reinsurance program.

(2) CAP ON ANNUAL LIABILITY.—Notwithstanding paragraph (1), or any other provision of Federal or State law, if the aggregate insured losses exceed $100,000,000,000 during any period referred to in subparagraph (A) or (B) of paragraph (1)—

(A) the Secretary shall not make any payment under this Act for any portion of the amount of such losses that exceeds $100,000,000,000; and

(B) participating insurance companies shall not be liable for the payment of any portion of the amount that exceeds $100,000,000,000.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed $100,000,000,000 in any period described in paragraph (1), and the Congress shall determine the procedures for and the source of any such excess payments.

(4) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATIONS FINAL.—Any determination of the Secretary under this subsection shall be final, and shall not be subject to judicial review.

(6) IN-FORCE REINSURANCE AGREEMENTS.—For policies covered by reinsurance contracts in force on the date of enactment of this Act, until the in-force reinsurance contract is renewed, amended, or has reached its 1-year anniversary date, any Federal share of compensation due to a participating insurance company for insured losses during the effective period of the Program shall be shared—

(A) with all reinsurance companies to which the participating insurance company has ceded some share of the insured loss pursuant to an in-force reinsurance contract; and

(B) in a manner that distributes the Federal share of compensation for insured losses between the participating insurance company and the reinsurance company or companies in the same proportion as the insured losses would have been distributed if the Program did not exist.

SEC. 5. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(a) GENERAL AUTHORITY.—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to implement the Program.

(b) INTERIM RULES AND PROCEDURES.—The Secretary shall issue interim final rules or procedures specifying the manner in which—

(1) participating insurance companies may file, verify, and certify claims under the Program;

(2) the Secretary shall publish or otherwise publicly announce the applicable percentage of insured losses that is the responsibility of participating insurance companies and the percentage that is the responsibility of the Federal Government under the Program;

(3) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual aggregate insured losses;

(4) the Secretary may, at any time, seek repayment from or reimburse any participating insurance company, based on estimates of insured losses under the Program, to effectuate the insured loss sharing provisions contained in section 4;

(5) each participating insurance company that incurs insured losses shall pay its pro rata share of insured losses, in accordance with section 4; and

(6) the Secretary will determine any final netting of payments for actual insured losses under the Program, including payments owed to the Federal Government from any participating insurance company and any Federal share of compensation for insured losses owed to any participating insurance company, to effectuate the insured loss sharing provisions contained in section 4.

(c) SUBROGATION RIGHTS.—The United States shall have the right of subrogation with respect to any payment made by the United States under the Program.

(d) CONTRACTS FOR SERVICES.—The Secretary may employ persons or contract for services as may be necessary to implement the Program.

(e) CIVIL PENALTIES.—The Secretary may assess civil money penalties for violations of this Act or any rule, regulation, or order issued by the Secretary under this Act relating to the submission of false or misleading information for purposes of the Program, or any failure to repay any amount required to be reimbursed under regulations or procedures described in section 5(b). The authority granted under this subsection shall continue during any period in which the Secretary's authority under section 6(d) is in effect.

SEC. 6. TERMINATION OF PROGRAM; DISCRETIONARY EXTENSION.

(a) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—The Program shall terminate 1 year after the date of enactment of this Act, unless the Secretary—

(A) determines, after considering the report and finding required by this section, that the Program should be extended for one additional year, beginning on the day after the date of expiration of the initial 1-year period of the Program; and

(B) promptly notifies the Congress of such determination and the reasons therefor.

(2) DETERMINATION FINAL.—The determination of the Secretary under paragraph (1) shall be final, and shall not be subject to judicial review.

(3) TERMINATION AFTER EXTENSION.—If the Program is extended under paragraph (1), the Program shall terminate 1 year after the date of commencement of such extension period.

(b) REPORT TO CONGRESS.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(1) regarding—

(A) the availability of insurance coverage for acts of terrorism;

(B) the affordability of such coverage, including the effect of such coverage on premiums; and

(C) the capacity of the insurance industry to absorb future losses resulting from acts of terrorism, taking into account the profitability of the insurance industry; and

(2) that considers—

(A) the impact of the Program on each of the factors described in paragraph (1); and

(B) the probable impact on such factors and on the United States economy if the Program terminates 1 year after the date of enactment of this Act.

(c) FINDING REQUIRED.—A determination under subsection (a) to extend the Program shall be based on a finding by the Secretary that—

(1) widespread market uncertainties continue to disrupt the ability of insurance companies to price insurance coverage for losses resulting from acts of terrorism, thereby resulting in the continuing unavailability of affordable insurance for consumers; and

(2) extending the Program for an additional year would likely encourage economic stabilization and facilitate a transition to a viable market for private terrorism risk insurance.

(d) CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION.—Following the termination of the Program under subsection (a), the Secretary may take such actions as may be necessary to ensure payment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this Act, in accordance with the provisions of section 4 and regulations promulgated thereunder.

(e) REPEAL; SAVINGS CLAUSE.—This Act is repealed at midnight on the final termination date of the Program under subsection (a), except that such repeal shall not be construed—

(1) to prevent the Secretary from taking, or causing to be taken, such actions under subsection (d) of this section and sections 4(e)(4), 4(e)(5), 5(a)(1), 5(c), 5(d), and 5(e) (as in effect on the day before the date of such repeal), and applicable regulations promulgated thereunder, during any period in which the authority of the Secretary under subsection (d) of this section is in effect; or

(2) to prevent the availability of funding under section 9(b) during any period in which the authority of the Secretary under subsection (d) of this section is in effect.

(f) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Secretary should make any determination under subsection (a) in sufficient time to enable participating insurance companies to include coverage for acts of terrorism in their policies for the second year of the Program, if the Program is extended in accordance with this section.

(g) STUDY AND REPORT ON SCOPE OF THE PROGRAM.—

(1) STUDY.—The Secretary, after consultation with the NAIC, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage.

(2) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

(h) REPORTS REGARDING TERRORISM RISK INSURANCE PREMIUMS.—

(1) REPORT TO THE NAIC.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, each participating insurance company shall submit a report to the NAIC that states the premium rates charged by that participating insurance company during the preceding 6-month period for insured losses covered by

the Program, and includes an explanation of and justification for those rates.

(2) REPORTS FORWARDED.—The NAIC shall promptly forward copies of each report submitted under paragraph (1) to the Secretary, the Secretary of Commerce, the Chairman of the Federal Trade Commission, and the Comptroller General of the United States.

(3) AGENCY REPORTS TO CONGRESS.—

(A) IN GENERAL.—The Secretary, the Secretary of Commerce, and the Chairman of the Federal Trade Commission shall submit joint reports to Congress and the Comptroller General of the United States summarizing and evaluating the reports forwarded under paragraph (2).

(B) TIMING.—The reports required under subparagraph (A) shall be submitted—

(i) 9 months after the date of enactment of this Act; and

(ii) 12 months after the date of submission of the first report under clause (i).

(4) GAO EVALUATION AND REPORT.—

(A) EVALUATION.—The Comptroller General of the United States shall evaluate each report submitted under paragraph (3), and upon request, the Secretary, the Secretary of Commerce, the Chairman of the Federal Trade Commission, and the NAIC shall provide to the Comptroller all documents, records, and any other information that the Comptroller deems necessary to carry out such evaluation.

(B) REPORT TO CONGRESS.—Not later than 90 days after receipt of each report submitted under paragraph (3), the Comptroller General of the United States shall submit to Congress a report of the evaluation required by subparagraph (A).

SEC. 7. PRESERVATION OF STATE LAW.

Nothing in this Act shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any participating insurance company or other person—

(1) except as specifically provided in this Act; and

(2) except that—

(A) the definition of the term ''act of terrorism'' in section 3 shall be the exclusive definition of that term for purposes of compensation for insured losses under this Act, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any type of insurance covered by this Act;

(B) during the period beginning on the date of enactment of this Act and ending at midnight on December 31, 2002, rates for terrorism risk insurance covered by this Act and filed with any State shall not be subject to prior approval or a waiting period, under any law of a State that would otherwise be applicable, except that nothing in this Act affects the ability of any State to invalidate a rate as excessive, inadequate, or unfairly discriminatory; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect, as provided in section 6 (including any period during which the authority of the Secretary under section 6(d) is in effect), books and records of any participating insurance company that are relevant to the Program shall be provided, or caused to be provided, to the Secretary or the designee of the Secretary, upon request by the Secretary or such designee, notwithstanding any provision of the laws of any State prohibiting or limiting such access.

SEC. 8. SENSE OF THE CONGRESS REGARDING CAPACITY BUILDING.

It is the sense of the Congress that the insurance industry should build capacity and aggregate risk to provide affordable property and casualty insurance coverage for terrorism risk.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS; PAYMENT AUTHORITY.

(a) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary for administrative expenses of the Program, to remain available until expended.

(b) PAYMENT AUTHORITY.—This Act constitutes payment authority in advance of appropriation Acts, and represents the obligation of the Federal Government to provide for the Federal share of compensation for insured losses under the Program.

SEC. 10. PROCEDURES FOR CIVIL ACTIONS.

(a) FEDERAL CAUSE OF ACTION.—

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

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

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

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

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

(c) PUNITIVE DAMAGES.—Any amounts awarded in a civil action described in subsection (a)(1) that are attributable to punitive damages shall not count as insured losses for purposes of this Act.

(d) CLAIMS AGAINST TERRORISTS.—Nothing in this section shall in any way be construed to limit the ability of any plaintiff to seek any form of recovery from any person, government, or other entity that was a participant in, or aider and abettor of, any act of terrorism.

(e) EFFECTIVE PERIOD.—This section shall apply only to actions described in subsection (a)(1) arising out of or resulting from acts of terrorism that occur during the effective period of the Program, including, if applicable, any extension period provided for under section 6.

SEC. 11. SATISFACTION OF JUDGMENTS FROM FROZEN ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism or for which a terrorist party is not immune under section 1605(a)(7) of title 28, United States Code, the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to the extent of any compensatory damages for which such terrorist party has been adjudged liable.

(b) PRESIDENTIAL WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(2) EXCEPTION.—A waiver under this subsection shall not apply to—

(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used by the United States for any nondiplomatic purpose (including use as rental property), or the proceeds of such use; or

(B) the proceeds of any sale or transfer for value to a third party of any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(c) SPECIAL RULE FOR CASES AGAINST IRAN.—Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386; 114 Stat. 1542) is amended—

(1) in subsection (a)(2)(A)(ii), by inserting after ''July 27, 2000'' the following: ''or before October 28, 2000,'';

(2) in subsection (b)(2)(B), by inserting after ''the date of enactment of this Act'' the following: ''(less amounts therein as to which the United States has an interest in subrogation pursuant to subsection (c) arising prior to the date of entry of the judgment or judgments to be satisfied in whole or in part hereunder).'';

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

''(d) DISTRIBUTION OF FOREIGN MILITARY SALES FUNDS INADEQUATE TO SATISFY FULL AMOUNT OF COMPENSATORY AWARDS AGAINST IRAN.—

''(1)(A) In the event that the Secretary determines that the amounts available to be paid under subsection (b)(2) are inadequate to pay the entire amount of compensatory damages awarded in judgments issued as of the date of the enactment of this subsection in cases identified in subsection (a)(2)(A), the Secretary shall, not later than 60 days after such date, make payment from the account specified in subsection (b)(2) to each party to which such judgment has been issued a share of the amounts in that account which are not subject to subrogation to the United States under this Act.

''(B) The amount so paid to each such person shall be calculated by the proportion that the amount of compensatory damages awarded in a judgment issued to that particular person bears to the total amount of all compensatory damages awarded to all persons to whom judgments have been issued in cases identified in subsection (a)(2)(A) as of the date referred to in subparagraph (A).

''(2) Nothing herein shall bar, or require delay in, enforcement of any judgment to which this subsection applies under any procedure or against assets otherwise available under this section or under any other provision of law.

''(3) Any person receiving less than the full amount of compensatory damages awarded to that party in judgments to which this subsection applies shall not be required to make the election set forth in subsection (a)(2)(C) in order to qualify for payment hereunder.''.

(d) DEFINITIONS.—In this section:

(1) The term ''terrorist party'' means a terrorist, a terrorist organization, or a foreign

state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

(2) The term ''blocked asset'' means any asset seized or frozen by the United States in accordance with law, or otherwise held by the United States without claim of ownership by the United States.

(3) The term ''property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations'' and the term ''asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations'' mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON of Florida. Mr. President, I voted today for passage of the Dodd-Schumer terrorism insurance bill. While it is not perfect, it provides temporary backstop to allow the private insurance marketplace to adjust to the new threat of terrorist attacks. Because I had serious concerns about a lack of consumer protection in the original bill, I offered two amendments, one to guard against price gouging, the other requiring the industry to separately disclose to policyholders the amount of premium due to terrorism risk. The first amendment was rejected by the Senate June 13. But the disclosure provision was added to the bill today. This provision gives regulators an essential tool to safeguard against excessive price hikes, and consumers more information upon which to base purchasing decisions.

Mr. SARBANES. Mr. President, I want to take this opportunity to express my appreciation to my colleague, Senator DODD for his efforts to move this bill along. We have just completed the Banking Committee's markup of the Public Company Accounting Reform and Investor Protection Act of 2002, which the committee reported favorably by a vote of 17–4. Returning to the matter pending before us, I simply want to acknowledge that the Senate has taken a considerable step forward in addressing the important issue of terrorism insurance.

The discussion over the last several days has clearly illustrated the dimensions of the problem. Many insurers are excluding coverage of terrorism from the policies they write. In those cases where terrorism insurance is available, it is often unafforable, and very limited in the scope and amount of coverage.

The fact that so many properties are uninsured or underinsured against the risk of terrorism could have a negative effect on our economy and our recovery if there were to be another terrorist attack. Insurance plays a vital role in our economy, by allowing businesses and property owners to spread their risks. As the U.S. General Accounting Office noted in a recent report, property owners on their own ''lack the ability to spread such risks among themselves the way insurers do.'' In the event of another attack, many properties would have to absorb any losses themselves, without the support of insurance. As a result, the GAO concluded, ''another terrorist attack similar to that experienced on September 11 could have significant economic effects on the marketplace and the public at large.'' The GAO noted that ''These effects could include bankrupticies, layoffs, and loan defaults.''

But even in the absence of another attack, the lack of insurance can hinder economic activity. In preparing its recent report, the GAO found that there are examples of ''large projects canceling or experiencing delays . . . with a lack of terrorism coverage being cited as a principal contriuting factor.'' This is a drag of economic activity that we can ill afford.

Most industry observers are of the opinion that, given time, the insurance industry will develop the capacity and the experience that will allow them to underwrite the terrorist risk. However, those conditions do not exist today. In the interim, a Federal reinsurance backstop of limited duration would give the insurance markets the necessary time to stabilize.

I know that there are still many steps between now and final enactment of the legislation. We look forward to continuing to work with the administration on this issue, as we have done since shortly after the attacks. Again, I want to underscore the importance of this legislation and of the actions that the Senate has taken today to move it forward.

VOTE EXPLANATION

● Mr. KERRY. Mr. President, due to a longstanding commitment I was necessarily absent for the vote on cloture on the Terrorism Reinsurance bill, S. 2600, and on final passage of the terrorism reinsurance bill. Although my votes would not have affected the outcome, had I been present, I would have voted for cloture on the bill and for final passage.●

MARITIME TRANSPORTATION ANTITERRORISM ACT OF 2002

Mr. DASCHLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives with respect to S. 1214, the port security bill.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the bill (S. 1214) entitled ''An Act to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes'', and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Transportation and Infrastructure, for consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. Young of Alaska, Mr. Coble, Mr. LoBiondo, Mr. Oberstar, and Ms. Brown of Florida.

From the Committee on Ways and Means, for consideration of sections 112 and 115 of the Senate bill, and section 108 of the House amendment, and modifications committed to conference: Mr. Thomas, Mr. Crane, and Mr. Rangel.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate disagree to the House amendment, agree to the request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer appointed Mr. HOLLINGS, Mr. INOUYE, Mr. KERRY, Mr. BREAUX, Mr. WYDEN, Mr. CLELAND, Mrs. BOXER, Mr. MCCAIN, Mr. STEVENS, Mr. LOTT, Mrs. HUTCHISON, Ms. SNOWE, and Mr. SMITH of Oregon conferees on the part of the Senate; for matters in section 108 of the House amendment and sections 112 and 115 of the Senate bill, Mr. GRAHAM and Mr. GRASSLEY conferees on the part of the Senate.

AUCTION REFORM ACT OF 2002

Mr. DASCHLE. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 380, H.R. 4560.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 4560) to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3893

Mr. DASCHLE. I understand Senators ENSIGN, KERRY, and STEVENS have a substitute amendment at the desk. I ask unanimous consent that the Senate consider and agree to the amendment, the motion to reconsider be laid upon the table, the bill as amended be read three times, passed, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD without further intervening action or debate.

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

The amendment (No. 3893) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Auction Reform Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Circumstances in the telecommunications market have changed dramatically since the auctioning of spectrum in the 700 megahertz band was originally mandated by Congress in 1997, raising serious questions as to whether the original deadlines, or the subsequent revision of the deadlines, are consistent with sound telecommunications policy and spectrum management principles.

(2) No comprehensive plan yet exists for allocating additional spectrum for third-generation wireless and other advanced communications services. The Federal Communications Commission should have the flexibility to auction frequencies in the 700 megahertz band for such purposes.

(3) The study being conducted by the National Telecommunications and Information Administration in consultation with the Department of Defense to determine whether the Department of Defense can share or relinquish additional spectrum for third generation wireless and other advanced communications services will not be completed until after the June 19th auction date for the upper 700 megahertz band, and long after the applications must be filed to participate in the auction, thereby creating further uncertainty as to whether the frequencies in the 700 megahertz band will be put to their highest and best use for the benefit of consumers.

(4) The Federal Communications Commission is also in the process of determining how to resolve the interference problems that exist in the 800 megahertz band, especially for public safety. One option being considered for the 800 megahertz band would involve the 700 megahertz band. The Commission should not hold the 700 megahertz auction before the 800 megahertz interference issues are resolved or a tenable plan has been conceived.

(5) The 700 megahertz band is currently occupied by television broadcasters, and will be so until the transfer to digital television is completed. This situation creates a tremendous amount of uncertainty concerning when the spectrum will be available and reduces the value placed on the spectrum by potential bidders. The encumbrance of the 700 megahertz band reduces both the amount of money that the auction would be likely to produce and the probability that the spectrum would be purchased by the entities that valued the spectrum the most and would put the spectrum to its most productive use.

(6) The Commission's rules governing voluntary mechanisms for vacating the 700 megahertz band by broadcast stations—

(A) produced no certainty that the band would be available for advanced mobile communications services, public safety operations, or other wireless services any earlier than the existing statutory framework provides; and

(B) should advance the transition of digital television and must not result in the unjust enrichment of any incumbent licensee.

SEC. 3. ELIMINATION OF STATUTORY DEADLINES FOR SPECTRUM AUCTIONS.

(a) FCC TO DETERMINE TIMING OF AUCTIONS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

''(15) COMMISSION TO DETERMINE TIMING OF AUCTIONS.—

''(A) COMMISSION AUTHORITY.—Subject to the provisions of this subsection (including paragraph (11)), but notwithstanding any other provision of law, the Commission shall determine the timing of and deadlines for the conduct of competitive bidding under this subsection, including the timing of and deadlines for qualifying for bidding; conducting auctions; collecting, depositing, and reporting revenues; and completing licensing processes and assigning licenses.

''(B) TERMINATION OF PORTIONS OF AUCTIONS 31 AND 44.—Except as provided in subparagraph (C), the Commission shall not commence or conduct auctions 31 and 44 on June 19, 2002, as specified in the public notices of March 19, 2002, and March 20, 2002 (DA 02–659 and DA 02–563).

''(C) EXCEPTION.—

''(i) BLOCKS EXCEPTED.—Subparagraph (B) shall not apply to the auction of—

''(I) the C-block of licenses on the bands of frequencies located at 710–716 megahertz, and 740–746 megahertz; or

''(II) the D-block of licenses on the bands of frequencies located at 716–722 megahertz.

''(ii) ELIGIBLE BIDDERS.—The entities that shall be eligible to bid in the auction of the C-block and D-block licenses described in clause (i) shall be those entities that were qualified entities, and that submitted applications to participate in auction 44, by May 8, 2002, as part of the original auction 44 short form filing deadline.

''(iii) AUCTION DEADLINES FOR EXCEPTED BLOCKS.—Notwithstanding subparagraph (B), the auction of the C-block and D-block licenses described in clause (i) shall be commenced no earlier than August 19, 2002, and no later than September 19, 2002, and the proceeds of such auction shall be deposited in accordance with paragraph (8) not later than December 31, 2002.

''(iv) REPORT.—Within one year after the date of enactment of this paragraph, the Commission shall submit a report to Congress—

''(I) specifying when the Commission intends to reschedule auctions 31 and 44 (other than the blocks excepted by clause (i)); and

''(II) describing the progress made by the Commission in the digital television transition and in the assignment and allocation of additional spectrum for advanced mobile communications services that warrants the scheduling of such auctions.

''(D) RETURN OF PAYMENTS.—Within one month after the date of enactment of this paragraph, the Commission shall return to the bidders for licenses in the A-block, B-block, and E-block of auction 44 the full amount of all upfront payments made by such bidders for such licenses.''.

(b) CONFORMING AMENDMENTS.—

(1) COMMUNICATIONS ACT OF 1934.—Section 309(j)(14)(C)(ii) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(C)(ii)) is amended by striking the second sentence.

(2) BALANCED BUDGET ACT OF 1997.—Section 3007 of the Balanced Budget Act of 1997 (111 Stat. 269) is repealed.

(3) CONSOLIDATED APPROPRIATIONS ACT.—Paragraphs (2) and (3) of section 213(a) of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of an Act making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes (Public Law 106–113; 113 Stat. 1501A–295), are repealed.

SEC. 4. COMPLIANCE WITH AUCTION AUTHORITY.

The Federal Communications Commission shall conduct rescheduled auctions 31 and 44 prior to the expiration of the auction authority under section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)).

SEC. 5. PRESERVATION OF BROADCASTER OBLIGATIONS.

Nothing in this Act shall be construed to relieve television broadcast station licensees of the obligation to complete the digital television service conversion as required by section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)).

SEC. 6. INTERFERENCE PROTECTION.

(a) INTERFERENCE WAIVERS.—In granting a request by a television broadcast station licensee assigned to any of channels 52–69 to utilize any channel of channels 2–51 that is assigned for digital broadcasting in order to continue analog broadcasting during the transition to digital broadcasting, the Federal Communications Commission may not, either at the time of the grant or thereafter, waive or otherwise reduce—

(1) the spacing requirements provided for analog broadcasting licensees within channels 2–51 as required by section 73.610 of the Commission's rules (and the table contained therein) (47 CFR 73.610), or

(2) the interference standards provided for digital broadcasting licensees within channels 2–51 as required by sections 73.622 and 73.623 of such rules (47 CFR 73.622, 73.623),

if such waiver or reduction will result in any degradation in or loss of service, or an increased level of interference, to any television household except as the Commission's rules would otherwise expressly permit, exclusive of any waivers previously granted.

(b) EXCEPTION FOR PUBLIC SAFETY CHANNEL CLEARING.—The restrictions in subsection (a) shall not apply to a station licensee that is seeking authority (either by waiver or otherwise) to vacate the frequencies that constitute television channel 63, 64, 68, or 69 in order to make such frequencies available for public safety purposes pursuant to the provisions of section 337 of the Communications Act of 1934 (47 U.S.C. 337).

The amendment was ordered to be engrossed, the bill (H.R. 4560), as amended, was read the third time and passed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. DASCHLE. Mr. President, I now ask unanimous consent the Senate proceed to Calendar No. 370, S. 2514, the Department of Defense authorization bill; that there be debate only on the bill during today's session; further, that the Senate resume consideration of the bill at 11 o'clock on Wednesday, June 19.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2514) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, in behalf of the Armed Services Committee, I am pleased to bring the National Defense Authorization Act for Fiscal Year 2003 to the floor.

This bill would fully fund the fiscal year 2003 budget request of the administration of $393.3 billion for the national security activities for the Department of Defense and the Department of Energy.

In the first 41 days of congressional session this year, the Armed Services Committee held 41 hearings to examine the administration's budget request and related issues. Last month, after meeting in markup for 3 days, the committee approved S. 2514, the National Defense Authorization Act for Fiscal Year 2003.

I thank all the members of committee for their hard work on this bill.

There were two close votes on two funding issues that caused a few of our members to vote against the bill at the end, which, of course, we regret. But except for those two issues, I think we probably would have had a unanimous vote on our committee.

As we take up this bill, America's Armed Forces are engaged around the world as never before. In the months since September 11, we have dispatched troops not only to Afghanistan but also to Pakistan, the Philippines, the countries of central Asia and the Persian Gulf. We called up the National Guard to assist in contingency operations and to assist in safeguarding our borders and protecting our airports.

All of this has been done without relieving our soldiers, sailors, airmen, and marines of ongoing deployments in Korea, the Balkans, Colombia, and elsewhere.

This year, as much as ever before, we owe it to our men and women in uniform to act on this bill with dispatch. The events following September 11 have once again shown that the U.S. military is the most capable fighting force in the world. The success of our forces in Afghanistan has been remarkable. Osama bin Laden—if he is alive—is on the run and in hiding. Many of his al-Qaida terrorists have been captured or killed. The Taliban regime that harbored them is no more, and a new government is in place. Nations around the world have been put on notice: America is determined to protect itself from more attacks and to bring terrorists to justice.

From Europe to the Persian Gulf to the Korean Peninsula, the presence of U.S. military forces and their contributions to regional peace and security continue to reassure our allies and deter potential adversaries. Over the last decade, U.S. forces have excelled in every mission assigned to them, including not only Operation Enduring Freedom, but also the 1999 NATO air campaign over Kosovo and ongoing enforcement of the no-fly zones over Iraq; humanitarian operations from Central America to Africa; and peacekeeping operations from the Balkans to East Timor.

The excellence behind that success was not built in months. The success of our forces in Afghanistan is a tribute to the men and women of the Armed Forces and the investments in national defense that Congress and the Department of Defense have made over many years. Future success on the battlefield will likewise depend upon the success of Congress and the Department in preparing, training, and equipping our military for tomorrow's missions.

The National Defense Authorization Act for Fiscal Year 2003 builds on the considerable strengths of our military forces and their record of success. The Armed Services Committee identified five priorities to guide us in preparing this bill. These were to:

No. 1, continue the improvements in the compensation and quality of life of the men and women in the Armed Forces, retirees and their families;

No. 2, sustain the readiness of the military services to conduct the full range of their assigned mission, including current and future operations against international terrorism;

No. 3, improve the efficiency of Defense Department programs and operations and apply the savings toward high-priority programs;

No. 4, improve the ability of the Armed Forces to meet nontraditional threats, including terrorism and weapons of mass destruction; and

No. 5, promote the transformation of the Armed Forces to meet the threats of the 21st century.

First, compensation and quality of life:

The bill reflects the committee's highest priority—ensuring that our men and women in uniform, retirees and their families receive the compensation and quality of life they deserve. Toward that end, we added more than $1.2 billion to the budget request for pay and quality of life initiatives. Specifically, the bill includes a 4.1 percent across-the-board pay raise for all military personnel, with an additional targeted pay raise for the mid-career force; adds $640 million above the budget request to improve and replace facilities on military installations; and authorizes a new assignment incentive pay of up to $1,500 per month to reward military members who agree to serve in difficult-to-fill assignments.

The bill would also begin to address a longstanding inequity in the compensation of military retirees by authorizing the concurrent receipt of retired pay and veterans' disability compensation for military retirees with disabilities rated at 60% or more. During our markup, the committee approved a separate amendment that would authorize concurrent receipt of retired pay and veterans' disability compensation for all disabled military retirees for non-disability retirement. Senator WARNER and I plan to offer this amendment on behalf of the committee at the earliest possible point in the debate of this bill.

With regard to readiness, we propose to set aside $10 billion, as requested by the administration, to fund ongoing operations in the war against international terrorism during fiscal year 2003. The President requested that this money be reserved for the continuance of the war against international terrorism, and we believe that there is no more important purpose to which this funding could be dedicated.

However, the Department is not yet in a position to state how long the war on terrorism will continue, or in what form, or to specify the specific programs for which the requested funds would be used. For this reason, the provision recommended by the committee would authorize for appropriation the $10 billion requested by the President upon receipt of a budget request which: No. 1, designates the requested amount as being essential to the continued war on terrorism; and No. 2, specifies how the administration proposes to use the requested funds, consistent with the Authorization for the Use of Military Force, P.L. 107–40.

In addition, the bill would add funding to address shortfalls in a number of key readiness accounts and help lessen the burden on some of the Department's high demand, low density assets.

These funding increases include $126 million to protect and enhance military training ranges; $232 million for aircraft, ship, and Navy gun depot maintenance; $176 million for improvements to Air Force and Army facilities; $51 million for ammunition to meet new training requirements and supplement war reserve stocks; $55 million to address the Army's aviation training backlog; $110 million for the purchase of an additional EC–130J Commando Solo aircraft; and $114 million for modifications to help improve the readiness of the EA–6B electronic warfare aircraft fleet.

Relative to combating terrorism, the bill before us would take a significant step towards addressing nontraditional threats by providing in excess of $10 billion for combating terrorism initiatives, as requested by the Department, including more than $2 billion for force protection improvements to DOD installations around the world.

In addition, the bill would provide increases of $200 million to enhance the security of our nuclear materials and nuclear weapons in the Department of Energy, $43 million in funding for the U.S. Special Operations Commands, and $30 million for defense against chemical and biological weapons and other efforts to combat weapons of mass destruction.

We have also included two important legislative initiatives that would require the Department of Defense to take a more comprehensive approach to installation preparedness for weapons of mass destruction attacks and authorize the Secretary of Defense to expand cooperative threat reduction activities beyond the countries of the former Soviet Union.

Relative to transformation, the bill would provide significant funds to promote the transformation of the Armed Forces to meet the threats of the 21st century. In particular, the bill would add more than $1.1 billion to the Navy's shipbuilding accounts to refuel a nuclear submarine and pay for advance procurement of an aircraft carrier, a *Virginia*-class submarine, a DDG–51 class destroyer, and an LPD–17 class amphibious transport dock.

Our bill would add $105 million for funding for research and development on the Army's Future Combat System and more than $100 million for science and technology needed to help the Army achieve its Objective Force.

It would fully fund the $5.2 billion requested by the Department for the F–

22, the $3.5 billion requested for continued research and development on the Joint Strike Fighter, and more than $600 million requested for Air Force unmanned aerial vehicles.

It would add more than $300 million to the Department's science and technology budget, bringing the Department closer to the Secretary's goal of devoting 3 percent of all defense funds to the programs that promise to bring us the revolutionary technologies that will be needed to prevail in future conflicts.

Relative to the Crusader Artillery System, in the middle of our committee markup of this bill the Secretary of Defense announced that he intended to terminate the Crusader Artillery System. This is a system which the Department of Defense had strongly supported until just a few days earlier. Because the committee had no opportunity to review the reasons for this sudden reversal, we did not address this issue in our markup. Instead, we scheduled a hearing with the Secretary of Defense and the Army Chief of Staff to consider the merits of the program.

At that hearing, the Secretary of Defense favored termination. The Army Chief of Staff testified that the system was very important and very necessary and, as a matter of fact, an important part of transformation. The Chief of Staff is a very strong supporter of transformation.

I think we all—as we perhaps will be debating the Crusader System—should recognize the contribution of the Army Chief of Staff to the transformation of the Army. He is not one who has resisted transformation. He has been a very strong supporter of transformation, and he views the Crusader Artillery System—or viewed this at the time he testified—as an important part of that transformation.

On June 13, the committee met to discuss the Crusader Artillery System. At that time, the committee voted 13 to 6 to recommend an amendment that would do two things. First, it would take the $475 million out of the Crusader program and put the money into a separate funding line for future combat systems research and development. This is the Army's armored systems modernization line. Second, we would require the Army Chief of Staff, in our amendment, to conduct an analysis—or finish his analysis—of alternatives for the Army's artillery needs and to submit his findings to the Secretary of Defense no later than 1 month after the date of enactment of this act.

This approach would enable the Secretary of Defense to terminate the Crusader program following the receipt of the Army's analysis which was truncated. The Army, in late April, was told that it could complete its analysis by the end of this fiscal year. And then, in early May, it was told that it could have until the end of May to complete this analysis.

I emphasize the importance of this analysis. The Army's analysis is intended to answer seven questions. I am not going to go through them all, but I am simply going to say these are important questions. These are important questions for the future well-being of the men and women in the Army. They are critical questions. They have to do with risk. What are the risks in proceeding? What are the risks in canceling?

These are questions which the Army was in the middle of analyzing when suddenly, a few days into May, despite the earlier decision to allow the completion of this analysis by the end of May, the Secretary of Defense simply said: We are going to terminate.

Seven questions were to be answered. And I emphasize, these are questions which can be life-and-death questions for the men and women in the future armies of this country. They were going to analyze these questions in six combat scenarios. They were going to look at four different alternatives. We believe the answers to those questions in that analysis should be completed. The amendment, which I will offer on behalf of the committee, as I promised to the committee I would offer early in this debate, was adopted, as I said, by a 13-to-6 vote.

We hope the Senate will approve this amendment. We think it is the correct balance. Not only should we have that information before we or the Defense Department—either one of us—finally decide on termination, that analysis is important as to how best to spend that money. Where should we jump to? Even if we, this Nation, decide to jump from Crusader, even if we take whatever risks are involved—and there are risks involved in that—the decision also involves, Where do we then allocate those funds? How do we allocate those funds? And that analysis is critically important to that issue as well. We hope our amendment will address both those issues in a rational, thoughtful way.

Congress has a responsibility also to ensure that the resources our taxpayers provide for national defense are spent wisely. The administration has not complied with statutory requirements to provide Congress with a national security strategy and an annual report outlining detailed plans for the size, structure, shape, or transformation of the military. In the absence of that planning, again, required by law, the Department of Defense is going to have difficulty establishing a clear vision for the future for our Armed Forces.

But a year ago, the Secretary of Defense testified before us saying: ''We have an obligation to taxpayers to spend their money wisely.'' He said that he had ''never seen an organization, in the private or public sector,'' to use his words, ''that could not, by better management, operate at least five percent more efficiently if given the freedom to do so. Five percent of the DOD budget,'' he pointed out, ''is over $15 billion!''

He testified that that $15 billion of savings from management efficiencies could be used to: increase ship procurement from six to nine ships a year; to procure several hundred additional aircraft annually rather than 189. He could meet the target of a 67-year facility replacement rate, and those savings could increase defense-related science and technology funding from 2.7 percent to 3 percent for the Department of Defense budget.

To this date, it has been disappointing that the Department has identified less than $150 million of the $15 billion annual savings projected by the Secretary. Despite the largest proposed increase in defense spending in 20 years, the budget request would fund just 5 ships and 166 aircraft, way below the goals; replace facilities at a 122-year rate instead of the 67-year rate, which is desirable. It would leave the rate of defense-related science and technology unchanged at just 2.7 percent of the Department of Defense budget instead of the 3-percent target which is desirable.

In short, despite the proposed $48 billion increase in defense spending, management efficiencies are needed now more than ever to ensure the taxpayers' money is well spent.

Our bill includes a number of provisions to help address this problem, including a major initiative, based on recommendations of the Defense Science Board and the DOD Director of Operational Test and Evaluation, to address budget shortfalls and organizational shortcomings in the Department's test and evaluation infrastructure that have led to inadequate testing of major weapons systems.

It would provide for a continuation of last year's initiative by the committee to improve the way in which the Department manages its $50 billion of services contracts with resulting savings of $850 million. We include a provision that would address the Department's inability to produce reliable financial information and achieve $400 million of savings by deferring spending on new financial systems that would be inconsistent with a comprehensive financial management enterprise architecture currently being developed by the Department. We include a provision requiring the Department to establish new internal controls to address recurring problems with the abuse of purchase cards and travel cards by military and civilian personnel.

In the area of missile defense, the bill would reallocate $812 million for missile defense expenditures that appear to be unjustified or duplicative to higher priority areas. The bill would transfer $690 million from missile defense activities to fund advanced procurement of a second *Virginia*-class submarine as soon as fiscal year 2005; advanced procurement for a second LPD–17 amphibious transport dock in fiscal year 2004; and advanced procurement for a third DDG–51 *Arleigh Burke*-class destroyer in fiscal year 2004.

Every defense budget requires choices, as every other budget of every other Department. Even with more than $390 billion to spend for national security activities, the administration was not able to fund every important national security priority. Each of the military services came to us with a long list of unfunded priorities, items not included in their budget, which they believe to be important to the national defense.

There was unanimous agreement among the members of the Armed Services Committee that the President's budget did not provide adequate resources to maintain the Navy's surface fleet or attack submarines. The committee received extensive testimony from DOD witnesses and numerous DOD and Navy reports indicating that the Navy should be building 8 to 10 ships per year to recapitalize its current fleet. A number of Navy witnesses, including the chief of naval operations, have indicated they believe that the Navy should be building a fleet with as many as 375 ships in order to meet the requirements the Navy faces today.

Two years ago, the Navy's shipbuilding plan called for 23 ships between 2003 and 2005. This year's plan calls for only 17 ships during that period.

The Department's proposed budget for missile defense was not even reviewed by the Joint Chiefs of Staff. Earlier this year, each of the four service chiefs testified before the Armed Services Committee that they had not been asked for their views on the funding for missile defense programs relative to other priorities in the budget—all those unmet requirements that they told us about. They were not asked to weigh the importance of the missile defense budget against those other needed items.

The committee, and the subcommittee chaired by Senator JACK REED, conducted an exhaustive examination of the proposed missile defense budget, holding two strategic subcommittee hearings alone on missile defense, reviewing 400 pages of missile defense budget documentation, and participating in more than 25 hours of staff briefings by the Department of Defense. Based on this lengthy review, the committee recommended funding the vast majority of the Department's missile defense requests, an amount that is sufficient to aggressively fund all of the specific systems that the Department has said it wants to develop.

However, at the same time the committee identified $810 million of the missile defense request, which is 11 percent of the total request, that could not adequately be justified by the Department despite a detailed review of available documentation and repeated requests at hearings and in briefings.

For example, the budget request included $1.1 billion in the ballistic missile defense program element. That is an increase of $250 million over the current funding level. The major purpose of this program element is to develop an integrated architecture of BMD systems. While this is an important goal, most of the systems that will comprise the BMD architecture are years away from being deployed, making the development and definition of a detailed BMD architecture impossible at this point.

After receiving more than $800 million for this program element in fiscal year 2002, the Missile Defense Agency has yet to provide to Congress any indication what the overall ballistic missile defense architecture might be. In fact, the committee learned that of the $800 million appropriated for that program element in fiscal year 2002, only $50 million had been spent by the end of March, halfway through the fiscal year.

Because of this slow execution, the Missile Defense Agency informed us that $400 million of these fiscal year 2002 funds will be available for expenditure in 2003. So half of the money that we appropriated in 2002 for that program element is not going to be spent. It is going to be available next year. Under those circumstances, it is hard to see why the Department would need a $250 million increase in that program element in fiscal year 2003.

In short, we made a choice to make careful, well-justified reductions in missile defense programs to fund increases to the Department's shipbuilding accounts, and other critically important accounts, which are strongly supported by most members of the uniformed Navy and by members of the committee. The choice was the right one.

One of the things we used the money for, one of the important areas that we used that funding for, was greater security of our Department of Energy nuclear facilities. The greatest threat we face is a terrorist threat. Those facilities are not adequately protected. We found some additional money—about $100 million—in those reductions in the missile defense accounts which we believed could not be justified, not just to build more ships, which are necessary, but also to give greater security to our Department of Energy nuclear facilities which are so critically important to be defended.

Secretary Rumsfeld has written us that the Department opposes these changes and he would recommend that the President veto the bill if this change in missile defense funding remains in the bill. But again, this veto threat not only is addressed at the funding cuts in the bill but, in effect, is addressed at the items that we added in the bill which are so important to the national security of this country.

We believe our bill would provide the Missile Defense Agency as much money as can reasonably be executed for the missile defense program in this year and would ensure that this money is expended in a sound manner.

Mr. President, finally, I wish to say a few words on two items that are not included in this bill. First, the budget request of the administration included $15 million in the Department of Energy to begin studying the feasibility of the new robust nuclear earth penetrator. We had doubts about the need for this new nuclear weapon, particularly at a time when we are trying to convince other countries to forgo the development of nuclear weapons, and we adopted an amendment deleting funding for the robust nuclear penetrator and instead we directed the Department of Defense, in consultation with the Secretary of Energy, to submit a report to Congress on the requirements for this new nuclear weapon—how it would be deployed, what categories of targets it would be used against, and whether conventional weapons could effectively address such targets.

Second, less than a month before we began our markup, the Department of Defense sent us a legislative proposal to exempt certain military installations and activities from the Endangered Species Act, the Migratory Bird Treaty Act, the Marine Mammal Protection Act, the Clean Air Act, the Solid Waste Disposal Act, and the Comprehensive Environmental Response and Compensation Liability Act, or CERCLA.

We did not consider those proposals because all those statutes fall outside the jurisdiction of the Armed Services Committee. We did include two environmentally sound provisions in the Department's proposal that were in our committee's jurisdiction. These provisions authorize the Department of Defense to enter into agreements with non-Federal entities to manage lands adjacent to military installations and to create buffer zones between training areas and the surrounding population.

America's Armed Forces are ready to help keep the peace, to deter traditional and nontraditional threats to our security and our vital interests around the world, and to win any conflict decisively. Our bill builds on the considerable strength of our military forces and their record of success by preserving a high quality of life for U.S. forces and their families, sustaining readiness, transforming the Armed Forces to meet the threats and challenges of tomorrow.

I hope our colleagues will join us in supporting this important legislation.

Mr. President, the Congressional Budget Office is required to prepare a cost estimate for spending legislation reported by committees. The cost estimate for the bill reported by the committee, S. 2514, was not finished at the time the report on this bill was filed. The CBO cost estimate is now available. I ask unanimous consent that the Congressional Budget Office cost estimate for the Defense authorization bill reported by the Committee on Armed Services be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 21, 2002.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2514, the National Defense Authorization Act for Fiscal Year 2003.

The CBO staff contact is Kent Christensen. If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 2514—National Defense Authorization Act for Fiscal Year 2003

Summary: S. 2514 would authorize appropriations totaling $392 billion for fiscal year 2003 and an estimated $14 billion in additional funding for 2002 for the military functions of the Department of Defense (DoD) and the Department of Energy (DOE). It also would prescribe personnel strengths for each active-duty and selected reserve component of the U.S. armed forces. CBO estimates that appropriation of the authorized amounts for 2002 and 2003 would result in additional outlays of $402 billion over the 2002–2007 period.

The bill also contains provisions that would raise the costs of discretionary defense programs over the 2004–2007 period. CBO estimates that those provisions would require appropriations of $6.8 billion over those four years.

The bill contains provisions that would increase direct spending by an estimated $5.6 billion over the 2003–2007 period and $17.6 billion over the 2003–2012 period, primarily from the phase-in of concurrent payment of retirement annuities with veterans' disability compensation to retirees from the military and the other uniformed services who have service-connected disabilities rated at 60 percent or greater. Because it would affect direct spending, the bill would be subject to pay-as-you-go procedures.

S. 2514 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2514 is shown in Table 1. Most of the costs of this legislation fall within budget function 050 (national defense).

TABLE 1.—BUDGETARY IMPACT OF S. 2514, THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Defense Programs:						
Budget Authority[1]	346,319	0	0	0	0	0
Estimated Outlays	346,900	116,372	38,931	13,267	5,535	2,723
Proposed Changes:						
Authorization of Supplemental Appropriations for 2002:						
Estimated Authorization Level[2]	14,048	0	0	0	0	0
Estimated Outlays[2]	5,345	5,782	1,941	660	174	79
Authorization of Appropriations for 2003:						
Estimated Authorization Level	0	391,543	0	0	0	0
Estimated Outlays	0	259,711	88,543	28,227	8,201	2,856
Spending Under S. 2514 for Defense Programs:						
Estimated Authorization Level	360,367	391,543	0	0	0	0
Estimated Outlays	352,245	381,865	129,415	42,154	13,910	5,658
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	359	674	1,081	1,533	1,936
Estimated Outlays	0	359	674	1,081	1,533	1,936

[1] The 2002 level is the amount appropriated for programs authorized by S. 2514.
[2] The estimates shown for the 2002 supplemental are amounts contained in the Administration's supplemental request for defense programs. The outlay estimate for 2003 includes $5,684 million of spending from funds requested as emergency appropriations. Excluding emergency spending would lower total outlays in 2003 to $376,181 million.
Note.—This table excludes estimated authorizations of appropriations for years after 2003. (Those additional authorizations are shown in Table 3.)

Basis of estimate

Spending subject to appropriation

The bill would specifically authorize appropriations totaling $391.5 billion in 2003 (see Table 2) and additional amounts as may be necessary for supplemental appropriations for defense in 2002, which CBO estimates would total $14 billion based on the Administration's request. Most of those costs would fall within budget function 050 (national defense). S. 2514 also would specifically authorize appropriations of $70 million for the Armed Forces Retirement Home (function 600—income security).

The estimate assumes that the estimated authorization amount for 2002 is appropriated by the end of June 2002, and that the amounts authorized for 2003 will be appropriated before the start of fiscal year 2003. Outlays are estimated based on historical spending patterns.

The bill also contains provisions that would affect various costs, mostly for personnel, that would be covered by the fiscal year 2003 authorization and by authorizations in future years. Table 3 contains estimates of those amounts. In addition to the costs covered by the authorizations in the bill for 2003, these provisions would raise estimated costs by $6.8 billion over the 2004–2007 period. The following sections describe the provisions identified in Table 3 and provide information about CBO's cost estimates for those provisions.

TABLE 2.—SPECIFIC AUTHORIZATIONS IN S. 2514

Category	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
Military Personnel:					
Authorization Level[1]	94,297	0	0	0	0
Estimated Outlays	89,205	4,432	283	94	0
Operation and Maintenance:					
Authorization Level	139,938	0	0	0	0
Estimated Outlays	103,010	28,058	6,279	1,395	478
Procurement:					
Authorization Level	72,818	0	0	0	0
Estimated Outlays	20,599	27,458	15,289	5,193	1,808
Research, Development, Test, and Evaluation:					
Authorization Level	55,686	0	0	0	0
Estimated Outlays	31,375	20,110	3,240	587	153
Military Construction and Family Housing:					
Authorization Level	10,129	0	0	0	0
Estimated Outlays	2,686	3,805	2,259	805	327
Atomic Energy Defense Activities:					
Authorization Level	15,895	0	0	0	0
Estimated Outlays	10,667	4,245	853	74	55
Other Accounts:					
Authorization Level	2,688	0	0	0	0
Estimated Outlays	1,736	501	174	128	60
General Transfer Authority:					
Authorization Level	0	0	0	0	0
Estimated Outlays	350	−75	−150	−75	−25
Total:					
Authorization Level[2]	391,451	0	0	0	0
Estimated Outlays	259,628	88,534	28,227	8,201	2,856

[1] This authorization is for discretionary appropriations and does not include $55 million for mandatory payments from appropriations for military personnel.
[2] These amounts comprise nearly all of the proposed changes for authorizations of appropriations for 2003 shown in Table 1; they do not include the estimated authorization of $92 million for the Coast Guard Reserve, which is shown in Table 3.

TABLE 3.—ESTIMATED AUTHORIZATIONS OF APPROPRIATIONS FOR SELECTED PROVISIONS IN S. 2514

Category	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
MULTIYEAR PROCUREMENT					
C–130J Aircraft	15	−63	−121	−142	−162
FORCE STRUCTURE					
DoD Military Endstrengths	87	180	186	192	198
Coast Guard Reserve Endstrengths	92	0	0	0	0
COMPENSATION AND BENEFITS (DoD)					
Military Pay Raises	276	381	398	415	430
Expiring Bonuses and Allowances	706	796	417	234	152
Assignment Incentive Pay	1	14	32	0	0
Education and Training	3	5	9	13	11
Concurrent Receipt	0	588	610	631	650
National Call to Service Program	0	10	19	28	29
DEFENSE HEALTH PROGRAM					
TRICARE Prime Remote	4	4	4	5	5
Transitional Health Care	7	5	3	2	1
OTHER PROVISIONS					
Voluntary Separation and Early Retirement Incentives (DoD and DOE)	0	121	212	211	0
Federal Employees Health Benefits Program	0	2	3	3	3
School Impact Aid	[a]	[a]	[a]	14	15
Arctic and Western Pacific Environmental Cooperation Program	7	8	6	5	3
Revitalizing DoD Laboratories	[a]	[a]	[a]	[a]	0
Contracting for Environmental Remediation	−2	−4	−5	−7	−9
TOTAL ESTIMATED AUTHORIZATIONS					
Estimated Authorization Level	1,196	2,047	1,773	1,605	1,326

[a] Less than $500,000.

Note.—For every item in this table except the authorization for the Coast Guard Reserve, the 2003 levels are included in the amounts specifically authorized to be appropriated in the bill. Those amounts are shown in Table 2. Amounts shown in this table for 2004 through 2007 are not included in Table 1.

Multiyear Procurement. In most cases, purchases of weapon systems are authorized annually, and as a result, DoD negotiates a separate contract for each annual purchase. In a small number of cases, the law permits multiyear procurement; that is, it allows DoD to enter into a contract to buy specified annual quantities of a system for up to five years. In those cases, DoD can negotiate lower prices because its commitment to purchase the weapons gives the contractor an incentive to find more economical ways to manufacture the weapon, including cost-saving investments. Annual funding is provided for these multiyear contracts, but potential termination costs are covered by an initial appropriation.

Section 131 would authorize the Secretary of the Air Force to enter into a multiyear contract to purchase C–130J aircraft beginning in 2003 after the Secretary certifies that the C–130J has been cleared for worldwide, over-water capability. Based on information provided by the Air Force, CBO assumes that DoD will procure 64 aircraft over the 2003–2008 period—40 CC–130J aircraft for the Air Force and 24 KC–130J aircraft for the Marine Corps. CBO also assumes that the CC–130J and KC–130J aircraft would be purchased under one contract administered by the Air Force and covering six years of production beginning in 2003. CBO estimates that savings from buying these aircraft under a multiyear contract would total $473 million, or about $95 million a year, over the 2003–2007 period. CBO also estimates that additional savings of $182 million would accrue in 2008. Funding requirements to purchase these aircraft would total just under $3.4 billion over the 2003–2007 period (instead of the almost $3.9 billion that would be needed under annual contracts).

Multiyear procurement of C–130Js would raise costs in 2003 because the KC–130J did not receive advance procurement in 2002 in anticipation of multiyear procurement starting in 2003, and because the Air Force would need to provide advance procurement for the aircraft that it would purchase in 2004.

Military Endstrength. The bill would authorize active and reserve endstrength levels for 2003. The authorized endstrengths for active-duty personnel and personnel in the selected reserve would total about 1,390,000 and 865,000, respectively. Of those selected reservists, about 68,500 would serve on active duty in support of the reserves. The bill would specifically authorize appropriations of about $94 billion for the costs of military pay and allowances in 2003. The authorized endstrength represents a net increase of 2,200 servicemembers that would boost costs for salaries and other expenses by $87 million in the first year and about $190 million annually in subsequent years, compared to the authorized strengths for 2002.

The bill also would authorize an endstrength of 9,000 in 2003 for the Coast Guard Reserve. This authorization would cost about $92 million and would fall under budget function 400 (transportation).

Section 402 would allow the Secretary of Defense to increase endstrength by 2 percent above the level authorized by the Congress. The provision would also allow an increase in endstrength equal to the number of personnel within the reserve components that are on active duty in support of a contingency operation. While there is the potential for increased costs, CBO believes that DoD would still have to manage their resources given the finite amount of money appropriated each year for military personnel. As such, CBO estimates that this provision would not significantly increase costs.

Compensation and Benefits. S. 2514 contains several provisions that would affect military compensation and benefits for uniformed personnel.

Military Pay Raises. Section 601 would raise basic pay by 4.1 percent across-the-board and authorize additional targeted pay raises, ranging from 0.9 percent to 4.4 percent, for individuals with specific ranks and years of service at a total cost of about $2.3 billion in 2003. Because the pay raises would be above those projected under current law, CBO estimates that the incremental costs associated with the larger pay raise would be about $276 million in 2003 and total $1.9 billion over the 2003–2007 period.

Expiring Bonuses and Allowances. Several sections would extend DoD's authority to pay certain bonuses and allowances to current personnel. Under current law, most of these authorities are scheduled to expire in December 2002, or three months into fiscal year 2003. The bill would extend these authorities through December 2003. Based on data provided by DoD, CBO estimates that the costs of these extensions would be as follows:

Payment of reenlistment bonuses for active-duty personnel would cost $327 million in 2003 and $191 million in 2004; enlistment bonuses for active-duty personnel would cost $133 million in 2003 and $361 million in 2004;

Various bonuses for the Selected and Ready Reserve would cost $99 million in 2003 and $114 million in 2004;

Special payments for aviators and nuclear-qualified personnel would cost $67 million in 2003 and $72 million in 2004;

Retention bonuses for officers and enlisted members with critical skills would cost $29 million in 2003 and $19 million in 2004;

Accession bonuses for new officers with critical skills would cost $14 million in 2003 and $5 million in 2004; and

Authorities to make special payments and give bonuses to certain health care professionals would cost $37 million in 2003 and $34 million in 2004.

Most of these changes would result in additional, smaller costs in subsequent years because payments are made in installments.

Assignment Incentive Pay. Section 617 would authorize a new incentive pay to servicemembers who volunteer for difficult-to-fill jobs or less-than-desirable locations. The authority would expire three years after the enactment date of this bill. Based on information from DoD, CBO expects that only the Navy would use this authority. Based on information provided by the Navy, CBO assumes that the special incentive pay would average $300 a month and that 11,250 servicemembers would receive this special pay by 2005. Given expected personnel turnover, CBO estimates that this provision would cost $1 million in 2003 and $46 million over the 2003–2005 period.

Education and Training. Section 521 would allow the military services to increase the number of students at each of the service academies from the current ceiling of 4,000 to 4,400 students. Based on information from DoD, CBO expects that only the Navy would significantly increase its service-academy strength and that it would bring on about 100 extra academy students a year, so that the student body would increase, after several years, to about 4,400 students. Based on information provided by DoD, CBO assumes the other service academies would each increase their enrollments by an insignificant number of students a year.

According to DoD, the additional cost to bring on 400 extra students at the Naval

Academy would be about $29,000 per student each year. These additional students would not be used to increase overall officer endstrength, but rather to offset a desired draw down in the number of officers commissioned through the Officer Candidate School (OCS) program, according to the Navy. Thus, the actual cost of the increase for the academy students would be offset somewhat by the cost of the OCS graduates they would replace. Because the OCS program lasts less than one year, the offsetting costs would not begin to affect net outlays until 2007, when the first of the additional academy students would graduate and be commissioned. CBO estimates the cost of implementing this provision would be $1 million in 2003 and $31 million over the 2003–2007 period, assuming appropriation of the necessary amounts.

Section 652 would extend the period during which eligible reservists may use their education benefits from 10 years to 14 years. In 2001, over 82,000 reservists trained under this program and received an average annual benefit of $1,653. These benefits are paid by the Secretary of Veterans Affairs from the DoD Education Benefits Fund. Each month, DoD pays into the fund the net present value of the education benefit granted to each person who enlisted in the previous month. Based on information from DoD about current contributions to the fund and expected accessions, CBO estimates implementing section 652 would increase payments into the fund by about $2 million each year. (CBO estimates that there also would be direct spending of about $24 million over the 2003–2012 period for increased outlays from the fund. CBO's estimate of those costs is discussed below under the heading of ''Direct Spending.'')

Concurrent Receipt. Section 641 would phase in over five years total or partial concurrent payment of retirement annuities together with veterans' disability compensation to retirees from the uniformed services who have service-connected disabilities rated at 60 percent or greater. The uniformed services include all branches of the U.S. military, the Coast Guard, and uniformed members of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA).

Under current law, disabled veterans who are retired from the uniformed services cannot receive both full retirement annuities and disability compensation from the Department of Veterans Affairs (VA). Because of this prohibition on concurrent receipt, such veterans forgo a portion of their retirement annuity equal to the nontaxable veterans' benefit. This section would phase in concurrent receipt of both benefits so that, beginning in 2007, individuals who have significant service-connected disabilities and have a retirement annuity based on years of service, would receive both benefits in full without the reduction called for under current law. Individuals whose retirement pay is based on their degree of disability would continue to forgo retirement pay equal to the VA compensation payment, but only to the extent that their disability had entitled them to a larger retirement annuity than they would have received based on years of service.

The military retirement system is financed in part by an annual payment from appropriated funds to the military retirement trust fund, based on an estimate of the system's accruing liabilities. If this provision is enacted, the yearly contribution to the military retirement trust fund (an outlay in budget function 050) would increase to reflect the added liability from the expected increase in annuities to future retirees. Using information from DoD, CBO estimates that implementing this provision would increase such payments by $588 million in 2004 and $2.5 billion over the 2004–2007 period. Because the phase-in of concurrent receipt benefits would not take effect until January 1, 2003, the accrual payment for fiscal year 2003 would not be affected. CBO estimates that there also would be direct spending of about $17.3 billion over the 2003–2012 period for increased outlays from the fund. CBO's estimate of those costs is discussed below under the heading of ''Direct Spending.''

National Call to Service. Section 541 would give the Secretary of Defense authority to establish an enlistment program in which a participant, in exchange for a specified incentive, would enlist in the armed forces for a period of 15 months plus training time followed by service in the reserves, the Peace Corps, Americorps, or another national service program. The specified incentives would consist of either a cash bonus of $5,000, payment of student loans not to exceed $18,000, or education benefits similar to those provided for in the Montgomery GI Bill (MGIB) education program.

Based on information from DoD, CBO estimates that DoD would seek to recruit about 1 percent of annual enlisted accessions (an average of about 2,000 enlistees a year) under the National Call to Service program. CBO assumes that all (or nearly all) participants would choose the $5,000 cash bonus option since DoD has indicated that the amount it would probably offer for the repayment of student loans would be less than or equal to $5,000. Moreover, while the education benefits offered under this program would be worth more than $5,000, CBO believes that few enlistees would choose these benefits because a participant who selected the cash bonus would also have the potential to be eligible for active-duty or reserve MGIB benefits. Thus, CBO estimates that the cost for providing the cash bonus to participants who enlist under the National Call to Service program would be about $10 million a year once the program was implemented. Based on information provided by DoD, CBO assumes that it would take about one year for DoD to implement this program.

CBO also estimates that there would be an additional cost associated with administering this program. Since servicemembers who would enlist under the National Call to Service program would leave the military one year sooner than the average enlisted member who leaves after his or her initial obligation is fulfilled, DoD would need to induct more people into the military to maintain endstrength. CBO estimates that DoD would need to induct 1,000 additional enlistees a year to make up for the accelerated loss in personnel. With an average training period of about six months, DoD would need to add these enlistees about half a year earlier. Thus, the first bonuses would not be paid out until 2004 and the first replacements would not have to be inducted until 2005.

Based on information from DoD, CBO estimates that the average cost for each additional enlistee would be about $16,250 in fiscal year 2003, which includes the cost of providing new uniforms, travel expenses, and six months of salary and benefits during training. After adjusting for inflation and assuming that new participants are brought into the program evenly throughout the first year, CBO estimates that the cost of these additional accessions would be $9 million in 2005 and an average of $20 million per year thereafter.

Therefore, CBO estimates that the total costs for the National Call to Service program would be $10 million in 2004, $19 million in 2005, and about $85 million over the 2004–2007 period.

Defense Health Program. Title VII contains several provisions that would affect DoD health care and benefits. Tricare is the name of DoD's health care program; Tricare Prime and Tricare Prime Remote are managed care programs, and Tricare Standard is a fee-for-service program.

Tricare Prime Remote. Section 703 would affect dependents of servicemembers on active duty who live in a remote area, which is defined as roughly a one-hour-or-more driving distance from a military treatment facility. Under certain conditions, this section would allow dependents of personnel on active duty who live in a remote area to participate in Tricare Prime Remote if the servicemember is transferred to a different duty station and is not allowed to bring his or her family. Under current law, dependents of personnel on active duty living in remote areas must reside with the active-duty member to participate in Tricare Prime Remote. If the active-duty servicemember is transferred to a duty station where he or she cannot bring family members, the family can no longer participate in the Tricare Prime Remote program.

Based on information provided by DoD, CBO estimates that about 27,000 dependents of personnel on active duty would be affected by this provision. According to DoD, about 40 percent of those dependents who would be eligible for Tricare Prime Remote under this section already participate in Tricare Standard. Based on data provided by the department, CBO estimates that the additional incremental cost of providing Tricare Prime Remote to those individuals would be $113 per person. In addition, CBO estimates that the new benefit would attract about 1,350 dependents to Tricare Prime Remote who had not previously used any Tricare program at an estimated annual cost of $1,900 per person. Thus, CBO estimates that the cost of providing Tricare Prime Remote to more individuals would be $4 million in 2003 and $22 million over the 2003–2007 period, assuming appropriation of the estimated amounts.

Transitional Health Care. Under section 707, family members of reservists who were called to active duty for more than 30 days would be eligible for health care coverage under Tricare for 60 days after the reservist is released from active duty. Under current law, only the reservist is eligible for health care coverage under Tricare for the 60 days after he or she is released from active duty. While there are currently more than 80,000 reservists on active duty, CBO assumes for this estimate that the number of reserves will fall to about 65,000 in 2003 and 10,000 by 2006. If the number of reservists remains at current levels over the 2003–2007 period, the estimated costs would be correspondingly higher.

Based on data from DoD and the General Accounting Office, CBO estimates that about 50 percent of the reservists have families and that about 40 percent of those families would use the transitional health care. CBO further estimates that providing an additional 60 days of health care coverage to those families would cost, on average, about $600 per family. After accounting for inflation and the assumed decline in the level of reservists called to active duty, CBO estimates that this provision would cost $7 million in 2003, and $18 million over the 2003–2007 period, assuming appropriation of the estimated amounts.

Voluntary Separation and Early Retirement Incentives. S. 2514 contains several provisions that would allow DoD and the Department of Energy to offer voluntary retirement incentives to their civilian employees. Taken together, CBO estimates implementing these provisions would cost $121 million in 2004 and $544 million over the 2004–2006 period.

Section 1102 would provide DoD with the authority to offer voluntary retirement incentives of up to $25,000 to its civilian employees who voluntarily retire or resign through September 30, 2006. Current buyout authority for DoD is scheduled to expire on September 30, 2003. Based on discussions with DoD staff, CBO assumes that about 16,500 DoD employees would participate in the buyout program in 2004 through 2006. CBO estimates that the buyout payments would cost $88 million in 2004 and $414 million over the 2004–2006 period, assuming appropriation of the estimated amounts. DoD also would be required to make a payment to the Civil Service Retirement and Disability Fund (CSRDF) for every employee who takes a buyout. The payments would equal 15 percent of the final basic pay of each employee and come out of the agency's appropriated funds. Assuming an average final salary for the affected workers of $45,000, CBO estimates these payments would cost DoD $24 million in 2004 and $118 million over the 2004–2006 period. (CBO estimates that enacting this section also would increase direct spending for federal retirement and retiree health care benefits by a total of $188 million over the 2004–2012 period. CBO's estimate of those outlays is discussed below under the heading of ''Direct Spending.'')

Section 3163 would provide DOE with authority to offer voluntary retirement incentives of up to $25,000 to employees who voluntarily retire or resign in calendar year 2004. Current buyout authority for DOE is scheduled to expire on December 31, 2003. Based on information from DOE, CBO assumes that about 350 DOE employees would participate in the buyout program in calender year 2004. CBO estimates that the cost of the buyout payments would total $6 million in 2004 and $2 million in 2005. DOE would also be required to make a payment to the CSRDF for every employee who takes a buyout. The payments would equal 15 percent of the final pay of each employee and come out of the agency's appropriated funds. Assuming an average final salary for the affected workers of $75,000, CBO estimates these payments would cost DOE $3 million in 2004 and $1 million in 2005. (CBO estimates that enacting this section also would increase direct spending for federal retirement and health care benefits by a total of $8 million over the 2004–2012 period. CBO's estimate of those outlays is discussed below under the heading of ''Direct Spending.'')

Federal Employees Health Benefits (FEHB) Program. Section 1103 would extend a provision of law into fiscal year 2007 that allows DoD and certain Department of Energy employees whose employment is terminated because of a reduction-in-force action to continue to participate in the FEHB health insurance program and only pay the regular employee's share of the insurance premium. The respective departments would be responsible for paying the normal employer's share of the premium. Under current law, this provision expires in fiscal year 2004. Based on information from DoD and the Office of Personnel Management, CBO estimates that this provision would affect about 500 people a year at an average annual cost of $5,500 per person over the 2003–2007 period. CBO estimates that extending this provision into fiscal year 2007 would cost $2 million in 2004, and $11 million over the 2004–2007 period, assuming appropriation of the estimated amounts.

School Impact Aid. Section 1064 would allow school districts with a large percentage of children from military families to continue to receive heavy impact aid when military families are temporarily relocated. Heavy impact aid is federal funding earmarked for school districts with large military populations. Many military families in those school districts live on federal installations and do not contribute to the local property tax base that is used to help finance school operations. Heavy impact aid helps to offset this loss of local tax revenue. Under current law, schools can only receive heavy impact aid if they meet strict criteria for numbers of federal students located in their districts, local tax rates, and per pupil expenditures. Because of population relocations associated with certain military housing initiatives, some school districts will temporarily be unable to meet these criteria and will lose their heavy impact aid for several years.

Based on data from the Department of Education and the Military Impacted Schools Association, CBO estimates that about four school districts would initially be affected by housing privatization and that these school districts receive about $18 million in heavy impact aid annually. Because applications for heavy impact aid are based on school district statistics from three years prior, CBO estimates that the cost of implementing this section would not occur until 2006. After adjusting for the changes in student population within the affected districts, CBO estimates that restoration of this aid would cost about $14 million per year. Since the requirements of the School Impact Aid program are not always fully funded, CBO expects that the Department of Education would likely fund this increase through reductions in aid to other school districts. CBO expects this cost would reoccur annually only for the duration of the housing privatization effort within the affected school districts, which CBO estimates to be about three years.

Section 1064 also would allow coterminous school districts (school districts whose boundaries are the same as a military base) to change the way in which they include students living off the base in their heavy impact aid calculations. CBO estimates that implementing this provision would change the calculation of heavy impact aid for 200 students in two school districts and that the impact aid for these students would increase by about $2,300 per student. CBO estimates allowing coterminous school districts to change the method for calculating heavy impact aid would cost slightly less than $500,000 each year beginning in 2003.

Arctic and Western Pacific Environmental Cooperation Program. Section 1214 would authorize the Department of Defense, with the concurrence of the Secretary of State, to assist in mitigating the impact of military operations on the environment of the arctic and western Pacific regions, particularly nuclear or radiological impacts. Based on information from DoD, CBO estimates that implementing this provision would cost $29 million over the 2003–2007 period, assuming appropriation of the estimated amounts.

Revitalizing DoD Laboratories. Section 241 would allow DoD to establish a new three-year pilot program beginning in March 2003 at various DoD laboratories to pursue improved efficiencies for performing research and development work at these laboratories. The section also would extend through 2006 authorizations for similar pilot projects that will expire in 2003. Finally, section 241 would permit laboratories participating in this new pilot program to enter into public-private partnerships and other business arrangements with private firms to achieve improved efficiencies. The authority to enter into such partnerships would expire in 2006. Under section 241, one of the public-private partnerships could be established as a limited liability corporation where the federal and nonfederal partners could contribute capital, services, or facilities to the corporation.

Under the new pilot program, DoD would be authorized to waive certain restrictions not required by law that hinder the objective of achieving improved efficiencies. The department also would be authorized to use innovative methods of personnel management and technology development. According to information provided by DoD, the laboratories participating in the existing pilot program were granted similar authorities. DoD reported that these laboratories did not substantially change their business practices because, in their view, they already had the authority to waive non-statutory regulations. Thus, CBO assumes that any laboratories selected for the new program would not change their business practices substantially. CBO estimates that spending under these new and extended authorities would not be significant—probably less than $500,000 annually over the 2003–2006 period. (CBO estimates that the provision allowing a limited liability corporation also would increase direct spending by a total of $15 million over the 2004–2006 period. CBO's estimate of those outlays is discussed below under the heading of ''Direct Spending.'')

Multiyear Procurement of Environmental Remediation Services. Section 827 would give DoD the authority to enter into multiyear contracts for environmental remediation services. Under current law, the total cost of any multiyear remediation service contract must be fully funded at the beginning of the contract. DoD has found this difficult to do for contracts that are expensive and last several years. Instead, DoD often awards these contracts for environmental remediation to cover work for one year and then extends the contract on a year-to-year basis as funds become available. DoD states that contracting in this manner is generally more expensive because contractors charge higher prices when they don't know whether the contract will continue beyond the current year. Thus, allowing DoD to sign multiyear contracts for environmental remediation would most likely produce some savings. DoD could not provide CBO with the necessary data to produce a precise estimate of the annual savings. However, given the high cost of these contracts, CBO believes these savings could be significant. CBO estimates that DoD currently spends about $1.7 billion each year on environmental cleanup related activities. If 10 percent of future contracts were negotiated as multiyear contracts and those contracts produced savings of about 5 percent on average, multiyear contracting for environmental remediation efforts would save about $10 million annually after a five-year phase-in period.

Disposition of Surplus Plutonium. In January 2002, the Secretary of Energy announced that the federal government plans to convert roughly 34 metric tons of surplus weapons grade plutonium currently located at various DOE facilities into mixed-oxide (MOX) fuel that would be suitable for use in U.S. commercial nuclear reactors. The federal government would ship the surplus plutonium to a MOX fuel fabrication facility at its Savannah River Site in Aiken, South Carolina. DOE plans to start construction of the facility in 2004 and expects that construction would be complete by 2007. The facility would be able to convert about 3.5 metric tons of plutonium a year and would complete the conversion in about 12 years.

Section 3182 would require that the Secretary of Energy pay up to $100 million a year to the state of South Carolina beginning in 2011, if the planned conversion schedule was not met. The federal government could avoid these penalties, however, if it removes at least one metric ton of plutonium a year from South Carolina over the 2011–2016 period and removes all remaining plutonium after 2016.

Based on delays in developing the construction plans for the proposed MOX facility, and delays in similar programs such as the Nuclear Waste Repository Site at Yucca Mountain, Nevada, and the Waste Isolation Pilot Program at Carlsbad, New Mexico, CBO believes that there is some chance that construction of the MOX facility could be delayed for several years beyond the 2007 planned completion date and that construction would not be completed by 2011. If DOE does not remove the required surplus plutonium from the state of South Carolina, DOE would need to pay up to $100 million a year to the state starting in 2011.

Direct Spending

The bill contains provisions that would increase direct spending, primarily from the phase-in of concurrent payment of retirement annuities with veterans' disability compensation to retirees from the military and the other uniformed services who have service-connected disabilities rated at 60 percent or greater. The bill also contains a few provisions with smaller direct spending costs. In total, CBO estimates that enacting S. 2514 would result in an increase in direct spending totaling $5.6 billion over the 2003–2007 period (see Table 4).

TABLE 4.—ESTIMATED DIRECT SPENDING FROM CONCURRENT RECEIPT AND OTHER PROVISIONS IN S. 2514

	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
CHANGES IN DIRECT SPENDING					
Section 641—Concurrent Receipt:					
Estimated Budget Authority	356	628	995	1,439	1,905
Estimated Outlays	356	628	995	1,439	1,905
Section 651—Education Benefits for the Selected Reserves:					
Estimated Budget Authority	2	2	2	2	2
Estimated Outlays	2	2	2	2	2
Section 702—Mental Health Benefits:					
Estimated Budget Authority	1	1	1	1	1
Estimated Outlays	1	1	1	1	1
Section 1102—Voluntary Separation and Early Retirement Incentives (DoD):					
Estimated Budget Authority	0	31	73	87	28
Estimated Outlays	0	31	73	87	28
Section 3163—Voluntary Separation and Early Retirement Incentives (DOE):					
Estimated Budget Authority	0	3	4	1	[a]
Estimated Outlays	0	3	4	1	[a]
Section 241—Revitalizing DoD Laboratories:					
Estimated Budget Authority	0	6	6	3	0
Estimated Outlays	0	6	6	3	0
Section 2824—Land Conveyance of Navy Property, Westover Reserve Air Base:					
Estimated Budget Authority	0	3	0	0	0
Estimated Outlays	0	3	0	0	0
TOTAL CHANGES IN DIRECT SPENDING					
Estimated Budget Authority	359	674	1,081	1,533	1,936
Estimated Outlays	359	674	1,081	1,533	1,936

[a] Less than $500,000.

Concurrent Receipt. Section 641 would phase in over five years total or partial concurrent payment of retirement annuities together with veterans' disability compensation to retirees from the uniformed services who have service-connected disabilities rated at 60 percent or greater. Under section 641, the phase-in of concurrent receipt would not take effect until January 1, 2003.

Under current law, disabled veterans who are retired from the uniformed services cannot receive both full retirement annuities and disability compensation from VA. Because of this prohibition on concurrent receipt, such veterans forgo a portion of their retirement annuity equal to the nontaxable veterans' benefit. This section would permit, beginning in 2007, individuals who have significant service-connected disabilities and have a retirement annuity based on years of service, to receive both benefits in full without the reduction called for under current law. Individuals whose retirement pay is based on their degree of disability would continue to forgo retirement pay equal to the VA compensation payment, but only to the extent that their disability had entitled them to a larger retirement annuity than they would have received based on years of service.

This section also would repeal, as of January 1, 2003, a program that partially compensates certain severely disabled retirees for this reduction in their retirement annuities. This program currently pays a fixed benefit of $50 to $300 a month, depending on degree of disability. Taken together, CBO estimates that implementing section 641 would increase direct spending for retirement annuities and veterans' disability compensation by a net amount of about $356 million in 2003, $5.3 billion over the 2003–2007 period, and $17.3 billion over the 2003–2012 period (see Table 5).

Retirement Annuities. Since the proposed legislation would treat retirees differently based on their type of retirement—nondisability or disability, the potential costs of the legislation depend on the number of beneficiaries, their type of retirement, their disability levels, and their benefit amounts.

Nondisability Retirees. A nondisability retirement is granted based on length of service—usually 20 or more years. Section 641 would allow those longevity retirees whose degree of disability has been rated as 60 percent or greater to receive full retirement annuities and veterans' disability benefits with no offset in 2007, and to receive an increasing portion of their retirement annuities over the 2003–2006 period. Data from the uniformed services indicate that in 2001 the prohibition on paying both benefits concurrently caused about $1.3 billion to be withheld from the annuity payments of about 74,000 eligible DoD retirees with nondisability retirements, and about 900 eligible Coast Guard, PHS, and NOAA retirees. Using current rates of net growth in the population of new beneficiaries, CBO estimates this caseload would rise to about 78,000 nondisability retirees in 2003, and 96,000 nondisability retirees by 2012. CBO assumes that future benefit payments will increase consistent with current rates of growth in average disability levels and also increase from cost-of-living adjustments. After phasing the benefits in over five years as specified in the provision, CBO estimates that enacting the legislation would increase direct spending on retirement annuities for nondisability retirees of the uniformed services by $342 million in 2003, $4.7 billion over the 2003–2007 period, and $15.2 billion over the 2003–2012 period.

TABLE 5.—ESTIMATED CHANGES IN RETIREE BENEFITS UNDER S. 2514

Description of benefits program	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
Retirement Annuities:					
Nondisability	342	582	861	1,223	1,654
Disability	56	92	127	172	223
Veterans Compensation Payments	0	13	67	104	89
Survivor Benefit Plan Payments	7	7	8	9	9
Special Compensation for Severely Disabled	−49	−66	−68	−69	−70
Total Changes in Retiree Benefits	356	628	995	1,439	1,905

Disability Retirees. Servicemembers who are found to be unable to perform their duties because of service-related disabilities may be granted a disability retirement. Section 641 would allow eligible disability retirees to receive retirement annuities based on their years of service and veterans' disability benefits with no offset in 2007, and partial concurrent receipt of these payments in 2003 through 2006. Disability retirees would be eligible to obtain concurrent receipt of their retirement annuity and veterans' disability compensation if they served 20 or more years in the uniformed services and had a disability rating of 60 percent or greater.

Data from the uniformed services indicate that in 2001, the prohibition on paying both benefits concurrently caused about $200 million to be withheld from annuity payments of about 11,400 eligible DoD retirees with disability retirements, and about 500 eligible Coast Guard, PHS, and NOAA retirees. An analysis of retiree records by DoD indicates

that, under the criteria set forth in this section, these retirees would be eligible to receive about 95 percent of their retirement annuity concurrently with their VA disability benefit. Assuming continuation of current trends in population and benefit growth, and phasing the benefit in over five years as specified in this section, CBO estimates that, of the disability retirees who would be receiving VA disability benefits in fiscal year 2003, about 12,100 would be entitled to an additional $56 million in retirement annuities. CBO estimates their retirement annuities would increase by $670 million over the 2003–2007 period and $1.9 billion over the 2003–2012 period.

Other Effects of Concurrent Receipt. Enacting section 641 also would affect Veterans' Disability Compensation, receipts to the Treasury for Survivor Benefit Payments, Special Compensation to Severely Disabled Retirees, and the level of contributions to the Military Retirement Trust Fund.

Veterans' Disability Compensation. Data from DoD indicates that an additional 15,100 disability retirees of the uniformed services—14,500 from DoD and about 600 from the other uniformed services—do not currently receive VA disability benefits that they are entitled to receive. Since many disability retirees are not taxed on their annuities, there is no incentive under current law for these retirees to apply for the tax-free VA benefits, as they will be offset, dollar-for-dollar, against their retirement annuities. Section 641 would provide a significant incentive for the more disabled of these individuals to apply for VA disability benefits. CBO estimates that about 7,000 disability retirees might be eligible for concurrent receipt under section 641, but, because many of these retirees are both disabled and quite elderly, CBO expects that only about half of that number would become aware of this improved benefit and successfully complete the application process. Based on their DoD-assessed degree of disability, CBO estimates that outlays for VA disability benefits would increase by $13 million in 2004, about $270 million over the 2003–2007 period, and $760 million over the 2003–2012 period. Because of the time needed for individuals to prepare and submit their applications and the current backlog in processing applications, CBO estimates that enacting this legislation would not increase outlays for veterans' disability compensation in 2003.

Survivor Benefit Plan Offsetting Receipts. Many retirees have a Survivor Benefit Plan (SBP) premium payment deducted from their retirement annuity. The SBP was established in Public Law 92–425 to create an opportunity for military retirees to provide annuities for their survivors. Those retirees who are not receiving a paycheck from DoD because their retirement annuity is totally offset by their VA disability benefit may still participate in the SBP by paying the monthly premium to the U.S. Treasury. These payments are recorded as offsetting receipts (a credit against direct spending) to DoD. According to DoD, approximately 34,000 military retirees paid $23 million in SBP premiums to the Treasury in 2001. DoD also indicates that about $7 million of that amount was paid by about 8,000 retirees who would begin to receive annuity checks under section 641. CBO's estimate of the increase in retirement outlays presented above assumes that the SBP premiums of retirees who benefit from the legislation would be deducted from the retirees' annuities, and their payments to the Treasury would cease. Assuming continuation of current trends in population and benefit growth, CBO estimates these offsetting receipts would decrease by about $7 million in 2003, $40 million over the 2003–2007 period, and $90 million over the 2003–2012 period.

Repeal of Special Compensation for Severely Disabled Retirees. Section 641 also would repeal a special compensation program that currently pays a fixed benefit of $50 to $300 a month to certain uniformed service retirees who were determined to be 60 percent to 100 percent disabled within four years of their retirement. These special payments would stop on January 1, 2003, under section 641. Based on information from DoD and assuming the population growth trends continue, CBO estimates that about 36,000 DoD retirees and about 600 retirees of the other uniformed services will receive an average monthly benefit of $150 in 2002. Under current law, this benefit is scheduled to increase over the next two years to $172 a month. CBO estimates that the savings from repealing this program would be $49 million in 2003, about $320 million over the 2003–2007 period, and $690 million over the 2003–2012 period.

Increased Accrual Payment Financing. The military retirement system is financed in part by an annual payment from appropriated funds (an outlay in budget function 050) to the Military Retirement Fund, based on an estimate of the system's accruing liabilities. If this provision is enacted, the yearly contribution to the fund would increase to reflect the added liability from the expected increase in annuities to future retirees. These discretionary costs were discussed earlier in the ''Spending Subject to Appropriation'' section.

Education Benefits for the Selected Reserve. Section 651 would extend the period during which eligible reservists may use their education benefits from 10 years to 14 years. VA reported that, in 2001, over 82,000 reservists trained under this program and received an average annual benefit of $1,653. This average benefit includes both the basic benefit and a supplemental benefit that DoD can offer to enhance accessions or re-enlistment in critical skill specialties. This benefit increases each year by a cost-of-living adjustment and by the level of supplemental benefits being offered. Based on current usage rates, CBO estimates that enacting this extension would result in an extra 1,500 trainees a year. Based on information from DoD and VA, CBO estimates that enacting this legislation would increase education outlays by $2 million in 2003, $10 million over the 2003–2007 period and by $24 million over the 2003–2012 period. Since DoD makes monthly payments into the DoD Education Benefits Fund in the amount of the net present value of the benefits granted during the previous month, this increase in usage of the education benefit would necessitate an increase in payments to the fund. (The discretionary costs associated with these payments are discussed earlier in the ''Spending Subject to Appropriation'' section under the heading of ''Education and Training.'')

Mental Health Benefits. Section 702 would remove a statutory requirement that inpatient mental health care be preauthorized for retirees and dependents who are eligible for Medicare. Under current law, Tricare for Life (TFL), another medical program run by DoD, pays all Medicare copayments and deductibles for those benefits that are covered by both programs. Beginning in 2003, TFL spending for Medicare-eligible retirees and dependents will be considered direct spending. Under current law, Medicare does not require a preauthorization for inpatient mental health care but Tricare does. Removing this requirement would make the mental health benefits identical and reduce confusion among beneficiaries and health care providers.

Although most individuals would seek preauthorization before receiving inpatient mental health care, CBO expects that, under current law, some individuals would fail to obtain the necessary preauthorization from Tricare and would have to pay the copayments and deductibles on their own. Because DoD does not have any available data on the frequency or costs of inpatient mental health care for Medicare-eligible retirees and dependents, CBO extrapolated this data from the general Medicare population. Under section 702, CBO estimates that in 2003 TFL would cover the copayments and deductibles for about 600 additional people at an average cost of about $1,700 per person. Thus, CBO estimates section 702 would raise direct spending by $1 million in 2003, $5 million over the 2003–2007 period, and $15 million over the 2003–2012 period.

Voluntary Separation and Early Retirement Incentives. S. 2514 contains several provisions that would allow the DoD and DOE to offer voluntary separation incentives to their civilian employees. Taken together, CBO estimates enacting these provisions would increase direct spending for federal retirement and retiree health care benefits by $34 million in 2004 and $196 million over the 2004–2012 period.

Section 1102 would provide DoD with authority to offer its civilian employees voluntary retirement incentive payments of up to $25,000 for employees who voluntarily retire or resign in fiscal years 2004 thorough 2006. Current buyout authority for DoD is set to expire on September 30, 2003. CBO estimates that enacting section 1102 would increase direct spending for federal retirement and retiree health care benefits by $31 million in 2004 and $188 million over the 2004–2012 period.

Section 3163 would provide DOE with authority to offer payments of up to $25,000 to employees who voluntarily retire or resign in calendar year 2004. Current buyout authority for DOE is scheduled to expire on December 31, 2003. CBO estimates enacting section 3163 would increase direct spending for federal retirement and retiree health care benefits by about $3 million in 2004 and about $8 million during the 2004–2012 period.

DoD Retirement Spending. CBO assumes that about 16,500 DoD employees would participate in the buyout program over the three-year period and that many workers who take a buyout would begin collecting federal retirement benefits several years earlier than they would under current law. Inducing some workers to retire earlier would result in additional benefits being paid from the Civil Service Retirement and Disability Fund. In later years, annual federal retirement outlays would be lower than under current law because the employees who retire early receive smaller annuity payments than if they had retired later. CBO estimates that enacting section 1102 would increase direct spending for federal retirement benefits by $24 million in 2004 and $136 million over the 2004–2012 period. (The discretionary costs over the 2004–2006 period associated with the buyout payments were discussed earlier in the ''Spending Subject to Appropriation'' section under the heading of ''Voluntary Separation and Early Retirement Incentives.'')

DoD Retiree Health Care Spending. Enacting section 1102 also would increase direct spending on federal benefits for retiree health care because many employees who accept the buyouts would continue to be eligible for coverage under the Federal Employee Health Benefits (FEHB) program. The government's share of the premium for these retirees—unlike current employees—is mandatory spending. Because many of those accepting the buyouts would convert from being an employee to being a retiree earlier than under current law, mandatory spending for FEHB premiums would increase. CBO estimates

these additional FEHB benefits would increase direct spending by $7 million in 2004 and $52 million over the 2004–2012 period.

DOE Retirement Spending. CBO assumes that about 350 DOE employees would participate in the buyout program in calender year 2004 and that many workers who take a buyout would begin collecting federal retirement benefits several years earlier than they would under current law. Inducing some workers to retire earlier would result in additional retirement benefits being paid from the CSRDF. In later years, annual federal retirement outlays would be lower than under current law because the employees who retire early receive smaller annuity payments than if they had retired later. Under section 3163, CBO estimates spending for federal retirement benefits would increase by $3 million in 2004 and by $8 million over the 2004–2012 period.

DOE Retiree Health Care Spending. Section 3163 would also increase spending on federal retiree health benefits because many employees who would accept the buyouts continue to eligible for coverage under the FEHB program. CBO estimates that these additional FEHB benefits would increase direct spending by less than $500,000 a year over the 2004–2006 period.

Revitalizing DoD Laboratories. Section 241 would allow DoD to establish a new three-year pilot program beginning in March 2003 at various DoD laboratories to pursue improved efficiencies for performing research and development work at these laboratories. The section also would extend through 2006 authorizations for similar pilot projects that will expire in 2003. Finally, section 241 would permit laboratories participating in this new pilot program to enter into public-private partnerships and other business arrangements with private firms to achieve improved efficiencies. The authority to enter into such partnerships would expire in 2006. Under section 241, one of the public-private partnerships could be established as a limited liability corporation where the federal and nonfederal partners could contribute capital, services, or facilities to the corporation.

CBO has little information about how this limited liability corporation would be structured, but one of the purposes of this corporation would be to finance improvements to DoD's research, test, and evaluation functions. CBO considers such hybrid entities as governmental. Hence, their activities should be recorded in the federal budget. CBO treats the assets that are expected to be contributed by the private party as borrowed by the federal government. Borrowing authority is treated as budget authority in the year and in the amounts that CBO estimates the private party would contribute to the limited liability corporation. This budgetary treatment is consistent with the recommendations of the President's 1967 Commission on Budget Concepts, which suggests that entities jointly capitalized with private and public assets be included in the federal budget until they are completely privately owned.

CBO assumes that DoD would need about one year to develop the policies and regulations for the new corporation that would be authorized under section 241. Based on information provided by DoD, CBO estimates that the additional expenses of the limited liability corporation could total between $4 million and $7 million a year. Assuming costs fall midway within that range, CBO estimates that federal borrowing would be about $6 million starting in 2004 and total about $15 million over the 2004–2006 period.

The budget also would record any cash proceeds collected by the corporation from the public. Any payments from federal agencies would be an intragovernmental transfer and would have no net budgetary impact. In contrast, any proceeds accruing to the corporation from nonfederal entities would be recorded as offsetting collections and would reduce the net cost of the partnership over time. For this estimate, CBO assumes that the government would use most of the services of this corporation. As a result, CBO estimates that proceeds from nonfederal sources would not be significant.

Land Conveyance and Other Property Transactions. Title XXVIII would authorize a variety of property transactions involving both large and small parcels of land.

Section 2824 would allow the Secretary of the Navy to convey 30.38 acres and 133 housing units located at Westover Reserve Air Base to the city of Chicopee, Massachusetts, without receiving payment for this property. Under current law, the Navy will soon declare this property excess and transfer it to the General Services Administration (GSA) for disposal. Under normal procedures, GSA sells property not needed by other federal agencies or by nonfederal entities in need of property for public-use purposes such as parks or educational facilities. Information from GSA indicates that the housing and land will likely be sold under current law after the entire parcel is screened for other uses in 2003. As a result, CBO estimates that this conveyance would result in forgone receipts totaling about $3 million in 2004.

Section 2828 would authorize the Secretary of the Interior to convey to the city of West Wendover, Nevada, and Tooele County, Utah, without consideration, two parcels of federal land located in those states and identified in the bill. According to the Bureau of Land Management, those lands, which are withdrawn for military purposes, currently generate no offsetting receipts and are not expected to in the foreseeable future. Hence, CBO estimates that conveying the lands would not affect offsetting receipts. According to the U.S. Air Force, portions of the lands that could be conveyed have been used as a bombing range by the Air Force. Under the Comprehensive Environmental Response, Compensation, and Liability Act, the Air Force would have to remediate any expended and unexploded ordnance prior to conveying those lands. Based on information from the Air Force, we estimate that initial remediation activities would cost at least $2 million, assuming appropriation of the necessary amounts. Although we do not have sufficient information to estimate the cost of subsequent remediation activities that may be necessary, CBO expects that such costs could be significant. Any spending for additional remediation would be subject to appropriation.

CBO estimates that other provisions in title XXVIII would not result in significant costs to the federal government because they would either authorize DoD to convey land for fair market value, to exchange one piece of property for another or would authorize DoD to convey land that under current law is unlikely to be declared excess and sold or is likely to be given away.

Other Provisions. The following provisions would have an insignificant budgetary impact on direct spending:

Section 111 would extend through 2004 the authority for a pilot program that allows industrial facilities within the Army to sell manufactured goods to the private sector even if the goods are manufactured in the domestic market. Section 111 also would direct that a portion of the sales proceeds in excess of $20 million a year be made available for ammunition demilitarization. CBO estimates, however, that there would likely be less than $5 million in annual sales under this pilot program over the 2003–2004 period, based on data provided by the Army, and that since the industrial facilities are allowed to spend any sales proceeds, the net effect on direct spending would be insignificant.

Section 642 would increase the retirement annuity of enlisted servicemembers who are retired from a reserve component of the Armed Forces and have been credited by their service secretary with extraordinary heroism in the line of duty. Under section 642, these retirees would be entitled to a 10 percent increase in their retirement annuity. CBO estimates that enacting section 642 would increase direct spending by less than $500,000 a year.

Section 1063 would extend through 2006 DoD's authority to sell aircraft and aircraft parts for use in responding to oil spills. Based on information from DoD, CBO does not anticipate any transactions would occur under this authority.

Section 3151 would require that the program to eliminate weapons-grade plutonium production in Russia be transferred from the Department of Defense to the Department of Energy. Funds appropriated for the program for 2000 through 2002 would be transferred to DOE and would be made available for obligation until expended. Under current law, those funds have a three-year period of availability, thus this provision could result in a reappropriation because it would extend the availability of some funds that would otherwise lapse. CBO estimates that about $120 million has been appropriated for this program over the 2000–2002 period and that nearly all of those funds will be obligated and spent under current law. As a result, CBO estimates that reappropriations under section 3151 would not be significant—probably less than $500,000 annually from 2003 through 2005.

Section 3162 would allow the Department of Energy to penalize contractors operating at DOE facilities for occupational safety violations. These penalties would most likely be levied by reducing the fees owed to the contractor. Based on information about penalties levied over the last few years for nuclear safety violations, CBO estimates that the reduction in contract fees due to occupational safety violations would be less than $500,000 annually.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in direct spending that are subject to pay-as-you-go procedures are shown in Table 6. For the purposes of enforcing pay-as-you-go procedures, only the effects through fiscal year 2006 are counted.

TABLE 6.—ESTIMATED IMPACT OF S. 2514 ON DIRECT SPENDING AND RECEIPTS

	By fiscal year, in millions of dollars—										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	0	359	674	1,081	1,533	1,936	2,132	2,261	2,391	2,529	2,676
Changes in receipts	Not applicable										

Intergovernmental and private-sector impact: S. 2514 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On May 3, 2002, CBO transmitted a cost estimate for H.R. 4546, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as ordered reported by the House Committee on Armed Services on May 1, 2002. The House bill would authorize approximately $382 billion in defense funding for fiscal year 2003 ($10 billion less than S. 2514 would authorize for 2003) and an estimated $14 billion in additional defense funding for 2002 (as also contained in S. 2514).

Both H.R. 4546 and S. 2514 would increase direct spending over the 2003–2007 period, but the Senate bill contains about $200 million less spending. Both bills contain provisions that would phase in over five years total or partial payment of retirement annuities together with veterans' disability compensation to retirees from the uniformed services who have service-connected disabilities rated at 60 percent or greater but the provisions specify different rates and schedules for phasing in the increased payments. Differences in the other estimated costs reflect differences in the legislation.

Estimate Prepared by: Federal Costs: Defense Outlays: Kent Christensen; Defense Laboratories and Department of Energy: Raymond Hall; Military Construction: David Newman; Military and Civilian Personnel: Michelle Patterson and Dawn Regan; Military Retirement and Education Benefits: Sarah Jennings; Health Programs: Sam Papenfuss; Multiyear Procurement: David Newman; Operation and Maintenance: Matt Schmit; Voluntary Separation and Early Retirement Incentives: Geoffrey Gerhardt; Impact on State, Local, and Tribal Governments: Elyse Goldman; Impact on the Private Sector: R. William Thomas.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my good friend and colleague, and I look forward again—as this will be our 24th year—of working together on the authorization bill.

Mr. President, I simply say to my good friend, the chairman, he mentioned that the Bush administration has yet to provide a formal national security strategy. I note that the timetable for submitting this document is not unusual. The Clinton administration did not submit its first national security strategy until well into its second year in office. In my contacts with the administration, they will soon be submitting that national security strategy.

I thank Chairman LEVIN for the work he has done on the bill which is before the Senate. I also want to thank my colleagues on the committee for their wise counsel and efforts, as well as the tremendous efforts of our committee staff. In large measure, this Defense Authorization Act for Fiscal Year 2003 is a good bill and an important step forward in our war against terrorism. In this time of national emergency it is essential that we provide our President and our armed forces the vital resources they need to defend our Nation, and to fight the scourge of terrorism at home and abroad.

In the end, I joined with seven of my Republican colleagues on the committee in voting against this bill in committee—primarily due to the drastic cut of over $800 million in missile defense. Having worked hard for a year on the many critical issues related to this bill, I considered my vote against the bill necessary, but regrettable.

Despite the fact that I voted against this bill, I support most of what is contained in this legislation. It represents the bipartisan work of all committee members—working together to support our men and women in uniform, and their families.

The National Defense Authorization Act for Fiscal Year 2003 contains the largest defense increase in over 20 years—an increase of $45.0 billion over the fiscal year 2002 appropriated level. The good news story associated with this much needed increase is that it has the full, bipartisan support of the Senate. While there is disagreement over how some of the money is allocated in this bill, there is virtually no dissent about the need for this significant increase in the top line for defense. This is a remarkable display of unity behind our President, so important and fitting with our nation at war.

In line with the request of the President, the bill significantly increases all major defense accounts over the fiscal year 2002 appropriated levels:

It increases spending on military personnel by over 12 percent, including a 4.1 percent pay raise for our servicemen and women.

It increases funding for operations and maintenance by over 15 percent, providing the necessary resources to fully fund our war effort.

The bill increases the procurement account by almost 10 percent. This will enable our military departments to procure the equipment they need to replace aging and heavily used assets, as well as to buy the things they need to protect our facilities, infrastructure and people in these increasingly uncertain and dangerous times.

Additionally, the bill increases spending on research and development by almost 9 percent, ensuring that investment is being made in the future to develop the capabilities we need to deter and defeat emerging threats to our national security.

The bill also sets aside a $10.0 billion reserve fund, as requested by the President, to pay for ongoing and future military operations in the global war on terrorism.

The threats to our Nation and the ongoing war on terrorism demand this increased investment in national security, both now and in the future.

The bill contains many key provisions which I support to improve the quality of life of our men and women in uniform, our retirees, and their families. In addition to the 4.1 percent pay raise for our uniformed personnel I mentioned earlier, additional funding is included for facilities and services that will greatly improve the quality of life for our service personnel and their families, at home and abroad. The bill includes a legislative provision that calls for the phased repeal of the prohibition on concurrent receipt of non-disability retired military pay and veterans disability pay for our military retirees with disabilities rated at 60 percent or higher. The committee also approved a managers' amendment, sponsored by Senator BOB SMITH, which will soon be considered by the full Senate, to repeal fully and immediately, the prohibition on concurrent receipt, a step which will allow all nondisability retired veterans with VA disability ratings to collect the full amount they have earned. This action is long overdue.

It is important to note that this bill, with the exception of the cuts made to missile defense, supports and fully funds virtually all of the priorities established by the Department and the President for the development and procurement of major weapons systems, including Joint Strike Fighter, F–22 and the Army's future combat system. In addition, I was pleased that we were able to add $229 million to the CVN(X) new generation aircraft carrier to restore the original development and fielding schedule for this essential program. The carrier proved its worth once again in Afghanistan—a war which relied on carrier-based assets. This bill supports acceleration of this important program.

Despite the very favorable aspects of this bill, however, I cannot support the bill in its current form. I was joined by seven of my Republican colleagues in opposing the bill as reported by the committee.

For the second consecutive year, the Senate Armed Services Committee divided along party lines primarily over the issue of missile defense. Sincere, good-faith efforts were made by Republican Members to find common ground and compromise on this issue, but these efforts were voted down. The national defense authorization bill for fiscal year 2003 that we have before us, in my view, fundamentally alters the President's national security priorities and fails to send a clear message, on the issue of missile defense, to America's allies and adversaries that the Congress will provide the resources necessary to protect our homeland, our troops deployed overseas and our allies and friends from all known threats—including the very real and growing threat of missile attack. I will work in the days ahead, and into the conference with the House, to restore the cuts made to these important programs and to staunchly defend the priorities our President has established.

The world as we knew it changed forever on September 11. We lost not only many lives and much property that day, but we also lost our uniquely American feeling of invulnerability;

our feeling of safety within our shores, our borders, behind two vast oceans. But from our darkest hour, our nation has quickly emerged stronger and more united than ever. Our President has rallied our country and many nations around the world to fight the evil of terrorism.

As we begin our floor debate on the national defense authorization bill for fiscal year 2003, our nation is at war. U.S. soldiers, sailors, airmen, and marines, together with their coalition partners, are engaged on the front lines in the global war against terrorism, with a mission to root out terrorism at its source in the hopes of preventing future attacks. Our armed forces have responded to the call of duty in the finest traditions of our nation. It is critical that the Congress keep faith with our troops by providing the resources and capabilities our President—our Commander in Chief has requested.

Homeland security is now, without a doubt, our top priority. We have a solemn obligation to protect our Nation and our citizens from all known and anticipated threats—whatever their source or means of delivery. As a candidate and as President, George W. Bush promised our Nation that homeland security was his most urgent priority.

Our President submitted a responsible, prioritized budget request for fiscal year 2003 that addressed our most important security needs. The bill before us reflects the urgent security needs of our Nation by doubling the funding for combating terrorism at home and abroad. It invests in new technologies to detect weapons of mass destruction and to deter their development. The bill provides funding and authorities for the establishment of new organizations within the Department of Homeland Defense, including the formation of Northern Command, NORTHCOM, to provide coordinated land, sea and air defense of the United States. As we re-look and re-evaluate our security needs, it is especially important to remember that protection of our nation, our citizens, our deployed troops and our allies from ballistic missiles is also an integral part of homeland defense and an overall sense of security.

The budget request for missile defense was reasonable. It was a request that represented no increase over last year's funding level, and a request that was less than two percent of the defense budget. We must use these resources to move forward now, without artificial limitations—either fiscal or legislative—to develop and deploy adequate missile defenses.

The national defense authorization bill for fiscal year 2003, as reported out of committee, contains a drastic reduction, of over $800 million, from the President's request for missile defense programs, including over $400 million in reductions to theater missile defense programs. In addition, the bill contains a number of restrictions and excessive reporting requirements that will further hamper the rapid development of missile defenses. Together, these actions have resulted in a letter from the Secretary of Defense informing the Senate that he would recommend a veto of this legislation if the reductions and restrictions on missile defense remain.

Three years ago, by a vote of 97 to 3, this body approved the National Missile Defense Act of 1999—the Cochran bill. This act established two clear goals: to deploy an effective ballistic missile defense for the United States, ''as soon as technologically feasible;'' and, to seek further negotiated reductions in Russian nuclear forces. Last month, President Bush signed a landmark arms control agreement, in Moscow, that will ultimately reduce the number of U.S. and Russian deployed nuclear warheads by two-thirds over the next 10 years. The second goal of the Cochran bill has been achieved.

This month, the United States formally withdrew from the Anti-Ballistic Missile Treaty—a 30-year-old treaty—which had hampered the U.S. missile defense program. With this action, all artificial restraints have been removed from the ability of the United States to research, develop and deploy effective missile defense systems. Both goals of the Cochran bill that the Senate so overwhelmingly supported are in sight. Congress should not now apply new limitations on the rapid, cost-effective development of defenses to protect our nation and deployed troops from missile attack. The funding reductions and program constraints contained in the bill before us are a significant step backward in our efforts to improve the security of our nation.

The threat of missile attack against the United States and U.S. interests is real and growing. According to the January 2002 national intelligence estimate, NIE, on the missile threat, ''The probability that a missile with a weapon of mass destruction will be used against U.S. forces or interests is higher today than during most of the cold war, and will continue to grow as the capabilities of potential adversaries mature.'' Dozens of nations already have short- and medium-range ballistic missiles in the field that threaten U.S. interests, military forces, and allies; and others are seeking to acquire similar capabilities, including missiles that could reach the United States. We must be prepared to protect our nation.

I am also concerned with other key areas in the bill, particularly the level of funding for shipbuilding. While I understand the tough choices that our defense leaders must make in establishing priorities and putting forth budget recommendations, shipbuilding was severely underfunded in the President's budget request. The bill we are now considering provides some additional resources for shipbuilding, but I believe more must be done to reverse the downward trend in shipbuilding. We all know that we are not currently building enough ships to maintain an adequate Navy for the future. Ultimately, there will be a high price to pay if this trend is not reversed.

It is with these concerns in mind that I urge my colleagues to join me in constructive dialogue to find a way to restore the President's fundamental national security priorities and to ensure we are making the right investments in future capabilities. It is imperative that we send our President, our fellow citizens and the world a message of resolve from the Congress—a national defense authorization bill that provides the resources and authorities our Nation's leaders and our armed forces require to protect our Nation, our citizens abroad, our vital interests, and our international partners who stand with us against terrorism.

I thank the distinguished chairman. I am going to a meeting on this bill tonight as to how we can order the amendments tomorrow on which I will work with the chairman.

Mr. THURMOND. Mr. President, one of my most important responsibilities throughout my almost 48 years in the Senate has been to vote on the annual national defense authorization bill. This bill not only provides for our Nation's security but, more importantly, it provides for the Nation's most valuable asset, the men and women who so proudly wear the uniform and their family members who are an integral part of our military. Today, I rise, ever mindful of my responsibilities, to offer my views on the last national defense authorization bill that I will vote on before I leave the Senate.

Before discussing the bill, I want to congratulate Chairman LEVIN, and the ranking member, Senator WARNER, for their leadership of the Senate Armed Services Committee. The challenges they face in pulling together this annual bill are immense, yet, year after year they prepare a bill that reflects a bipartisan approach to national security. There may be differences on individual programs, but their leadership and the participation of every member of the committee crafted a bill that enhances the security of the country and improves the quality of life for our soldiers, sailors, airmen and marines and their families.

The national defense authorization bill for fiscal year 2003, supports the President's budget request of $379 million, the largest increase to the defense budget in twenty years. It provides significant increases in military pay, readiness funding, and military construction. The bill includes a provision that would address long-standing inequities in the compensation of military retirees by authorizing the concurrent receipt of retired pay and veterans disability compensation. This is an issue which I have supported for some time and I am pleased to see it resolved this year.

Like all bills there are provisions that cause me concern. The most egregious in this bill is the reduction to the

President's request for missile defense. By reallocating more than $800 million requested for missile defense to other programs, the bill fundamentally alters the President's priorities and leaves open the possibility that we will not adequately defend our Nation against a missile attack. I urge the Senate to reverse this flawed provision.

Mr. President, in closing I remind my colleagues that this bill also provides vital funding to support our forces currently engaged in the war against terrorism. This war is unlike any faced by my generation. It will not be won by large armies, but by dedicated, highly trained soldiers, sailors, airmen and marines. I am extremely proud of what our military personnel have accomplished and I have no doubt that their professionalism and dedication will bring an end to the terrorist threat. We owe these men and women the best our Nation can provide and we must show them our support by voting for this bill.

I thank the Chair.

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

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate now proceed to a period for morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

DEMISE OF THE ABM TREATY

Mr. LEVIN. Madam President, as we have recently passed June 13, I want to discuss the demise of the Anti-Ballistic Missile ABM Treaty that ceased to exist after that date. I believe it is important to help a record of how this important treaty was brought to its end.

The ABM Treaty was signed by President Nixon in 1972 with the Soviet Union as an important element of U.S.-Soviet arms control and strategic stability. It served to prevent an arms race in defensive weapons that would have led to larger offensive nuclear missile forces. It thus helped pave the way for negotiated limits and reductions in strategic arms. It was supported by every U.S. President until President George W. Bush, including Presidents Ford, Reagan and the first President Bush.

The ABM Treaty affected only defenses against long-range, or strategic, ballistic missiles, those missiles with ranges of 5,500 kilometers or more. It has no effect on defenses against missiles of shorter ranges, which are the only missiles that endanger our troops and allies today, and against which we have designed and built the Patriot theater missile defense system and helped develop Israel's Arrow missile defense system.

Both the United States and the Soviet Union saw this treaty as a central component of their efforts to ensure mutual security. Russia, like the Soviet Union before it, saw the ABM Treaty as one of the foundations for the structure of arms control and security arrangements that had been carefully built over three decades to reduce the risk of nuclear war.

As late as June 2000, at their Moscow summit, President Clinton and President Putin issued a joint statement emphasizing the importance of the ABM Treaty. That statement said the two Presidents ''agree on the essential contribution of the ABM Treaty to reductions in offensive forces, and reaffirm their commitment to that treaty as a cornerstone of strategic stability.'' It also stated that ''The Presidents reaffirm their commitment to continuing efforts to strengthen the ABM Treaty and to enhance its viability and effectiveness in the future, taking into account any changes in the international security environment.''

Last December 13, President Bush announced that the United States would unilaterally withdrawn from the treaty. The treaty permits either side to withdraw from the treaty upon six months notice if either side decides that ''extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests.''

Although President Bush and members of his administration said they would try to modify the treaty to permit the development, testing and deployment of a limited National Missile Defense system, in the end they did not offer an amendment to the Russians.

When he was campaigning for the presidency, then-Governor Bush gave a speech at The Citadel on September 23, 1999, in which he stated the following: ''we will offer Russia the necessary amendments to the Anti-Ballistic Missile Treaty—an artifact of the Cold War confrontation.'' He went on to say: ''If Russia refuses the changes we will give prompt notice, under the provisions of the Treaty, that we can no longer be a party to it.''

That seems to be a clear and straightforward position. Candidate Bush said that the United States would offer amendments to the Russians to modify the treaty so as to permit the deployment of missile defense systems, and if Russia refused the amendments the President would withdraw the United States from the treaty.

But the administration didn't propose any amendments to the treaty that would permit it to remain in effect in a modified form that, in turn, would have permitted the testing and deployment of limited missiles defenses.

Instead, we tried to sell Russia on the idea of abandoning the treaty, not modifying it. That was something the Russians were never going to accept.

Last year it was difficult to get a clear answer from the administration on its missile defense plans for fiscal year 2002, and whether they would be inconsistent with the ABM Treaty. First, Lieutenant General Ronald Kadish, director of the Ballistic Missile Defense Organization told us in June that he knew of no planned missile defense testing activities that would conflict with the treaty.

Later in June, Defense Secretary Rumsfeld told us he didn't know whether there would be a conflict because, even after the budget had been submitted to Congress, the missile defense program was undecided.

Then in July, Deputy Defense Secretary Wolfowitz said that our planned missile defense activities would inevitably ''bump up'' against the treaty in a manner of months, not years. He also said that by the time a planned missile defense activity encounters ABM Treaty constraints, ''we fully hope and intend to have reached an understanding with Russia'' on a new security framework with Russia that would include missile defenses.

Next came an announcement on October of last year by Secretary Rumsfeld that several planned missile defense tests were being postponed because they could have violated the treaty, even though one of the tests had already been postponed previously for entirely different technical reasons.

Finally, the President announced on December 13th that the United States would unilaterally withdraw from the ABM Treaty to permit testing and development of missile defenses, something Deputy Secretary Wolfowitz had previously called a ''less than optimal'' choice.

During all months of discussions and negotiations with the Russians we never heard details of any amendments proposed by the United States to modify the permit limited missile defenses. At the end we didn't offer an amendment to the treaty.

Secretary of State Colin Powell acknowledged this fact in a letter dated May 2, 2002 after I wrote him in January to ask whether the United States had, in fact, ever presented Russia with any proposed amendments or modifications to the treaty. ''The direct answer to your question,'' wrote Secretary Powell, ''is that we did not table a proposed amendment to the ABM Treaty.''

The administration has made much of the argument that the ABM Treaty was the reason we could not develop and test missile defense technologies adequately, and thus the treaty was keeping us defenseless against ballistic missiles.

Madam President, now that the ABM Treaty has ceased to exist, I expect the administration to assert that they are finally free to make unconstrained progress toward defenses against long-range ballistic. As one example, they plan to begin construction of a missile

defense test facility in Alaska, even though that would have been permitted under the treaty. Congress authorized this construction last year, and they could have begun construction while the treaty was still in force. I expect they will also start to conduct a number of tests that would not have been permitted under the treaty, but which will not significantly advance the state of missile defense technology in the near term.

All this may make good political theater, but it will not suddenly make possible rapid progress toward effective missile defenses because it wasn't the treaty that was preventing such progress; If these technologies prove workable, it will still take many years of rigorous development, integration, testing, and refinement, and probably hundreds of billions of dollars, to produce operationally effective missile defenses—even without the ABM Treaty.

And or course, even if they prove to be technologically feasible and affordable, limited missile defenses still could be readily overwhelmed or spoofed by decoys and countermeasures that Russia or China might develop and possibly provide to others. In 1999, the intelligence community stated publicly that ''Russia and China each have developed numerous countermeasures and probably are willing to sell the requisite technologies.'' This would only make the task of developing missile defenses more difficult, more time consuming and more expensive.

So although the ABM Treaty will come to an end after 30 years, its absence will not suddenly permit effective missile defenses. That task will remain inherently difficult, expensive, and time consuming.

Furthermore, there may be long-term consequences of our withdrawal that we cannot yet foresee, but which may make us less secure. For example, two weeks ago it was reported that Japanese officials indicated the possibility that Japan may feel a need to pursue its own nuclear weapons. This was in response to Japanese concerns about China's increasing nuclear forces, which in turn seems to be, at least in part, a Chinese response to our pursuit of defenses against long-range ballistic missiles. Our security will not be enhanced if China increases or accelerates its nuclear missile forces, or if Japan then decides to pursue its own nuclear weapons.

Madam President, this is just one recent example of the kind of repercussions or consequences that may result from our unilateral withdrawal from the ABM Treaty. Other nations will act in their own self interest, and if our actions make other nations feel less secure, they will act in a manner designed to preserve their security—even if it makes us less secure. In a world with nuclear weapons, the United States cannot be secure by making other nations feel insecure. If our ballistic missile defense efforts make other nations feel less secure, they could take actions that would reduce our security.

We cannot yet foresee all the long-term reverberations from our decision to withdraw from the ABM Treaty. By taking a unilateral approach, it makes it more likely that others will act unilaterally as well. That is not the best way to increase mutual security and international stability.

Madam President, I ask unanimous consent that the correspondence between Secretary of State Powell and myself on this matter be printed in the RECORD.

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

THE SECRETARY OF STATE,
Washington, May 2, 2002.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letters concerning our discussions with the Russians concerning an amendment of the Anti-Ballistic Missile (ABM) Treaty.

The direct answer to your question is that we did not table a proposed amendment to the ABM Treaty. Although we did have ideas on what an amendment might look like and discussed them at length with Russia, the discussions never reached the point that such a proposal would have been appropriate. We were prepared to entertain any proposal, to include an amendment, that would allow us to do the missile defense testing we needed to do. The Russians, in the end, made it clear that, in their view, such testing would be inconsistent with the Treaty and an amendment to permit such testing would vitiate the Treaty.

The way out of this impasse was for us to leave the Treaty as provided for by the Treaty. The Russians regretted our decision, but recognized our right to withdraw.

The President was faithful to his 1999 campaign statement. We spent ten months trying to find a way to conduct our testing within the Treaty, with or without amendment. We could not find a way to do so and we, therefore, are leaving the Treaty.

This issue is now behind us and we are working with the Russians on a new strategic framework.

Sincerely,

COLIN L. POWELL.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, February 20, 2002.

Hon. COLIN POWELL,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: I received a letter dated February 4, 2002 (attached) from Paul Kelly, Assistant Secretary of State for Legislative Affairs in response to my letter to you dated January 10, 2002, regarding the Anti-Ballistic Missile (ABM) Treaty. Mr. Kelly's letter did not answer my questions.

These are important questions and I feel it is essential to receive clear written answers to them. To this end, I am asking you to provide answers to these questions.

1. Did the United States ever present to the Russian government any written proposal or proposals to amend or modify the ABM Treaty? If so, what specific proposal(s) did the U.S. present, where and on what date(s)?

2. If the United States did present any specific proposal(s) to the Russian government, what was the response of the Russian government to the U.S. proposal(s)?

3. If the United States did not ever present to the Russian government any proposals to modify or amend the ABM Treaty, please explain why that is the case, especially given President Bush's commitment to offer Russia ''the necessary amendments'' to the ABM Treaty.

I look forward to your answers to these questions.

Sincerely,

CARL LEVIN,
Chairman.

U.S. DEPARTMENT OF STATE,
Washington, DC, February 4, 2002.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your letter of January 10, regarding Russia concerning the Anti-Ballistic Missile (ABM) Treaty.

As you know, the Administration has been engaged in intensive discussions with the Russians on a broad range of strategic issues including the best way to meet the President's objective of moving beyond the ABM Treaty. The President made clear from his first meeting with President Putin last July, his determination to devise a new U.S. strategic posture better suited to meet today's threats. He explained how the ABM Treaty was hindering our government's ability to develop ways to protect people from future terrorist or rogue state missile attacks. We discussed with the Russians a number of ways in which we could devise a new structure that included the Treaty in many meetings over subsequent months but, in the end, we concluded that the best way to proceed was for the United States to withdraw unilaterally. We provided notification of our decision to withdraw from the ABM Treaty on December 13. As President Putin made clear, Russia disagreed with our decision, but was not surprised by it, and judged that it was not a threat to Russian security.

Our discussions with Russia on strategic reductions were given added impetus by President Bush's declarations of our intention to reduce our operationally deployed weapons to 1700–2200 and by President Putin's positive response and similar intention.

We will be continuing our discussions with the Russians in the months ahead, with the objective of reaching further agreements codifying the strategic nuclear reductions we have both decided to undertake and providing for transparency and confidence-building measures relating to missile defenses.

We would be happy to provide additional briefings or information if you have further questions.

Sincerely,

PAUL V. KELLY,
Assistant Secretary,
Legislative Affairs.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, January 10, 2002.

Hon. COLIN POWELL,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: On September 23, 1999, at a speech at The Citadel, then-Governor and presidential candidate George W. Bush stated the following:

''At the earliest possible date, my Administration will deploy anti-ballistic missile systems, both theater and national to guard against attack and blackmail. To make this possible, we will offer Russia the necessary amendments to the Anti-Ballistic Missile Treaty—an artifact of the Cold war confrontation. . . . If Russia refuses the changes

we will give prompt notice, under the provisions of the Treaty, that we can no longer be a party to it.'' (emphasis added)

On December 13, 2001, President Bush gave notice of his intent to withdraw the United States from the ABM Treaty. Please provide answers to the following questions:

Did the United States ever present to the Russian government any written proposal or proposals to amend or modify the ABM Treaty? If so, what specific proposal(s) did the U.S. present, where and on what date(s)?

If the United States did present any specific proposal(s) to the Russian government, what was the response of the Russian government to the U.S. proposal(s)?

If the United States did not ever present to the Russian government any proposals to modify or amend the ABM Treaty, please explain why that is the case, especially given President Bush's commitment to offer Russia ''the necessary amendments'' to the ABM Treaty.

I would appreciate your prompt response to these questions.

Sincerely,

CARL LEVIN,
Chairman.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 9, 2002 in Huntington Beach, CA. Aris Gaddvang, 25, a Filipino-American store manager, was beaten in a parking lot as he prepared to unload some merchandise. The assailants shouted racial slurs and yelled ''white power'' before beating him with metal pipes.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SERBIAN MINISTRY OF INTERIOR SUPPORT FOR CRIMINALS IN KOSOVO

Mr. MCCONNELL. Madam President, the International Crisis Group, ICG, recently issued a report on the instability and unrest in Mitrovica caused, in part, by the Serbian Ministry of Interior's, MUP, support of parallel security and administrative structures in northern Kosovo.

According to the report, Serbian officials have publicly admitted to providing salaries to over 29,800 people in Kosovo, including Serb ''bridgewatchers'' over the river Ibar who were responsible for injuring 26 United Nations Missions in Kosovo, UNMIK, police officers in a shootout 2 months ago.

Five Americans serving with UNMIK were injured in that incident. While my thoughts and prayers are with the policemen as they recover, I find it completely unacceptable that Serbian government-backed goons have committed destabilizing acts of violence with virtual impunity. The bridgewatchers and other criminals in northern Kosovo must be brought to justice—a job perhaps best handled by UNMIK police officers backed by NATO-led KFOR troops.

Now is not the time for a change in U.S. policy toward Kosovo. America must publicly and forcefully condemn any covert or overt efforts to partition Mitrovica from the rest of Kosovo.

I encourage the State Department to find its voice on this issue, and to publicly condemn the actions of the bridgewatchers and their supporters in Belgrade. This issue should not be left to the gentle massage of quiet diplomacy—this is a cancer that must be treated in an aggressive and forthright manner.

It seems clear to me that if Serbia has 50,000,000 Euro to support the partition of Kosovo, the U.S. Congress should consider reducing future foreign assistance to Serbia by an equivalent amount.

The reformers in Serbia know they have my full support and encouragement. However, Serbia would be wise to invest its revenues in its own political, economic, legal, and social reforms rather than fomenting and sponsoring regional unrest.

ADDITIONAL STATEMENTS

DISABLED VETERAN OF THE YEAR

● Ms. MIKULSKI. Madam President, today I pay tribute to Thomas E. Bratten, Jr., the National Disabled American Veterans, DAV, Veteran of the Year. Captain Bratten has distinguished himself as a champion for veterans and the disabled throughout his career as a public servant and in his volunteer contributions to the community. Captain Bratten's dedication continues today through his service as the Secretary of Maryland's Department of Veterans Affairs.

As an Army artillery liaison officer in the Americal Division, the famous 1st Battalion 6th Infantry, Secretary Bratten served under Colonel Norman Schwarzkopf. They were serving together on May 28, 1970, when Secretary Bratten lost both his left arm and leg when a land mine exploded while they attempted to aid wounded soldiers. But that didn't prevent Secretary Bratten from continuing to serve his country.

Secretary Bratten has improved his nation and community through an impressive number of volunteer appointments. He served on the Garrett County Council on Alcohol and Drug Abuse, the Governor's Commission for Employment of the Handicapped, the Governor's Commission to Study the Needs of the Handicapped, the Maryland World War II Memorial Commission, the Maryland Military Monument Commission, and the Maryland Veterans Memorial Commission.

As one of Maryland's most highly decorated veterans, Secretary Bratten boasts life membership in nine congressionally chartered veterans organizations, including the Military Order of Foreign Wars, the Americal Veterans Association and the distinguished Military Order of the Purple Heart. He has served as the Director of the Maryland Veterans Commission, is a member of the National Association of State Directors of Veterans Affairs, and has sat on countless other committees dedicated to improving the lives of America's veterans.

I am so proud of Tom. His record of service in America's military and in Maryland civic life as an advocate for veterans and the disabled are unique and unparalleled. He is the best example of what Marylanders can accomplish when they dedicate themselves to their communities, state, and country, no matter what the circumstances. He has served America with honor. I congratulate Tom as he continues to bear the mantle of leadership and service as the DAV's veteran of the year.●

ROCKY FLATS SECURITY TEAM—SIMPLY THE BEST

● Mr. ALLARD. Madam President, I am proud to announce that the Rocky Flats Closure Project security team was named the DOE's ''Team of the Year'' by placing first out of 12 teams representing nuclear facilities at the 30th Annual Security Police Officer Training Competition at Oak Ridge, TN earlier this month. The Wackenhut Services security police officers team competed against a team from the United Kingdom Atomic Energy Act Constabulatory, teams from the U.S. Marine Corps and the U.S. Air Force, teams from the Office of Transportation Safeguards, and law enforcement teams. The competitions tested the teams' skills in combat shooting, physical fitness, and tactical obstacle courses. The Rocky Flats team demonstrated their ability to respond effectively to a situation with superior teamwork and decisiveness.

I would like to congratulate Rocky Flats Wackenhut Services team members Muhtalar Dickson of Aurora, Chris Duran of Denver, Todd Harrison of Erie, Randy Irmer of Colorado Springs, Jim Krause of Westminister, and Chris Welseler of Highlands Ranch. These Rocky Flats employees are currently involved in the cleanup and closure of the plant, which involves nuclear material management and shipment, nuclear deactivation and decommissioning, waste management and shipment, and environmental cleanup and site closure. As always, the employees at Rocky Flats are making and keeping Coloradans proud.●

TRIBUTE TO KAHUKU HIGH AND INTERMEDIATE SCHOOL

• Mr. INOUYE. Madam President, I wish to pay tribute to Kahuku High and Intermediate School for its successful participation in the We the People: The Citizen and the Constitution national competition. Kahuku recently won the top award in the contest's Unit 3 category called ''How the Values and Principles Embodied in the Constitution Shaped American Institutions and Practices.''

The three-day competition, sponsored by the Center for Civic Education in Washington, DC, provided an opportunity for students throughout the country to apply constitutional principles and historical facts to contemporary situations. The Kahuku students joined hundreds of other students nationwide in illustrating their knowledge of the Constitution and the Bill of Rights before simulated congressional committees made up of constitutional scholars, lawyers, journalists, and government leaders. Students who participate in this program honor the rights afforded them by the Constitution, and they accept and practice their civic responsibilities.

The 2001–2002 Kahuku High and Intermediate School team included the following students: Ashton Alvarez, Marisa Becker, Jenna Bjorn, Elizabeth Burroughs, Amanda Chew, Jonathan Ditto, Marissa Hontanosas, Heather Huff, Ji Hye Jean, Sondra Kahawaii, Alisi Langi, Solomon Lee, Emily Lowe, Sienna Palmer, Michelle Sauque, Jessica Savini, Starlyn Taylor, Wilson Unga, Keilani Yang.

Hawaii is proud of these students' award-winning performance. I commend them for their hard work in pursuit of worthy goals. I hope that their knowledge and understanding of America's ideals and values will guide them as they become our future leaders.

My colleagues may be interested to know that a team from Kahuku High and Intermediate School represented Hawaii in eight of the past 10 national competitions. Their success is a testament to the inspirational efforts of Kahuku High and Intermediate School teacher Sandra Cashman. I also wish to acknowledge the contributions of District Coordinator Sharon Kaohi and State Coordinator Lyla Berg.•

THOMAS A. ATHENS

• Mr. DURBIN. Madam President, it is with sadness that I speak today about the death of a distinguished citizen of Illinois, Thomas A. Athens, who is survived by his wife, Irene, and their three children. Mr. Athens had a lifetime of outstanding achievement and service to God, this great nation, his home state of Illinois, and his fellow countrymen.

A native of Chicago, Mr. Athens attended Northwestern University and then served in the United States Army during the Second World War. Outside of his military service, Mr. Athens strove constantly to be engaged in philanthropic activity. Whether it was the Greek Orthodox Church, the United Hellenic American Congress, UHAC, or the National Steel Distributors, Mr. Athens used his time and magnetic personality to build and support these organizations.

As a member of the Board of Directors and finance chairman of UHAC since 1975, Mr. Athens' dynamism helped the group to stay true to the ideals and traditions of Hellenism, while reaching sound levels of financial stability. He also served as the National Treasurer of the Association of Steel Distributors, receiving its Steel Man of the year Award in 1969. In addition, Mr. Athens has served as the National Chairman of the Lake Forest College Parent's Fund and is an Honorary Trustee of Deree-Pierce College.

Mr. Athens had a deep-seated passion for his Church. He was a founding member of the Archbishop Iakovos Leadership 100 Fund, an endowment fund for the Greek Orthodox Archdiocese in America and was instrumental in building its initial member base. He was also a founder of Saints Peter and Paul Greek Orthodox Church in Glenview, Illinois, and served on the parish council for many years. Mr. Athens has been the recipient of numerous awards, demonstrative of his passion for service to his Church and community. Among the many have been The Ellis Island Medal of Honor Award in 1999 and the Knighthood of Mikros Stravroforos of the Knights of the Orthodox Crossbearers of the All-Holy Sepulchre recognition from the Patriarchate of Jerusalem in 1982. He has also received the Medal of St. Andrews in 1980 and the Medal of St. Paul in 1979 from the Greek Orthodox Archdiocese and the office of ''Archon Deputatos'' from the Ecumenical Patriarchate of Constantinople in 1977.

Mr. Athens, along with his brother Andrew, co-founded Metron Steel Corporation, one of the largest independent steel service centers, in 1950. He served as the Executive Vice President until he retired in 1985.

The Greek-American community and the people of Illinois have lost someone who spent his life making a contribution to the values and organizations he loved. And many of us have lost a friend.•

NATIONAL FACILITY OF THE YEAR AWARD

• Mr. HOLLINGS. Madam President, I wish to congratulate the hard working employees of the Columbia Air Traffic Control Tower, which was selected as the National Facility of the Year for ATC level 7. The award will be presented to them on Wednesday, June 26, 2002.

These controllers have shown a distinct dedication to their work and should be very proud of this high honor. The award is given annually to the Air Traffic Control Tower which demonstrates superiority in operational efficiency, customer service, communications, employee development, external relations, resource management and human relations. The professionalism and positive employee morale of the Columbia ATC Tower were also cited as factors in honoring them with this award.

In this time of threat to our nation, I am very proud of the Columbia Air Traffic Controllers in South Carolina for receiving such an award and setting a new standard for the rest of the nation.

I greatly appreciate their hard work over the past year. I am confident that they will continue to operate in a superior manner and know they understand that the citizens of this country appreciate what they do. I know I do every time I fly in and out of Columbia, our State Capital.•

TRIBUTE TO TOBY MILBERG NEEDLER

• Mrs. CLINTON. Madam President, I rise today to honor Toby Milberg Needler, an outstanding New Yorker, who has served the students of New York City's public schools for more than 30 years. On June 27, 2002, Ms. Needler will retire from her position as Vice Principal of the esteemed Washington Irving High School where she also served as Director of the school's distinguished Arts program.

The success of the Arts Program is largely the result of Ms. Needler's dedication and resolve. Skillfully combining the support of private business with her education plan, established an inspiring level of credibility with her supervisors and peers. This greatly benefited the program she both developed and administered.

She was most revered, however, for the special relationships she developed with her students. Ms. Needler has been a listener, a protector, an advocate and a constant source of energy for young people who confront the challenges that adolescence may bring.

Ms. Needler's career is marked by her creative effort to integrate the world of arts into the lives of her students. Many of those who are familiar with the Washington Irving High School's Arts Program, attribute its success to Ms. Needler's vision, hard work and commitment. Since her arrival the program has expanded beyond bounds. Nearly 100 percent of its graduates are admitted to four-year colleges. We owe a great debt of gratitude to Ms. Needler's dedication.

Ms. Needler's legacy will endure in the hearts and minds of those whose lives she touched. I commend Ms. Needler for her tremendous achievements. She exemplifies the high-quality of teaching and public service that we aspire to instill in all those dedicated individuals entrusted with the education of our nation's young people.•

RECOGNITION OF NATIONAL BLUE RIBBON SCHOOLS IN MARYLAND

• Mr. SARBANES. Madam President, I am proud to recognize the four schools throughout Maryland that were selected as Blue Ribbon School Award winners in 2002. These schools are among only 172 schools nationwide to be honored with this award, the most prestigious national school recognition for public and private schools.

According to the Department of Education, Blue Ribbon Schools have been judged to be particularly effective in meeting local, state and national goals. These schools also display the qualities that are necessary to prepare our young people for the challenges that will face our nation in the years to come. Blue Ribbon status is awarded to schools which have strong leadership; a school community with a clear vision and shared sense of mission; high-quality teaching; a challenging and up-to-date curriculum; policies and practices that ensure a safe and learning conducive environment; a solid commitment to family involvement; evidence that the school helps students achieve high standards; and a commitment to share best practices with other schools.

The designation as a Blue Ribbon School is a ringing endorsement of the successful practices that enable the students of these schools to succeed and achieve. After a screening process by appropriate state and local departments, the Blue Ribbon School nominations were forwarded to the U.S. Department of Education. A panel of outstanding educators from around the country then reviewed the nominations, selected schools for site visits, and made recommendations to the Secretary of Education.

Over the past few years, I have tried to visit Blue Ribbon Schools in my State and have always been delighted to witness the strong interaction between parents, teachers, and the community, a characteristic shared by all of these successful schools. As I carry out my visits, I look forward to personally congratulating the students, teachers and staff for achieving this exceptional accomplishment.

The four winning Maryland schools are:

Our Lady of Good Counsel, located in Montgomery County, is an outstanding example of a school willing to go to great lengths to prepare its students for higher education. Good Counsel prides itself on the quality of its academic offerings, faculty, students, and unique community spirit. In an effort to ensure all students are college-ready, Good Counsel undertook an immense mission when it established the Ryken Program: a college preparatory program for motivated students with learning disabilities. Unique to Good Counsel, compared to other private schools in the metro area, is its progressive integration of technology into the classroom, including three state-of-the-art computer labs, seven departmental technology rooms, and a laptop in each classroom. The successes that Good Counsel graduates find in college and careers attest to the school's overall excellence.

Phillips School, Laurel, has been a staple of special education, providing services to students with a variety of learning, emotional, and behavioral disorders for over 30 years. Phillips School greets the challenge of teaching children with special needs with open arms, addressing not only the needs of the student, but the needs of the family as well. The Phillips staff also includes related service personnel, so that working with students is a team effort and the needs of each and every student are addressed throughout the entire school day. By providing a program of education, family support services, community education and advocacy in a supportive environment, Phillips works hard to ensure its students will be able to succeed in the next stage of life.

Thomas Spriggs Wootton High, located in Montgomery County, is a public high school dedicated to college preparedness and high student motivation. Established in 1970, Wootton has a long history of excellence in academics and student participation. Wootton strives to create an exceptional learning environment supporting pride and achievement. Student involvement has been one of the primary focuses at Wootton in recent years, encouraging students not only to participate in school activities themselves, but also to lead others. Historically, 90 percent of Wootton graduates go on to attend college. This statistic is a direct reflection of the school wide dedication of Wootton staff to work with all students to support and ensure their success. As Wootton's enrollment and diversity expand, it continues its dedication to ensuring all students excel.

Windsor Knolls Middle School, located in Frederick County, is a public middle school embodying a challenging, multifaceted learning community. Their strong commitment to success is easily demonstrated by student statistics, high scores on the CRES tests, Maryland Functional tests, CTBS, and MSPAP tests. However, a better understanding of the excellence at Windsor Knolls can be gained by observing students. They are consistently immersed into a world of education through programs involving cultural awareness, character education, community interaction, and many other groundbreaking programs. These techniques and outstanding dedication by the community are key to Windsor Knolls' consistent success.

Again, I congratulate all of the students, teachers and parents from these outstanding schools for receiving the National Blue Ribbon School Award. It is a well-deserved tribute to their dedication and enthusiasm for learning. As the school year closes, I wish all of them an enriching and restful summer and continued success in the future.•

DRAFT OF PROPOSED LEGISLATION ENTITLED ''HOMELAND SECURITY ACT OF 2002''—PM 92

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Government Affairs:

To the Congress of the United States:

I hereby transmit to the Congress proposed legislation to create a new Cabinet Department of Homeland Security.

Our Nation faces a new and changing threat unlike any we have faced before—the global threat of terrorism. No nation is immune, and all nations must act decisively to protect against this constantly evolving threat.

We must recognize that the threat of terrorism is a permanent condition, and we must take action to protect America against the terrorists that seek to kill the innocent.

Since September 11, 2001, all levels of government and leaders from across the political spectrum have cooperated like never before. We have strengthened our aviation security and tightened our borders. We have stockpiled medicines to defend against bioterrorism and improved our ability to combat weapons of mass destruction. We have dramatically improved information sharing among our intelligence agencies, and we have taken new steps to protect our critical infrastructure.

Our Nation is stronger and better prepared today than it was on September 11. Yet, we can do better. I propose the most extensive reorganization of the Federal Government since the 1940s by creating a new Department of Homeland Security. For the first time we would have a single Department whose primary mission is to secure our homeland. Soon after the Second World War, President Harry Truman recognized that our Nation's fragmented military defenses needed reorganization to help win the Cold War. President Truman proposed uniting our military forces under a single entity, now the Department of Defense, and creating the National Security Council to bring together defense, intelligence, and diplomacy. President Truman's reforms are still helping us to fight terror abroad, and today we need similar dramatic reforms to secure our people at home.

President Truman and Congress reorganized our Government to meet a very visible enemy in the Cold War. Today our nation must once again reorganize our Government to protect against an often-invisible enemy, an enemy that hides in the shadows and an enemy that can strike with many different types of weapons. Our enemies seek to obtain the most dangerous and deadly weapons of mass destruction and use them against the innocent. While we are winning the war on terrorism, Al Qaeda and other terrorist organizations still have thousands of trained

killers spread across the globe plotting attacks against America and the other nations of the civilized world.

Immediately after last fall's attack, I used my legal authority to establish the White House Office of Homeland Security and the Homeland Security Council to help ensure that our Federal response and protection efforts were coordinated and effective. I also directed Homeland Security Advisor Tom Ridge to study the Federal Government as a whole to determine if the current structure allows us to meet the threats of today while preparing for the unknown threats of tomorrow. After careful study of the current structure, coupled with the experience gained since September 11 and new information we have learned about our enemies while fighting a war, I have concluded that our Nation needs a more unified homeland security structure.

I propose to create a new Department of Homeland Security by substantially transforming the current confusing patchwork of government activities into a single department whose primary mission is to secure our homeland. My proposal builds on the strong bipartisan work on the issue of homeland security that has been conducted by Members of Congress. In designing the new Department, my Administration considered a number of homeland security organizational proposals that have emerged from outside studies, commission, and members of Congress.

THE NEED FOR A DEPARTMENT OF HOMELAND SECURITY

Today no Federal Government agency has homeland security as its primary mission. Responsibilities for homeland security are dispersed among more than 100 different entities of the Federal Government. America needs a unified homeland security structure that will improve protection against today's threats and be flexible enough to help meet the unknown threats of the future.

The mission of the new Department would be to prevent terrorist attacks within the United States, to reduce America's vulnerability to terrorism, and to minimize the damage and recover from attacks that may occur. The Department of Homeland Security would mobilize and focus the resources of the Federal Government, State and local governments, the private sector, and the American people to accomplish its mission.

The Department of Homeland Security would make Americans safer because for the first time we would have one department dedicated to securing the homeland. One department would secure our borders, transportation sector, ports, and critical infrastructure. One department would analyze homeland security intelligence from multiple sources, synthesize it with a comprehensive assessment of America's vulnerabilities, and take action to secure our highest risk facilities and systems. One department would coordinate communications with State and local governments, private industry, and the American people about threats and preparedness. One department would coordinate our efforts to secure the American people against bioterrorism and other weapons of mass destruction. One department would help train and equip our first responders. One department would manage Federal emergency response activities.

Our goal is not to expand Government, but to create an agile organization that takes advantage of modern technology and management techniques to meet a new and constantly evolving threat. We can improve our homeland security by minimizing the duplication of efforts, improving coordination, and combining functions that are currently fragmented and inefficient. The new Department would allow us to have more security officers in the field working to stop terrorists and fewer resources in Washington managing duplicative activities that drain critical homeland security resources.

The Department of Homeland Security would have a clear and efficient organizational structure with four main divisions: Border and Transportation Security; Emergency Preparedness and Response; Chemical, Biological, Radiological and Nuclear Countermeasures; and Information Analysis and Infrastructure Protection.

BORDER AND TRANSPORTATION SECURITY

Terrorism is a global threat and we must improve our border security to help keep out those who mean to do us harm. We must closely monitor who is coming into and out of our country to help prevent foreign terrorists from entering our country and bringing in their instruments of terror. At the same time, we must expedite the legal flow of people and goods on which our economy depends. Securing our borders and controlling entry to the United States has always been the responsibility of the Federal Government. Yet, this responsibility and the security of our transportation systems is now dispersed among several major Government organizations. Under my proposed legislation, the Department of Homeland Security would unify authority over major Federal security operations related to our borders, territorial waters, and transportation systems.

The Department would assume responsibility for the United States Coast Guard, the United States Customs Service, the Immigration and Naturalization Service (including the Border Patrol), the Animal and Plant Health Inspection Service, and the Transportation Security Administration. The Secretary of Homeland Security would have the authority to administer and enforce all immigration and nationality laws, including the visa issuance functions of consular officers. As a result, the Department would have sole responsibility for managing entry into the United States and protecting our transportation infrastructure. It would ensure that all aspects of border control, including the issuing of visas, are informed by a central information-sharing clearinghouse and compatible databases.

EMERGENCY PREPAREDNESS AND RESPONSE

Although our top priority is preventing future attacks, we must also prepare to minimize the damage and recover from attacks that may occur.

My legislative proposal requires the Department of Homeland Security to ensure the preparedness of our Nation's emergency response professionals, provide the Federal Government's response, and aid America's recovery from terrorist attacks and natural disasters. To fulfill these missions, the Department of Homeland Security would incorporate the Federal Emergency Management Agency (FEMA) as one of its key components. The Department would administer the domestic disaster preparedness grant programs for firefighters, police, and emergency personnel currently managed by FEMA, the Department of Justice, and the Department of Health and Human Services. In responding to an incident, the Department would manage such critical response assets as the Nuclear Emergency Search Team (from the Department of Energy) and the National Pharmaceutical Stockpile (from the Department of Health and Human Services). Finally, the Department of Homeland Security would integrate the Federal interagency emergency response plans into a single, comprehensive, Government-wide plan, and would work to ensure that all response personnel have the equipment and capability to communicate with each other as necessary.

CHEMICAL, BIOLOGICAL, RADIOLOGICAL, AND NUCLEAR COUNTERMEASURES

Our enemies today seek to acquire and use the most deadly weapons known to mankind—chemical, biological, radiological and nuclear weapons.

The new Department of Homeland Security would lead the Federal Government's efforts in preparing for and responding to the full range of terrorist threat involving weapons of mass destruction. The Department would set national policy and establish guidelines for State and local governments. The Department would direct exercises for Federal, State, and local chemicals, biological, radiological, and nuclear attack response teams and plans. The Department would consolidate and synchronize the disparate efforts of multiple Federal agencies now scattered across several departments. This would create a single office whose primary mission is the critical task of securing the United States from catastrophic terrorism.

The Department would improve America's ability to develop diagnostics, vaccines, antibodies, antidotes, and other countermeasures

against new weapons. It would consolidate and prioritize the disparate homeland security-related research and development programs currently scattered throughout the executive branch, and the Department would assist State and local public safety agencies by evaluating equipment and setting standards.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

For the first time the Government would have under one roof the capability to identify and assess threats to the homeland, map those threats against our vulnerabilities, issue timely warnings, and take action to help secure the homeland.

The Information Analysis and Infrastructure Protection division of the new Department of Homeland Security would complement the reforms on intelligence-gathering and information-sharing already underway at the FBI and the CIA. The Department would analyze information and intelligence fro the FBI, CIA, and many other Federal agencies to better understand the terrorist threat to the American homeland.

The Department would comprehensively assess the vulnerability of America's key assets and critical infrastructure, including food and water systems, agriculture, health systems and emergency services, information and telecommunications, banking and finance, energy, transportation, the chemical and defense industries, postal and shipping entities, and national monuments and icons. The Department would integrate its own and others' threat analyses with its comprehensive vulnerability assessment to identify protective priorities and support protective steps to be taken by the Department, other Federal departments and agencies, State and local agencies, and the private sector. Working closely with State and local officials, other Federal agencies, and the private sector, the Department would help ensure that proper steps are taken to protect high-risk potential targets.

OTHER COMPONENTS

In addition to these four core divisions, the submitted legislation would also transfer responsibility for the Secret Service to the Department of Homeland Security. The Secret Service, which would report directly to the Secretary of Homeland Security, would retain its primary mission to protect the President and other Government leaders. The Secret Service would, however, contribute its specialized protective expertise to the fulfillment of the Department's core mission.

Finally, under my legislation, the Department of Homeland Security would consolidate and streamline relations with the Federal Government for America's State and local governments. The new Department would contain an intergovernmental affairs office to coordinate Federal homeland security programs with State and local officials. It would give State and local officials one primary contact instead of many when it comes to matters related to training, equipment, planning, and other critical needs such as emergency response.

The consolidation of the Government's homeland security efforts as outlined in my proposed legislation can achieve great efficiencies that further enhance our security. Yet, to achieve these efficiencies, the new Secretary of Homeland Security would require considerable flexibility in procurement, integration of information technology systems, and personnel issues. My proposed legislation provides the Secretary of Homeland Security with just such flexibility and managerial authorities. I call upon the congress to implement these measures in order to ensure that we are maximizing our ability to secure our homeland.

CONTINUED INTERAGENCY COORDINATION AT THE WHITE HOUSE

Even with the creation of the new Department, there will remain a strong need for a White House Office of Homeland Security. Protecting America from Terrorism will remain a multi-departmental issue and will continue to require interagency coordination. Presidents will continue to require the confidential advice of a Homeland Security Advisor, and I intend for the White House Office of Homeland Security and the Homeland Security Council to maintain a strong role in coordinating our government-wide efforts to secure the homeland.

THE LESSONS OF HISTORY

History teaches us that new challenges require new organizational structures. History also teaches us that critical security challenges require clear lines of responsibility and the unified effort of the U.S. Government.

President Truman said, looking at the lessons of the Second World War: ''It is now time to discard obsolete organizational forms, and to provide for the future the soundest, the most effective, and the most economical kind of structure for our armed forces.'' When skeptics told President Truman that this proposed reorganization was too ambitious to be enacted, he simply replied that it had to be. In the years to follow, the Congress acted upon President Truman's recommendation, eventually laying a sound organizational foundation that enabled the United states to win the Cold War. All Americans today enjoy the inheritance of this landmark organizational reform: a unified Department of Defense that has become the most powerful force for freedom the world has ever seen.

Today America faces a threat that is wholly different from the threat we faced during the Cold War. Our terrorist enemies hide in shadows and attack civilians with whatever means of destruction they can access. But as in the Cold War, meeting this threat requires clear lines of responsibility and the unified efforts of government at all levels—Federal, State, local, and tribal—the private sector, and all Americans. America needs a homeland security establishment that can help prevent catastrophic attacks and mobilize national resources for an enduring conflict while protecting our Nation's values and liberties.

Years from today, our world will still be fighting the threat of terrorism. It is my hope that future generations will be able to look back on the Homeland Security Act of 2002—as we now remember the National Security Act of 1947—as the solid organizational foundation for America's triumph in a long and difficult struggle against a formidable enemy.

History has given our Nation new challenges—and important new assignments. Only the United States Congress can create a new department of Government. We face an urgent need, and I am pleased that congress has responded to my call to act before the end of the current congressional session with the same bipartisan spirit that allowed us to act expeditiously on legislation after September 11.

These are times that demand bipartisan action and bipartisan solutions to meet the new and changing threats we face as a Nation. I urge the Congress to join me in creating a single, permanent department with an overriding and urgent mission—securing the homeland of America and protecting the American people. Together we can meet this ambitious deadline and help ensure that the American homeland is secure against the terrorist threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 18, 2002*.

MESSAGE FROM THE HOUSE

At 11:54 a.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 bills, in which it requests the concurrence of the Senate:

H.R. 1906. An act to amend the Act that established the Pu'uhonua O Honaunau National Historical Park to expand the boundaries of that park.

H.R. 3936. An act to designate and provide for the management of the James. V. Shoshone National Trail, and for other purposes.

H.R. 4103. An act to direct the Secretary of the Interior to transfer certain public lands in Natrona County, Wyoming, to the Corporation of the Presiding Bishop, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 340. Concurrent resolution supporting the goals and ideals of Meningitis Awareness Month.

H. Con. Res. 415. Concurrent resolution recognizing National Homeownership Month and the importance of homeownership in the United States.

At 6:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 327) to amend chapter 35 of

title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements and to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3275) to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1906. An act to amend the Act that established the Pu'uhonua O Honaunau National Historical Park to expand the boundaries of that park; to the Committee on Energy and Natural Resources.

H.R. 3936. An act to designate and provide for the management of the Shoshone National Trail, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4103. An act to direct the Secretary of the Interior to transfer certain public lands in Natrona County, Wyoming, to the Corporation of the Presiding Bishop, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 340. Concurrent resolution supporting the goals and ideals of Meningitis Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 415. Concurrent resolution recognizing National Homeownership Month and the importance of homeownership in the United States; to the Committee on Banking, Housing, and Urban Affairs.

The Committee on Veterans Affairs was discharged from further consideration of the following measure which was referred to the Committee on the Judiciary:

S. 1272. A bill to assist United States veterans who were treated as slave laborers while held as prisoners of war by Japan during World War II, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7474. A communication from the Commissioner, National Indian Gaming Commission, transmitting, pursuant to law, the report of a rule entitled ''Definitions: Electronic, Computer or Other Technologic Aid; Electronic or Electromechanical Facsimile; Game Similar to Bingo'' (RIN3141–AA10) received on June 12, 2002; to the Committee on Indian Affairs.

EC–7475. A communication from the Acting Director, Office of Regulatory Law, Veteran's Health Administration, Department of Veteran's Affairs, transmitting, pursuant to law, the report of a rule entitled ''Medical Benefits Package; Copayments for Extended Care Service'' (RIN2900–AK32) received on June 11, 2002; to the Committee on Veterans' Affairs.

EC–7476. A communication from the Director, Endangered Species, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Listing the Chiricahua leopard frog with a special rule'' (RIN1018–AF41) received on June 11, 2002; to the Committee on Environment and Public Works.

EC–7477. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation to provide voluntary separation payment authority to the Secretary of Commerce in connection with reorganization of the Economic Development Administration (EDA); to the Committee on Environment and Public Works.

EC–7478. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Office of Special Education and Rehabilitative Service, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Burn Model System Projects, Burn Data Center, and Traumatic Brain Injury Model Systems Program'' (CFDA Number 84.133A) received on June 11, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–7479. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the Department's 2001 inventory of activities that are not inherently governmental functions as required by section 2 of the Federal Activities Inventory Reform (FAIR) Act; to the Committee on Governmental Affairs.

EC–7480. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, a supplement to the Court's Transition Plan submitted on April 5, 2002 pursuant to the Family Court Act of 2001; to the Committee on Governmental Affairs.

EC–7481. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''NASA Grant and Cooperative Agreement Handbook—Limitations on Incremental Funding and Deobligations on Grants, and Elimination of Delegation of Closeout of Grants and Cooperative Agreements to Office of Naval Research (ONR)'' (RIN2700–AC51) received on June 10, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7482. A communication from the Assistant Administrator for Satellite and Information Services, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Office of Research and Applications Notice of Financial Assistance to Establish a Cooperative Institute for Research in Remote Sensing'' (RIN0648–ZB18) received on June 11, 2002; to the Committee on Commerce, Science, and Transportation.

EC–7483. A communication from the Assistant Secretary of Labor for Mine Safety and Health, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners'' (RIN1219–AA28) received on June 14, 2002; to the Committee on Energy and Natural Resources.

EC–7484. A communication from the Director of the Office of Surface Mining, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Kentucky Regulatory Program'' (KY–222–FOR) received on June 14, 2002; to the Committee on Energy and Natural Resources.

EC–7485. A communication from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Special Regulations, Delay of Effective Date'' (RIN1024–AC82) received on June 17, 2002; to the Committee on Energy and Natural Resources.

EC–7486. A communication from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Parks Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''National Capital Region, Special Regulations'' (RIN1024–AC76) received on June 17, 2002; to the Committee on Energy and Natural Resources.

EC–7487. A communication from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Parks Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Concessions Contracts'' (RIN1024–AC88) received on June 17, 2002; to the Committee on Energy and Natural Resources.

EC–7488. A communication from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Parks Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''National Natural Landmarks Program'' (RIN1024–AB96) received on June 17, 2002; to the Committee on Energy and Natural Resources.

EC–7489. A communication from the Deputy Secretary of Defense, transmitting, the approval of a retirement; to the Committee on Armed Services.

EC–7490. A communication from the Secretary of Energy, transmitting, pursuant to law, the Annual Report on Activities Relating to Defense Nuclear Facilities Safety Board for calendar year 2001; to the Committee on Armed Services.

EC–7491. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation relating to the management and operations of the Department of Defense; to the Committee on Armed Services.

EC–7492. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (44 CFR Part 67) received on June 11, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7493. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Condensation Control for Exterior Walls of Manufactured Homes Sited in Humid and Fringe Climate; Waiver'' (FR–4578–F–02) received on June 11, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7494. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Annual Report on Retail Fees and Services of Depository Institutions dated June 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7495. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rules Governing Availability of Information'' received on June 13, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–7496. A communication from the President of the United States, transmitting, pursuant to law, a notification relative to the designation of Deanna Tanner Okun as Chairman and Jennifer Anne Hillman as Vice Chairman of the United States International Trade Commission, effective June 17, 2002; to the Committee on Foreign Relations.

EC–7497. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, Presidential Determination number 2002–23, relative to Suspension of Limitations under the Jerusalem Embassy Act; to the Committee on Foreign Relations.

EC–7498. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7499. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7500. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7501. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7502. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–7503. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''The Application of Section 125 in Mergers and Acquisitions'' (Rev. Rul. 2002–32) received on June 11, 2002; to the Committee on Finance.

EC–7504. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Capitalized Cost Reduction Payments'' (Rev. Rul. 2002–36) received on June 12, 2002; to the Committee on Finance.

EC–7505. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Automatic Enrollment Under Section 125'' (Rev. Rul. 2002–27) received on June 12, 2002; to the Committee on Finance.

EC–7506. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Requirement to File Form 8390 (Information Return for Determination of Life Insurance Company Earnings Under Section 809)'' (Notice 2002–33) received on June 12, 2002; to the Committee on Finance.

EC–7507. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Contingent Convertible Debt Instruments—Request for Comments'' (Notice 2002–36, 2002–22 IRB) received on June 12, 2002; to the Committee on Finance.

EC–7508. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Contingent Convertible Debt Instrument'' (Rev. Rul. 2002–31, 2002–22 IRB) received on June 12, 2002; to the Committee on Finance.

EC–7509. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''TD 8971: New Markets Tax Credit'' (RIN1545–BA49) received on June 12, 2002; to the Committee on Finance.

EC–7510. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''North Dakota State University v. United States'' received on June 12, 2002; to the Committee on Finance.

EC–7511. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—January 2002'' (Rev. Rul. 2002–2) received on June 12, 2002; to the Committee on Finance.

EC–7512. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Allocation of National Limitations for Qualified Zone Academy Bonds for Year 2002'' (Rev. Proc. 2002–25) received on June 12, 2002; to the Committee on Finance.

EC–7513. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transfers of Deferred Compensation Incident to Divorce'' (Rev. Rul. 2002–22) received on June 12, 2002; to the Committee on Finance.

EC–7514. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''IRS Announces that the Industry Issue Resolution Program Is Being Made Permanent'' (Notice 2002–20, 2002–17IRB) received on June 12, 2002; to the Committee on Finance.

EC–7515. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2001 Nonconventional Source Fuel Credit'' (Notice 2002–30) received on June 12, 2002; to the Committee on Finance.

EC–7516. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Hospital Refinancing Bonds Closing Agreement Announcement'' (RIN1545–BA46) received on June 12, 2002; to the Committee on Finance.

EC–7517. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''National Median Gross Income 2002 Revenue Procedure'' (Rev. Proc. 2002–24) received on June 12, 2002; to the Committee on Finance.

EC–7518. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Republication of Revenue Procedure 2001–4'' (Rev. Proc. 2002–4) received on June 12, 2002; to the Committee on Finance.

EC–7519. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Republication of Revenue Procedure 2001–8'' received on June 12, 2002; to the Committee on Finance.

EC–7520. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notional Principal Contract Tax Shelter'' (Notice 2002–35, 2002–21) received on June 12, 2002; to the Committee on Finance.

EC–7521. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notional Principal Contracts'' (Rev. Rul. 2002–30, 2002–21 IRB) received on June 12, 2002; to the Committee on Finance.

EC–7522. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Rul. 2002–23'' received on June 12, 2002; to the Committee on Finance.

EC–7523. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Maquiladora—IRC sec. 1504(d)'' (UIL 1504–00–00) received on June 12, 2002; to the Committee on Finance.

EC–7524. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Treaty Guidance Regarding Payments with Respect to Domestic Reverse Hybrid Entities'' (RIN1545–AY13; TD8999) received on June 13, 2002; to the Committee on Finance.

EC–7525. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Valuation of Options for Golden Parachute Payments'' (Rev. Proc. 2002–45) received on June 14, 2002; to the Committee on Finance.

EC–7526. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''NYC Accidental Death Benefits'' (Rev. Rul. 2002–39) received on June 14, 2002; to the Committee on Finance.

EC–7527. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Professional Employer Organizations, Employee Leasing and Defined Contribution Plans'' (Rev. Proc. 2002–21) received on June 14, 2002; to the Committee on Finance.

EC–7528. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Final Regulations (REG–209601–92), Taxation of Tax-Exempt Organizations' Income from Corporate Sponsorship'' (RIN1545–BA68; TD8991) received on June 14, 2002; to the Committee on Finance.

EC–7529. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance under Section 355(e); Recognition of Gain on Certain Distribution of Stock or Securities in Connection with an Acquisition'' ((RIN1545–BA55)(RIN1545–AY42)) received on June 14, 2002; to the Committee on Finance.

EC–7530. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule

entitled ''Accounting Method Allowed for Some Small Taxpayers'' (Rev. Proc. 2002–28) received on June 14, 2002; to the Committee on Finance.

EC–7531. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Minimum Distributions—Reporting Requirements under Final Regulations'' (Notice 2002–27) received on June 14, 2002; to the Committee on Finance.

EC–7532. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—May 2002'' (Rev. Rul. 2002–25) received on June 14, 2002; to the Committee on Finance.

EC–7533. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Required Distributions from Retirement Plans'' ((RIN1545–AY69)(RIN1545–AY70; TD8987)) received on June 14, 2002; to the Committee on Finance.

EC–7534. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicaid Program; Medicaid Managed Care; Withdrawal of Final Rule with Comment Period'' (RIN0938–AL83) received on June 13, 2002; to the Committee on Finance.

EC–7535. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicaid Program; Medicaid Managed Care; New Provisions'' (RIN0938–AK96) received on June 13, 2002; to the Committee on Finance.

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. BINGAMAN (for himself and Mrs. MURRAY):

S. 2631. A bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to provide grants for transitional jobs programs, and for other purposes; to the Committee on Finance.

By Mr. HARKIN:

S. 2632. A bill to provide an equitable formula for computing the annuities of surviving spouses of members of the uniformed services who died entitled to retired or retainer pay but before the Survivor Benefit Plan existed or applied to the members, and for other purposes; to the Committee on Armed Services.

By Mr. BIDEN (for himself and Mr. GRASSLEY):

S. 2633. A bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purpose; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. 2634. A bill to establish within the National Park Service the 225th Anniversary of the American Revolution Commemorative Program, and for other purposes; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. 2635. A bill to establish the Hudson-Fulton-Champlain Commemoration Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TORRICELLI (for himself, Mr. HOLLINGS, and Mr. CORZINE):

S. 2636. A bill to ensure that the Secretary of the Army treats recreation benefits the same as hurricane and storm damage reduction benefits and environmental protection and restoration; to the Committee on Environment and Public Works.

By Mr. CONRAD (for himself, Mr. SMITH of Oregon, Mr. ALLEN, and Mr. WARNER):

S. 2637. A bill to amend the Internal Revenue Code of 1986 and the Surface Mining Control and Reclamation Act of 1977 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund and 1992 Benefit Plan by providing additional sources of revenue to the Fund and Plan, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S. 2638. A bill to encourage health care facilities, group health plans, and health insurance issuers to reduce administrative costs, and to improve access, convenience, quality, and safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself and Mr. CORZINE):

S. 2639. A bill to provide health benefits for workers and their families; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 2640. A bill to provide for adequate school facilities in Yosemite National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. MURRAY (for herself, Mr. BAUCUS, Ms. CANTWELL, Mr. DAYTON, and Mr. WELLSTONE):

S. 2641. A bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products; to the Committee on Environment and Public Works.

By Mr. NELSON of Florida (for himself, Mr. THOMAS, Mrs. FEINSTEIN, and Mr. BAYH):

S. 2642. A bill to require background checks of alien flight school applicants without regard to the maximum certificated weight of the aircraft for which they seek training, and to require a report on the effectiveness of the requirement; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEVIN (for himself and Ms. STABENOW):

S. Res. 287. A resolution congratulating the Detroit Red Wings on winning the 2002 National Hockey League Stanley Cup Championship and again bringing the Cup home to Hockeytown; considered and agreed to.

ADDITIONAL COSPONSORS

S. 677

At the request of Mr. HATCH, the names of the Senator from Montana (Mr. BURNS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 701

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to provide special rules for the charitable deduction for conservation contributions of land by eligible farmers and ranchers, and for other purposes.

S. 830

At the request of Mr. CHAFEE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 999

At the request of Mr. BINGAMAN, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1329

At the request of Mr. JEFFORDS, the names of the Senator from Georgia (Mr. MILLER) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1329, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes.

S. 1339

At the request of Mr. CAMPBELL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1655

At the request of Mr. BIDEN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1655, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1738

At the request of Mr. KERRY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1738, a bill to amend title XVIII of the Social Security Act to provide regulatory relief, appeals process reforms, contracting flexibility,

and education improvements under the medicare program, and for other purposes.

S. 1818

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1818, a bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

S. 1854

At the request of Mr. JOHNSON, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1854, a bill to authorize the President to present congressional gold medals to the Native American Code Talkers in recognition of their contributions to the Nation during World War I and World War II.

S. 1867

At the request of Mr. MCCAIN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 1917

At the request of Mrs. MURRAY, her name was withdrawn as a cosponsor of S. 1917, a bill to provide for highway infrastructure investment at the guaranteed funding level contained in the Transportation Equity Act for the 21st Century.

S. 1924

At the request of Mr. SANTORUM, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1987

At the request of Mr. SMITH of New Hampshire, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1987, a bill to provide for reform of the Corps of Engineers, and for other purposes.

S. 2047

At the request of Mr. BREAUX, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 2047, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

S. 2051

At the request of Mr. REID, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2070

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2070, a bill to amend part A of title IV to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes.

S. 2119

At the request of Mr. GRASSLEY, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2119, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes.

S. 2134

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2134, a bill to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

S. 2136

At the request of Mr. SPECTER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2136, a bill to establish a memorial in the State of Pennsylvania to honor the passengers and crewmembers of Flight 93 who, on September 11, 2001, gave their lives to prevent a planned attack on the Capitol of the United States.

S. 2181

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2181, a bill to review, reform, and terminate unnecessary and inequitable Federal subsidies.

S. 2184

At the request of Mr. BREAUX, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 2184, a bill to provide for the reissuance of a rule relating to ergonomics.

S. 2221

At the request of Mr. ROCKEFELLER, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 2246

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2250

At the request of Mr. CORZINE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2250, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

S. 2268

At the request of Mr. MILLER, the names of the Senator from New Hampshire (Mr. SMITH) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2489

At the request of Mrs. CLINTON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2489, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 2520

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2520, a bill to amend title 18, United States Code, with respect to the sexual exploitation of children.

S. 2548

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2548, a bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to improve the provision of education and job training under that program, and for other purposes.

S. 2552

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2552, a bill to amend part A of title IV of the Social Security Act to give States the option to create a program that allows individuals receiving temporary assistance to needy families to obtain post-secondary or longer duration vocational education.

S. 2558

At the request of Mr. REED, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2558, a bill to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

S. 2570

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2570, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program, and for other purposes.

S. 2600

At the request of Mr. DODD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2600, a bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

S. 2609

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 2609, a bill to require the Federal Trade Commission to promulgate a rule to establish requirements with respect to the release of prescriptions for contact lenses.

S.J. RES. 37

At the request of Mr. WELLSTONE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S.J. Res. 37, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to modification of the medicaid upper payment limit for non-State government owned or operated hospitals published in the Federal Register on January 18, 2002, and submitted to the Senate on March 15, 2002.

S. RES. 270

At the request of Mr. CAMPBELL, the names of the Senator from Alaska (Mr. MURKOWSKI) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as ''National Cystic Fibrosis Awareness Week.''

S. CON. RES. 110

At the request of Mrs. FEINSTEIN, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Con. Res. 110, a concurrent resolution honoring the heroism and courage displayed by airline flight attendants on a daily basis.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—JUNE 17, 2002

By Mr. INOUYE.

S. 2630. A bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II and surviving spouses of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, today I rise to introduce legislation that would amend Title 38 of the United States Code to provide health care and burial benefits to all Filipino veterans of World War II and their spouses who reside in the United States.

Many of you are aware of my continued advocacy on the importance of addressing the plight of Filipino World War II veterans. As an American, I believe the treatment of Filipino World War II veterans is bleak and shameful. The Philippines became a United States possession in 1898, when it was ceded from Spain following the Spanish-American War. In 1934, the Congress enacted the Philippine Independence Act, Public Law 73–127, which provided a 10-year time frame for the independence of the Philippines. Between 1934 and final independence in 1946, the United States retained certain powers over the Philippines, including the right to call all military forces organized by the newly-formed Commonwealth government into the service of the United States Armed Forces.

The Commonwealth Army of the Philippines was called to serve with the United States Armed Forces in the Far East during World War II under President Roosevelt's July 26, 1941 military order. The Filipinos who served were entitled to full veterans' benefits by reason of their active service with our armed forces. Hundreds were wounded in battle and many hundreds died in battle. Shortly after Japan's surrender, the Congress also enacted the Armed Forces Voluntary Recruitment Act of 1945 for the purpose of sending Filipino troops to occupy enemy lands, and to oversee military installations at various overseas locations. These troops were authorized to receive pay and allowances for services performed throughout the Western Pacific. Although hostilities had ceased, wartime service of these troops continued as a matter of law until the end of 1946.

Despite all of their sacrifices, on February 18, 1946, the Congress enacted the Rescission Act of 1946, now codified as Section 107 of Title 38 of the United States Code. The 1946 Act deemed that the service performed by these Filipino veterans would not be recognized as ''active service'' for the purpose of any U.S. law conferring ''rights, privileges, or benefits.'' Accordingly, Section 107 denied Filipino veterans access to health care, particularly for non-service-connected disabilities, and pension benefits. Section 107 also limited service-connected disability and death compensation to 50 percent of what is received by their American counterparts.

On May 27, 1946, the Congress enacted the Second Supplemental Surplus Appropriations Rescission Act, which duplicated the language that had eliminated Filipino veterans' benefits under the First Rescission Act. Thus, Filipino veterans who fought in the service of the United States during World War II have been precluded from receiving most of the veterans' benefits that had been available to them before 1946, and that are available to all other veterans of our armed forces regardless of race, national origin, or citizenship status.

The Health Care for Filipino World War II Veterans Act includes four provisions: health care and nursing home care access for Filipino veterans residing in the United States; dependency and indemnity compensation for surviving spouses of certain Filipino veterans, provided the surviving spouse lives in the United States; an increase in the payment amount from 50 to 100 percent for service-connected disability compensation for new Philippine Scout veterans residing in the United States and burial benefits for new Philippine Scout veterans. All these measures will assist Filipino veterans in their twilight years, and the bill is fully supported by the Department of Veterans Affairs.

Throughout the years, I have sponsored several measures to rectify the lack of appreciation America has shown to those gallant men and women who stood in harm's way with our American soldiers and fought the common enemy during World War II. It is time that we, as a Nation, recognize our long-standing history and friendship with the Philippines. The legislation I introduce today will remove the burden of health care and burial costs for a very deserving group of highly decorated individuals: members of the Filipino Commonwealth Army and new Philippine Scouts who valiantly fought with the Allied forces in the Second World War. These groups have been neglected by the United States Congress.

Heroes should never be forgotten or ignored; let us not turn our backs on those who sacrificed so much. Let us now work to repay all of these brave men and women for their sacrifices by providing them the veterans' benefits they deserve. I urge my colleagues to support this measure.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2630

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 ''Health Care for Filipino World War II Veterans Act''.

SEC. 2. ELIGIBILITY FOR HEALTH CARE OF CERTAIN ADDITIONAL FILIPINO WORLD WAR II VETERANS RESIDING IN THE UNITED STATES.

The text of section 1734 of title 38, United States Code, is amended to read as follows:

''(a) The Secretary shall furnish hospital and nursing home care and medical services to any individual described in subsection (b) in the same manner, and subject to the same terms and conditions, as apply to the furnishing of such care and services to individuals who are veterans as defined in section 101(2) of this title. Any disability of an individual described in subsection (b) that is a service-connected disability for purposes of this subchapter (as provided for under section 1735(2) of this title) shall be considered to be a service-connected disability for purposes of furnishing care and services under the preceding sentence.

''(b) Subsection (a) applies to any individual who is a Commonwealth Army veteran or new Philippine Scout and who—

''(1) is residing in the United States; and

''(2) is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.''.

SEC. 3. RATE OF PAYMENT OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF CERTAIN FILIPINO VETERANS.

(a) RATE OF PAYMENT.—Subsection (c) of section 107 of title 38, United States Code, is amended by inserting '', and under chapter 13 of this title,'' after ''chapter 11 of this title''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on

the date of enactment of this Act and shall apply to benefits paid for months beginning on or after that date.

SEC. 4. RATE OF PAYMENT OF COMPENSATION BENEFITS FOR NEW PHILIPPINE SCOUTS RESIDING IN THE UNITED STATES.

(a) RATE OF PAYMENT.—Section 107 of title 38, United States Code, as amended by section 3(a), is further amended—

(1) in the second sentence of subsection (b), by striking ''Payments'' and inserting ''Except as provided in subsection (c) or (d), payments''; and

(2) in subsection (c)—

(A) by inserting ''or (b)'' after ''subsection (a)'' the first place it appears; and

(B) by striking ''subsection (a)'' the second place it appears and inserting ''the applicable subsection''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to benefits paid for months beginning on or after that date.

SEC. 5. BURIAL BENEFITS FOR NEW PHILIPPINE SCOUTS.

(a) BENEFIT ELIGIBILITY.—Subsection (b)(2) of section 107 of title 38, United States Code, is amended—

(1) by striking ''and''; and

(2) by inserting '', 23, and 24 (to the extent provided for in section 2402(8) of this title)'' after ''1312(a))''.

(b) BENEFIT RATE FOR CERTAIN PERSONS IN THE UNITED STATES.—Subsection (d) of such section is amended—

(1) in paragraph (1), by inserting ''or subsection (b), as the case may be,'' after ''subsection (a)''; and

(2) in paragraph (2), by inserting '', or whose service is described in subsection (b) and who dies on or after the date of the enactment of the Health Care for Filipino World War II Veterans Act'' in the matter preceding subparagraph (A) after ''this subsection''.

(c) CONFORMING AMENDMENT.—Section 2402(8) of such title is amended by inserting ''or 107(b)'' after ''107(a)''.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after the date of enactment of this Act.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—JUNE 18, 2002

By Mr. BINGAMAN (for himself and Mrs. MURRAY):

S. 2631. A bill to amend the temporary assistance to needy families program under part A of title IV of the Social Security Act to provide grants for transitional jobs programs, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Madam President, I rise today to introduce the STEP Act on behalf of myself and Senator MURRAY.

This bill is a companion to the Education Works Act, which I introduced a couple of weeks ago. Both bills address the same issue, the need to support state efforts to use welfare to work strategies that combine work with a flexibility mix of education, training, and other supports. Study after study has demonstrated that states that use a combination of activities to help families move from welfare to work are more successful. For many welfare recipients, vocational training and postsecondary education led to work and, through substantial increases in earnings and job quality, long-term financial independence. This is important because although many have left welfare for work during the past several years, many have returned or live in poverty dependent on other government supports because they are working at low wages with limited benefits. In addition, many with multiple barriers remain on the rolls. As we move forward with the reauthorization process, we must do more to support state efforts to help these people find work and to ensure that all individuals leaving welfare are moving to employment that will provide long-term financial independence. The STEP Act and the Education Works Act will do just that.

The Education Works Act deals with increasing state flexibility to determine the right mix of work with education and training. The STEP Act provides resources to States seeking to implement effective programs that combine work with education and training. One of the most effective types of these programs, particularly for the most difficult to serve TANF recipients, are transitional job programs. Transitional job programs provide subsidized, temporary, wage-paying jobs for 20 to 35 hours per week, along with access to job readiness, basic education, vocational skills, and other barrier-removal services based on individualized plans. The STEP Act would provide states with funding to implementing these programs and other training and support programs.

Existing transitional job programs are achieving great outcomes. A Mathematical study released last month demonstrated that between 81 to 94 percent of those who had completed transitional job programs move on to unsubsidized jobs with wages. Most of these participants moved into full-time employment, median hours worked was 40 hours. Another survey revealed that transitional jobs program completers reported average wages at placement into unsubsidized employment between $7 and $10 per hour.

Transitional jobs programs can be particularly effective with the hardest to serve welfare recipients. Transitional jobs program often focus primarily on welfare recipients who have participated in welfare employment and training programs without successfully finding steady employment. The reasons for their inability to find and sustain meaningful employment are complex and varied. For people who face barriers, or who lack the skills or experience to compete successfully in the labor market, paid work in a supportive environment, together with access to needed services provides a real chance to move forward. While more expensive than other work first strategies, transitional jobs programs are able to do what their cheaper and less intensive counterparts have not, help the most difficult to serve TANF participants find stable, permanent employment.

Additional support for transitional jobs programs is needed. The TANF and Welfare-to-Work block grants have been the principal sources of funding for Transitional Jobs programs. Welfare-to-Work funds have been exhausted in many parts of the country and must be spend completely during the next year or two. In addition, with an ever growing competition for TANF funds in a period of rising caseloads and declining State revenues, it will be increasingly difficult to fund transitional jobs programs solely with TANF funds.

I believe that transitional job programs are good investments because they serve as stepping stones to permanent employment and decrease government expenditures on health care, food stamps, and cash assistance. Transitional jobs programs can be particularly important in economically depressed and rural areas because they increase work opportunities for hard-to-employ individuals, they reduce pressure on local emergency systems and, they provide income that stimulates local economies.

Our legislation also supports ''business link'' programs that provide individuals with fewer barriers or individuals who have only been able to access very low wage employment with intensive training and skill development activities designed to lead to long-term, higher paid employment. These programs are based on partnerships with the private sector.

In my home State, just such a program is producing great results, the Teamworks program. Teamworks provides training in life skills, as well as employment skills, during a 12 week course. The program also provides necessary supports to participants such as childcare and transportation. Teamworks assists participants in their job search and provides ongoing support for 18 months after job placement. The results are impressive. The average wage of those completing the program is $1.50 per hour higher than other programs and job retention rates are 20 percent higher. This experience is not unique. Welfare programs that combine work with education and training with support services are more likely to result in work leads to self-sufficiency.

The legislation that I am introducing today will give States the tools to implement what works. I urge my colleagues to join me in supporting both the STEP Act and the Education Works Act. I as 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. 2631

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 ''Support, Training, Employment Programs Act of 2002'' or the ''STEP Act of 2002''.

SEC. 2. TRANSITIONAL JOBS GRANTS.

Section 403(a) of the Social Security Act (42 U.S.C. 603(a)) is amended by adding at the end the following:

''(6) TRANSITIONAL JOBS GRANTS.—

''(A) PURPOSE.—The purpose of this paragraph is to provide funding so that States and localities can create and expand transitional jobs programs that—

''(i) combine time-limited employment that is subsidized with public funds, with skill development and barrier removal activities, pursuant to an individualized plan;

''(ii) provide job development and placement assistance to individual participants to help them move from subsidized employment in transitional jobs into unsubsidized employment, as well as retention services after the transition to unsubsidized employment; and

''(iii) serve recipients of assistance under the State program funded under this part and other low-income individuals who have been unable to secure employment through job search or other employment-related services because of limited skills, experience, or other barriers to employment.

''(B) AUTHORITY TO MAKE GRANTS.—Each transitional jobs State (as determined under subparagraph (C)) shall receive a grant under this paragraph for each fiscal year specified in subparagraph (K) for which the State is a transitional jobs State, in an amount equal to the allotment for the State as specified under subparagraph (D) for the fiscal year.

''(C) TRANSITIONAL JOBS STATE.—A State shall be considered a transitional jobs State for a fiscal year for purposes of this paragraph if the Secretary of Labor determines that the State meets the following requirements:

''(i) The State has submitted to the Secretary of Labor and the Secretary of Health and Human Services (in the form of an addendum to the State plan submitted under section 402) a plan which is approved by the Secretary of Labor based on the plan's compliance with the following requirements:

''(I) The plan describes how, consistent with this paragraph, the State will use any funds provided under this paragraph during the fiscal year.

''(II) The plan contains evidence that the plan was developed in consultation and coordination with appropriate entities including employers, labor organizations, and community-based organizations that work with low-income families, and includes a certification as required under section 402(a)(4) with regard to the transitional jobs services that the State proposes to provide.

''(III) The plan specifies the criteria that will be used to select entities who will receive funding to operate transitional jobs programs.

''(IV) The plan describes specifically how the State will address the needs of rural areas, Indian tribes, and cities with large concentrations of residents with an income that is less than the poverty line, or who are unemployed.

''(V) The plan describes how the State will ensure that a grantee to which information is disclosed pursuant to this paragraph or section 454A(f)(5) has procedures for safeguarding the information and for ensuring that the information is used solely for the purpose described in this paragraph or that section.

''(VI) The plan describes categories of jobs that are in demand in various areas of the State and which offer the opportunity for advancement to better jobs. The plan also shall provide assurances that the ability of organizations seeking to operate transitional jobs programs to best prepare participants for those jobs will be given weight in the selection of program operators.

''(ii) The State has agreed to negotiate in good faith with the Secretary of Health and Human Services with respect to the substance and funding of any evaluations and to cooperate with the conduct of any such evaluations.

''(D) ALLOTMENTS TO STATES.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), the amount of the allotment for a transitional jobs State for a fiscal year shall be the available amount for the fiscal year multiplied by the State percentage for the fiscal year.

''(ii) MINIMUM ALLOTMENT.—The amount of the allotment for a transitional jobs State (other than Guam, the Virgin Islands, or American Samoa) for a fiscal year shall not be less than 0.4 percent of the available amount for the fiscal year.

''(iii) PRO RATA REDUCTION.—Subject to clause (ii), the Secretary of Labor shall make pro rata reductions in the allotments to States under this subparagraph for a fiscal year as necessary to ensure that the total amount of the allotments does not exceed the available amount for the fiscal year.

''(iv) AVAILABLE AMOUNT.—As used in this subparagraph, the term 'available amount' means, for a fiscal year, 80 percent of the sum of—

''(I) the amount specified in subparagraph (K) for the fiscal year;

''(II) any funds available under this subparagraph that have not been allotted due to a determination by the Secretary that any State has not met the requirements of subparagraph (C); and

''(III) any available amount for the immediately preceding fiscal year that has not been obligated by the State.

''(v) STATE PERCENTAGE.—As used in this subparagraph, the term 'State percentage' means, with respect to a fiscal year and a State, ½ of the sum of—

''(I) the percentage represented by the number of individuals in the State whose income is less than the poverty line divided by the number of such individuals in the United States; and

''(II) the percentage represented by the number of adults who are recipients of assistance under the State program funded under this part divided by the number of adults in the United States who are recipients of assistance under any State program funded under this part.

''(vi) ADMINISTRATION OF FUNDS.—

''(I) IN GENERAL.—Subject to subclause (II), funds made available to a State under this paragraph shall be administered by an agency or agencies, as determined by the chief executive officer of the State, which may include the agency that administers the State program funded under this part, the State board designated to administer the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) in the State, or any other appropriate agency.

''(II) COORDINATION WITH TANF AGENCY.—If an agency other than the State agency that administers the State program funded under this part administers funds made available to a State under this paragraph, that agency shall coordinate the planning and administration of such funds with the State agency that administers the State program funded under this part.

''(vii) DISTRIBUTION OF FUNDS WITHIN STATES.—

''(I) IN GENERAL.—A State to which a grant is made under this paragraph shall allocate not less than 90 percent of the amount of the grant to eligible applicants for the operation of transitional jobs programs consistent with subparagraph (E). Any funds not used for such operation may be used to provide technical assistance to program operators and worksite employers, administration, or for other purposes consistent with this paragraph.

''(II) ELIGIBLE APPLICANTS.—As used in subclause (I), the term 'eligible applicant' means a political subdivision of a State, a local workforce investment board established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832), an Indian tribe, or a private entity.

''(E) LIMITATIONS ON USE OF FUNDS.—

''(i) ALLOWABLE ACTIVITIES.—An entity to which funds are provided under subparagraph (D)(vii) shall use the funds to operate transitional jobs programs consistent with the following:

''(I) An entity which secures a grant to operate a transitional jobs program (in this subparagraph referred to as a 'program operator'), under this paragraph shall place eligible individuals in temporary, publicly subsidized jobs. Individuals placed in such positions shall perform work directly for the program operator, or at other public and nonprofit organizations (in this subparagraph referred to as 'worksite employers') within the community. Funds provided under subparagraph (D) shall be used to subsidize 100 percent of the wages paid to participants as well as employer-paid payroll costs for such participants, except as provided in clause (v) regarding placements in the private, for-profit sector.

''(II) Transitional jobs programs shall provide paid employment for not less than 30, nor more than 40 hours per week, except that a parent with a child under the age of 6, a child who is disabled, or a child with other special needs, or an individual who for other reasons cannot successfully participate for 30 to 40 hours per week, may, at State discretion, be allowed to participate for more limited hours, but not less than 20 hours per week.

''(III) Program operators shall—

''(aa) develop an individual plan for each participant, the goal of which shall focus on preparation for unsubsidized jobs in demand in the local economy which offer the potential for advancement and growth;

''(bb) develop transitional work placements for participants that will best prepare them for jobs in demand in the local economy that offer the potential for wage growth and advancement; and

''(cc) provide case management services and ensure that appropriate education, training, and other services are available to participants consistent with each participant's individual plan.

''(IV) Program operators shall provide job placement assistance to help participants obtain unsubsidized employment, and shall provide retention services for 12 months after entry into unsubsidized employment.

''(V) In any work week in which a participant is employed at least 30 hours, a minimum of 20 percent of scheduled hours and a maximum of 50 percent of scheduled hours, shall involve participation in education or training activities designed to improve the participant's employability and potential earnings, or other services designed to reduce or eliminate any barriers that may impede the participant's ability to secure unsubsidized employment.

''(VI) The maximum duration of any placement in a transitional jobs program shall not be less than 6 months, nor more than 24 months. Nothing in this subclause shall be construed to bar a participant from moving into unsubsidized employment at a point prior to the maximum duration of the program. States may approve programs of varying durations consistent with this subclause.

''(VII) Participants shall be paid at the rate paid to unsubsidized employees of the worksite employer, (or program operator

where work is performed directly for the program operator,) who perform comparable work at the worksite where the individual is placed. If no other employees perform the same or comparable work then wages shall be set, at a minimum, at 50 percent of the Lower Living Standard Income Level (in this subparagraph referred to as the 'LLSIL'), as specified in section 101(24) of the Workforce Investment Act of 1998, for family of 3 based on 35 hours per week.

''(VIII) Participants shall receive supervision from the worksite employer or program operator consistent with the goal of addressing the limited work experience and skills of program participants.

''(ii) CONSULTATION.—An application submitted by an entity seeking to become a program operator shall include an assurance by the applicant that the transitional jobs program carried out by the applicant shall—

''(I) provide in the design, recruitment, and operation of the program for broad-based input from the community served and potential participants in the program and community-based agencies with a demonstrated record of experience in providing services, prospective worksite employers, local labor organizations representing employees of prospective worksite employers, if these entities exist in the area to be served by the program, and employers, and membership-based groups that represent low-income individuals; and

''(II) prior to the placement of participants, consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar as that proposed to be carried out by such program to ensure compliance with the nondisplacement requirements specified in subparagraph (L).

''(iii) ELIGIBILITY FOR OTHER WORK SUPPORTS.—Participants shall be eligible for subsidized child care, transportation assistance, and other needed support services on the same basis as other recipients of cash assistance under the State program funded under this part.

''(iv) WAGES NOT CONSIDERED ASSISTANCE.—Wages paid to program participants shall not be considered to be assistance for purposes of section 408(a)(7).

''(v) PRIVATE SECTOR PLACEMENTS.—Placements of participants with private, for-profit entities shall be permitted only under the following conditions:

''(I) Except as provided in clause (vi), not more than 20 percent of the total number of participants in transitional jobs in a State at any time may be placed at worksite employers which are private, for-profit companies.

''(II) When placements are made at private, for-profit, entities the entity shall pay for at least 50 percent of programs costs (including wages) for each participant.

''(III) Not more than 5 percent of a private, for-profit entity's workforce may be composed of transitional jobs programs subsidized participants at any point in time, and no supervisor at the entity shall have the responsibility for supervising more than one transitional job program participant.

''(IV) A private, for-profit entity shall not be allowed to participate as a worksite employer or program operator if the entity has previously exhibited a pattern of failing to provide transitional jobs participants with continued, unsubsidized employment with wages, benefits, and working conditions, that are equal to those provided to other unsubsidized employees who have worked a similar length of time and are doing similar work.

''(V) The duration of any subsidized placement under this clause shall be limited to the period of time required for the participant to become proficient in the performance of the tasks of the job for which the participant is employed.

''(VI) Transitional jobs participants shall only be placed with private, for-profit entities in which the participants will have the opportunity for permanent, unsubsidized employment in positions where they will learn skills that provide a clear pathway to higher paying jobs.

''(VII) At the time a transitional jobs placement is made, the entity shall agree in writing—

''(aa) to hire the participant into an unsubsidized position at the completion of the agreed upon subsidized placement, or sooner, provided that the transitional jobs participant's job performance has been satisfactory; and

''(bb) to provide the participant with access to employee benefits that would be available to an individual in an unsubsidized position of the employer within 12 months of the participant's initial placement in the subsidized position.

''(vi) EXCEPTION TO 20 PERCENT LIMITATION ON PRIVATE SECTOR PLACEMENTS.—

''(I) IN GENERAL.—A State may exceed the 20 percent limitation under clause (v)(I) if necessary because of the limited number of placement opportunities in public and nonprofit organizations in rural areas of the State, but only if the State includes in its plan a request to exceed such limitation and provides specific information describing why private placements in excess of the 20 percent limitation are necessary, including a specification of the rural areas in the State in which insufficient nonprofit or public sector placements are available and the projected distribution of private sector placements throughout the State.

''(II) CONSIDERATION OF REQUESTS.—The Secretary shall by regulation develop procedures for the prompt consideration and resolution of requests by a State to exceed the 20 percent limitation under clause (v)(I).

''(III) LIMITATION REMAINS IN NON-DESIGNATED AREAS.—If a request to exceed such 20 percent limitation is approved, the 20 percent limitation shall not apply in those areas of the State that have been designated to exceed such limit, but shall continue to apply in those areas of the State not so designated.

''(IV) INCLUSION OF INFORMATION IN ANNUAL REPORT.—With respect to any year in which the Secretary authorizes the State to exceed such 20 percent limitation, a State shall report on the number and geographic location of private sector slots used during the year in addition to the information required to be reported by the State under clauses (vii) and (viii) of subparagraph (G) .

''(F) GENERAL ELIGIBILITY.—

''(i) IN GENERAL.—Not less than ⅔ of the participants in a transitional jobs program within a State during a fiscal year shall be individuals who are, at the time they enter the program—

''(I) receiving assistance under the State program funded under this part;

''(II) not receiving assistance under the State program funded under this part, but who are unemployed, and who were recipients of assistance under a State program funded under this part within the immediately preceding 12-month period;

''(III) custodial parents of a minor child who meet the financial eligibility criteria for assistance under the State program funded under this part; or

''(IV) noncustodial parents with income below 100 percent of the poverty line (as defined in section 673(2) of the Omnibus Budget Reconciliation Act of 1981, including any revision required by such section, applicable to a family of the size involved).

''(ii) STATE OPTION TO FURTHER LIMIT ELIGIBILITY.—A State may further limit the eligibility of noncustodial parents to those noncustodial parents for whom at least 1 of the following applies to a minor child of the noncustodial parent:

''(I) The minor child is eligible for, or is receiving, assistance under the State program funded under this part.

''(II) The minor child received assistance under the program funded under this part in the 12-month period preceding the date of the determination but no longer receives such assistance.

''(III) The minor child is eligible for, or is receiving, assistance under the Food Stamp Act of 1977, benefits under the supplemental security income program under title XVI of this Act, medical assistance under title XIX of this Act, or child health assistance under title XXI of this Act.

''(iii) CONSULTATION.—A transitional jobs program that provides services to non-custodial parents shall consult with the State child support program funded under part D so that child support services are coordinated with transitional jobs program servvices.

''(iv) LIMITATION.—Not more than ⅓ of all participants in a transitional jobs program within a State during a fiscal year shall be individuals who have attained at least age 18 with income below 100 percent of the poverty line (as defined in section 673(2) of the Omnibus Budget Reconciliation Act of 1981, including any revision required by such section, applicable to a family of the size involved) who are not eligible under clause (i).

''(v) METHODOLOGY.—A State may use any reasonable methodology in calculating whether a participant satisfies the requirements of clause (i), make up ⅔ or more of all participants, and whether participants satisfying the requirements of clause (iv) make up not more than ⅓ of all participants in a fiscal year.

''(vi) AUTHORITY TO PROVIDE WORK-RELATED SERVICES TO INDIVIDUALS WHO HAVE REACHED THE 5 YEAR LIMIT.—A program operator under this paragraph may use the funds to provide transitional job program participation to individuals who, but for section 408(a)(7), would be eligible for assistance under the program funded under this part of the State in which the entity is located.

''(G) RELATIONSHIP TO OTHER PROVISIONS OF THIS PART; ADMINISTRATIVE PROVISIONS.—

''(i) RULES GOVERNING USE OF FUNDS.—The provisions of section 404, other than subsection (f) of section 404, shall not apply to a grant made under this paragraph.

''(ii) WORK PARTICIPATION REQUIREMENTS.—With respect to any month in which a recipient of assistance under a State or tribal program funded under this part satisfactorily participates in a transitional jobs program funded under a grant made under this paragraph, such participation shall be considered to satisfy the work participation requirements of section 407 and included for purposes of determining monthly participation rates under subsection (b)(1)(B)(i) of that section.

''(iii) ADMINISTRATION.—Section 416 shall not apply to the programs under this paragraph.

''(iv) PROHIBITION AGAINST USE OF GRANT FUNDS FOR ANY OTHER FUND MATCHING REQUIREMENT.—An entity to which funds are provided under this paragraph shall not use any part of the funds to fulfill any obligation of any State or political subdivision under subsection (b) or section 418 or any other provision of this Act or other Federal law.

''(v) DEADLINE FOR EXPENDITURE.—An entity to which funds are provided under this paragraph shall remit to the Secretary of

Labor any part of the funds that are not expended within 3 years after the date on which the funds are so provided.

''(vi) REGULATIONS.—Within 90 days after the date of the enactment of this paragraph, the Secretary of Labor, alter consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to implement this paragraph.

''(vii) REPORTING REQUIREMENTS.—The Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall establish requirements for the collection and maintenance of financial and participant information and the reporting of such information by entities carrying out activities under this paragraph. Such reporting requirements shall include, at a minimum, that States report disaggregated data on individual participants that include the following:

''(I) Demographic information about the participant including education level, literacy level, and prior work experience.

''(II) Identity of the program operator that provides or provided services to the participant, and the duration of participation.

''(III) The nature of education, training or other services received by the participant.

''(IV) Reason for the participant's leaving the programs.

''(V) Whether the participant secured unsubsidized employment during or within 60 days after the employment of the participant in a transitional job, and if so, details about the participant's unsubsidized employment including industry, occupation, starting wages and hours, availability of employer sponsored health insurance, sick and vacation leave.

''(VI) The extent to which subsidized and unsubsidized placements are in jobs or occupations identified in the State's plan as being in demand in the local economy and offering the opportunity for advancement and wage growth.

''(viii) ADDITIONAL REPORTING REQUIREMENTS.—States shall collect and report follow-up data for a sampling of participants reflecting their employment and earning status 12 months after entering unsubsidized employment.

''(ix) ANNUAL REPORT TO CONGRESS.—The Secretary of Labor shall submit an annual report to Congress on the activities conducted with grants made under this paragraph that includes information regarding the employment and earning status of participants in such activities.

''(H) NATIONAL COMPETITIVE GRANTS.—

''(i) IN GENERAL.—The Secretary of Labor shall award grants in accordance with this subparagraph, in fiscal years 2003 through 2007, for transitional jobs programs proposed by eligible applicants, based on the following:

''(I) The extent to which the proposal seeks to provided services in multiple sites that include sites in more than 1 State.

''(II) The extent to which the proposal seeks to provide services in a labor market area or region that includes portions of more than 1 State.

''(III) The extent to which the proposal seeks to provides transitional jobs in a State that is not eligible to receive an allotment under subparagraph (D).

''(IV) The extent to which the applicant proposes to provide transitional jobs in either rural areas or areas where there are a high concentration of residents with income that is less than the poverty line.

''(V) The effectiveness of the proposal in helping individuals who are least job ready move into unsubsidized jobs that provide pathways to stable employment and livable wages.

''(ii) ELIGIBLE APPLICANTS.—In this subparagraph, the term 'eligible applicant' means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832), a political subdivision of a State, or a private entity

''(iii) FUNDING.—For grants under this subparagraph for each fiscal year specified in clause (i), there shall be available to the Secretary of Labor an amount equal to 13.5 percent of the sum of—

''(I) the amount specified in subparagraph (K) for the fiscal year;

''(II) any amount available for the immediately preceding fiscal year that has not been obligated by a State; and

''(III) any funds available under this paragraph that have not been allotted due to a determination by the Secretary of Labor that the State has not qualified as a transitional jobs State.

''(I) FUNDING FOR INDIAN TRIBES.—5 percent of the amount specified in subparagraph (K) for each fiscal year shall be reserved for grants to Indian tribes under subparagraph (P).

''(J) FUNDING FOR EVALUATIONS OF TRANSITIONAL JOBS PROGRAMS.—1.5 percent of the amount specified in subparagraph (K) for each fiscal year shall be reserved for use by the Secretary to carry out subparagraph (O).

''(K) APPROPRIATIONS.—

''(i) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for grants under this paragraph—

''(I) $250,000,000 for fiscal year 2003;

''(II) $375,000,000 for fiscal year 2004; and

''(III) $500,000,000 for each of fiscal years 2005 through 2007.

''(ii) AVAILABILITY.—The amounts made available pursuant to clause (i) shall remain available for such period as is necessary to make the grants provided for in this paragraph.

''(L) WORKER PROTECTIONS.—

''(i) NONDUPLICATION.—

''(I) IN GENERAL.—Assistance provided through a grant made under this paragraph shall be used only for a program that does not duplicate, and is in addition to, an activity otherwise available in the locality of such program.

''(II) PRIVATE, NONPROFIT ENTITY.—Assistance provided through a grant made available under this paragraph shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency in the area in which such entity resides, unless the requirements of clause (ii) are met.

''(ii) NONDISPLACEMENT.—

''(I) IN GENERAL.—An employer shall not displace an employee or position (including partial displacement such as reduction in hours, wages, or employment benefits) or impair existing contracts for services or collective bargaining agreements, as a result of the use by such employer of a participant in a program receiving assistance under a grant made under this paragraph, and no participant shall be assigned to fill any established unfilled position vacancy.

''(II) JOB OPPORTUNITIES.—A job opportunity shall not be created under this section that will infringe in any manner on the promotional opportunity of an employed individual.

''(III) LIMITATION ON SERVICES.—

''(aa) SUPPLANTATION OF HIRING.—A participant in any transitional job program that receives funds under a grant made under this paragraph shall not perform any services or duties or engage in activities that will supplant the hiring of unsubsidized workers.

''(bb) DUTIES FORMERLY PERFORMED BY ANOTHER EMPLOYEE.—A participant in any transitional job program that receives funds under a grant made under this paragraph shall not perform services or duties that are services, duties, or activities with respect to which an individual has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures, or which had been performed by or were assigned to any employee who recently resigned or was discharged, any employee who is subject to a reduction in force, any employee who is on leave (terminal, temporary, vacation, emergency, or sick), or any employee who is on strike or who is being locked out.

''(iii) CONCURRENCE OF LOCAL LABOR ORGANIZATION.—No work assignment under a transitional job program that receives funds under a grant made under this paragraph shall be made until the program operator has obtained the written concurrence of any local labor organization representing employees who are engaged in the same or substantially similar work as that proposed to be carried out for the program operator or worksite employer with whom a participant is placed.

''(iv) APPLICATION OF WORKER PROTECTION LAWS.—Participants employed in transitional jobs created under a transitional job program that receives funds under a grant made under this paragraph shall be considered to be employees for all purposes under Federal and State law, including laws relating to health and safety, civil rights, and worker's compensation.

''(M) GRIEVANCE PROCEDURE.—

''(i) IN GENERAL.—The State shall establish and maintain a grievance procedure for resolving complaints by unsubsidized employees of program operators or worksite employers or such employees' representatives alleging violations of clause (i), (ii), or (iii) of subparagraph (L), or by participants alleging violations of clause (ii), (iii), or (iv) of such subparagraph.

''(ii) LIMITATION.—Except in the case of a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

''(iii) HEARING.—A hearing on any grievance made under this subparagraph shall be conducted not later than 30 days after the filing of the grievance.

''(iv) DEADLINE FOR DECISION.—A decision on any grievance made under this subparagraph shall be made not later than 60 days after the filing of the grievance.

''(v) BINDING ARBITRATION.—

''(I) IN GENERAL.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or, in the event on noncompliance with the 60-day period required under clause (iv), the party who filed the grievance may submit the grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

''(II) SELECTION OF ARBITRATOR.—If the parties cannot agree on an arbitrator, the chief executive officer of the State shall appoint an arbitrator from a list of qualified arbitrators within 15 days after receiving a request for such appointment from a party to the grievance.

''(III) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for the arbitration proceeding, or, if the arbitrator is appointed by the chief executive officer of the State in accordance with subclause (II), not later than 30 days after the appointment of such arbitrator.

''(IV) DEADLINE FOR DECISION.—A decision concerning a grievance that has been submitted to binding arbitration under this clause shall be made not later than 30 days after the date the arbitration proceeding begins.

''(V) COST.—

''(aa) IN GENERAL.—Except as provided in item (bb), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

''(bb) EMPLOYEE IS PREVAILING PARTY.—If an employee or such employee's representative prevails under a binding arbitration proceeding under this clause, the State agency shall pay the total cost of such proceeding and the attorneys' fees of such employee or representative.

''(vi) REMEDIES.—Remedies for a grievance filed under this subparagraph include—

''(I) prohibition of the work assignment in the program funded under a grant made under this paragraph;

''(II) reinstatement of the displaced employee to the position held by such employee prior to displacement;

''(III) payment of lost wages and benefits of the displaced employee;

''(IV) reestablishment of other relevant terms, conditions, and privileges of employment of the displaced employee; and

''(V) such equitable relief as is necessary to make the displaced employee whole.

''(vii) JUDICIAL REVIEW.—An action to enforce remedy or an arbitration award under this paragraph may be brought in any district court of the United States, without regard to the amount in controversy or the citizenship of the parties to the action.

''(viii) NON-EXCLUSIVE PROCEDURES.—The grievance procedures specified in this subparagraph are not exclusive and an aggrieved employee or participant in a program funded under a grant made under this paragraph may use alternative procedures available under applicable contracts, collective bargaining agreements, or Federal or State laws.

''(N) NON-PREEMPTION OF STATE LAW.—The provisions of subparagraphs (L) and (M) of this paragraph shall not be construed to preempt any provision of State law that affords greater protections to employees or to other participants engaged in work activities under a program funded under this part than is afforded by the provisions of this paragraph.

''(O) EVALUATION OF TRANSITIONAL JOBS PROGRAMS.—

''(i) EVALUATION.—The Secretary, in consultation with the Secretary of Labor—

''(I) shall develop a plan to evaluate the extent to which transitional jobs programs funded under this paragraph have been effective in promoting sustained, unsubsidized employment for each group of eligible participants;

''(II) may evaluate the use of such grants by such grantees as the Secretary deems appropriate, in accordance with an agreement entered into with the grantees after good-faith negotiations; and

''(III) should include the following outcome measures in the plan developed under subclause (I):

''(aa) Placements in unsubsidized employment.

''(bb) Placements in unsubsidized employment that last for at least 12 months, and the extent to which individuals are employed continuously for at least 12 months.

''(cc) Earnings of individuals who obtain employment at the time of placement.

''(dd) Earnings of individuals one year after placement.

''(ee) The occupations and industries in which wage growth and retention performance is greatest.

''(ff) Average expenditures per participant.

''(P) GRANTS TO INDIAN TRIBES.—

''(i) IN GENERAL.—The Secretary shall award a grant in accordance with this subparagraph to an Indian tribe for each fiscal year specified in subparagraph (K) for which the Indian tribe is a transitional jobs tribe, in such amount as the Secretary of Labor deems appropriate.

''(ii) TRANSITIONAL JOBS TRIBE.—An Indian tribe shall be considered a transitional jobs tribe for a fiscal year for purposes of this subparagraph if the Indian tribe meets the following requirements:

''(I) The Indian tribe has submitted to the Secretary a plan which describes how, consistent with this paragraph, the Indian tribe will use any funds provided under this subparagraph during the fiscal year. If the Indian tribe has a tribal family assistance plan, the plan referred to in the preceding sentence shall be in the form of an addendum to the tribal family assistance plan.

''(II) The Indian tribe is operating a program under a tribal family assistance plan approved by the Secretary, a program described in section 412(a)(2)(C), or an employment program funded through other sources under which substantial services are provided to recipients of assistance under a program funded under this part.

''(III) The Indian tribe has agreed to negotiate in good faith with the Secretary with respect to the substance and funding of any evaluation under subparagraph (O), and to cooperate with the conduct of any such evaluation.''.

SEC. 3. INNOVATIVE BUSINESS LINK PARTNERSHIP FOR EMPLOYERS AND NONPROFIT ORGANIZATIONS.

(a) AUTHORITY TO AWARD GRANTS.—The Secretary of Health and Human Services and the Secretary of Labor (in this section referred to as the ''Secretaries'') jointly shall award grants in accordance with this section for projects proposed by eligible applicants based on the following:

(1) The potential effectiveness of the proposed project in carrying out the activities described in subsection (e).

(2) Evidence of the ability of the eligible applicant to leverage private, State, and local resources.

(3) Evidence of the ability of the eligible applicant to coordinate with other organizations at the State and local level.

(b) DEFINITION OF ELIGIBLE APPLICANT.—In this section, the term ''eligible applicant'' means a nonprofit organization, a local workforce investment board established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832), or a political subdivision of a State. In addition, in order to qualify as an eligible applicant for purposes of subsection (e), the applicant must provide evidence that the application has been developed by and will be implemented by a local or regional consortium that includes, at minimum, employers or employer associations, education and training providers, and social service providers.

(c) REQUIREMENTS.—In awarding grants under this section, the Secretaries shall—

(1) consider the needs of rural areas and cities with large concentrations of residents with an income that is less than the 150 percent of the poverty line; and

(2) ensure that all of the funds made available under this section (other than funds reserved for use by the Secretaries under subsection (j)) shall be used for activities described in subsection (e).

(d) DETERMINATION OF GRANT AMOUNT.—

(1) IN GENERAL.—Subject to paragraph (2), in determining the amount of a grant to be awarded under this section for a project proposed by an eligible applicant, the Secretaries shall provide the eligible applicant with an amount sufficient to ensure that the project has a reasonable opportunity to be successful, taking into account—

(A) the number and characteristics of the individuals to be served by the project;

(B) the level of unemployment in such area;

(C) the job opportunities and job growth in such area;

(D) the poverty rate for such area; and

(E) such other factors as the Secretary deems appropriate in the area to be served by the project.

(2) AWARD CEILING.—A grant awarded to an eligible applicant under this section may not exceed $10,000,000.

(e) ALLOWABLE ACTIVITIES.—

(1) PROMOTE BUSINESS LINKAGES.—An eligible applicant awarded a grant under this section shall use funds provided under the grant to promote business linkages in which funds shall be used to fund new or expanded programs that are designed to—

(A) substantially increase the wages of low-income parents, noncustodial parents, and other low-income individuals, whether employed or unemployed, who have limited English proficiency or other barriers to employment by upgrading job and related skills in partnership with employers, especially by providing services at or near work sites; and

(B) identify and strengthen career pathways by expanding and linking work and training opportunities for low-earning workers in collaboration with employers.

(2) CONSIDERATION OF IN-KIND, IN-CASH RESOURCES.—In determining which programs to fund under this subsection, an eligible applicant awarded a grant under this section shall consider the ability of a consortium to provide funds in-kind or in-cash (including employer-provided, paid release time) to help support the programs for which funding is sought.

(3) PRIORITY.—In determining which programs to fund under this subsection, an eligible applicant awarded a grant under this section shall give priority given to programs that include education or training for which participants receive credit toward a recognized credential.

(4) USE OF FUNDS.—

(A) IN GENERAL.—Funds provided to a program under this subsection may be used for a comprehensive set of employment and training benefits and services, including job development, job matching, curricula development, wage subsidies, retention services, and such others as the program deems necessary to achieve the overall objectives of this subsection.

(B) PROVISION OF SERVICES.—So long as a program is principally designed to assist eligible individuals, funds may be provided to a program under this subsection that is designed to provide services to categories of low-earning employees for 1 or more employers and such a program may provide services to individuals who do not meet the definition of low-income established for the program.

(f) DEFINITION OF ELIGIBLE INDIVIDUAL.—In this section, the term ''eligible individual'' means—

(A) an individual who is a parent who is a recipient of assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(B) an individual who is a parent who has ceased to receive assistance under such a State or tribal program; or

(C) a noncustodial parent who is unemployed, or having difficulty in paying child support obligations.

(g) APPLICATION.—Each eligible applicant desiring a grant under this section shall submit an application to the Secretaries at such time, in such manner, and accompanied by

such information as the Secretaries may require.

(h) ASSESSMENTS AND REPORTS BY GRANTEES.—

(1) IN GENERAL.—An eligible applicant that receives a grant under this section shall assess and report on the outcomes of programs funded under the grant, including outcomes related to job placement, 1-year employment retention, wage at placement, and earnings progression, as specified by the Secretaries.

(2) ASSISTANCE.—The Secretaries shall—

(A) assist grantees in conducting the assessment required under paragraph (1) by making available where practicable low-cost means of tracking the labor market outcomes of participants; and

(B) encourage States to also provide such assistance.

(i) APPLICATION TO REQUIREMENTS OF THE STATE TANF PROGRAM.—

(1) WORK PARTICIPATION REQUIREMENTS.—With respect to any month in which a recipient of assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) who satisfactorily participates in a business linkage program described in subsection (e) that is paid for with funds made available under a grant made under this section, such participation shall be considered to satisfy the work participation requirements of section 407 of the Social Security Act (42 U.S.C. 607)) and included for purposes of determining monthly participation rates under subsection (b)(1)(B)(i) of such section.

(2) PARTICIPATION NOT CONSIDERED ASSISTANCE.—A benefit or service provided with funds made available under a grant made under this section shall not be considered assistance for any purpose under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(j) ASSESSMENTS BY THE SECRETARIES.—

(1) RESERVATION OF FUNDS.—Of the amount appropriated under subsection (k), $3,000,000 is reserved for use by the Secretaries to prepare an interim and final report summarizing and synthesizing outcomes and lessons learned from the programs funded through grants awarded under this section.

(2) INTERIM AND FINAL ASSESSMENTS.—With respect to the reports prepared under paragraph (1), the Secretaries shall submit—

(A) the interim report not later than 4 years after the date of enactment of this Act; and

(B) the final report not later than 6 years after such date of enactment.

(k) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for carrying out this section, $250,000,000 for the period of fiscal years 2003 through 2007.

By Mr. HARKIN:

S. 2632. A bill to provide an equitable formula for computing the annuities of surviving spouses of members of the uniformed services who died entitled to retired or retainer pay but before the Survivor Benefit Plan existed or applied to the members, and for other purposes; to the Committee on Armed Services.

Mr. HARKIN. Madam President, a couple weeks ago, on Memorial Day, we promised to remember and honor those who have sacrificed so much to serve our country. In Iowa, Mary ''Beth'' James and her family were honoring the memory of her husband, Bob James. But I'm afraid we have forgotten Beth, and not done Bob justice. Today I am introducing a bill for Beth and the other ''Forgotten Widows.''

Bob James proudly served his country as an active member of the Army and Army Reserves for 35 years, until he passed away in 1977. Bob's service began with the Amphibious Combat Infantry in North Africa and Italy in World War II. As a junior officer, Bob James landed with the Third Division near Casablanca, and later served with the 34th Division through the North African and Tunisian campaigns, as well as in amphibious landings at Solarno, Italy, the battle of Mt. Casino and four crossings of the Volturno River. He was awarded the Bronze Star medal for the Rome-Arno campaign and was given a battlefield promotion to First Lieutenant.

After five years in World War II, he carried a mobilization designation as part of his 30-year reserve duty with the Selective Service Unit in Cedar Rapids that he proposed and was asked by General Hershey to organize. In fact, Bob served longer than the usual 30 years because General Hershey personally requested that he remain in active Reserves until he reached the age of 60.

When Bob became ill, he continued to attend Reserve meetings. His wife, Beth, now age 83, remembers Bob telling her on April 9, 1977, Easter Sunday, ''I only have to live another six months.'' You see, he was worried about Beth's welfare after he passed away. He knew he had to turn 60 before he could enroll in the military's Survivor Benefit Plan to provide for Beth after he passed away. Unfortunately, Bob was not able to hold on. Lieutenant Colonel William R. James, USAR, died at age 59½ in 1977, 5½ months before his 60th birthday.

Under the military's Survivor Benefit Plan, members who choose to enroll in the plan have a small deduction taken from their retirement benefit each month so that their spouses can continue to receive a portion of the benefit after the member dies. When the Reserve Component Survivor's Benefit Plan was established in 1972, members could not sign up for survivors benefits until they became eligible for the retirement benefit at age 60. Because of this arbitrary rule, and because Bob died at 59½, Beth received no survivor's benefit even though Bob served in the military for 35 years and had more than the maximum number of points used in calculating retirement benefits.

Congress quickly became aware of this unjust consequence of the SBP law. One year after Bob's death, Congress took action to correct the unfair enrollment structure of the Reserve Component Survivor's Benefit Plan. Legislation passed in 1978 allows Reserve Component members to decide whether or how they will participate in the RCSBP when they are notified of retirement eligibility, but not yet eligible to receive retired pay, in almost all cases, many years before reaching age 60. Had this legislation been enacted earlier, Bob could have provided for Beth's security.

Unfortunately, when drafting the legislation in 1978, Congress forgot about Beth and thousands of spouses like her whose husbands, despite having served their country for at least 20 years, died before they were allowed to enroll in the program to provide for their survivors.

Congress continued to ignore these widows until 1997. Led by my colleague from South Carolina, Senator THURMOND, Congress finally took an important, but limited, step to recognize the ''Forgotten Widows,'' as Beth and the other spouses had come to be known. Congress created a special annuity of $165 per month for the Forgotten Widows. For the first time in 20 years, Beth James received some support from our government in return for Bob James' service to his country.

While the annuity for certain military surviving spouses created in 1997 was certainly a step in the right direction, it is by no means adequate. The forgotten widows currently receive about $185 per month, after cost of living increases since 1997. In comparison, the monthly SBP benefits average is about $580 for beneficiaries over 62 and the monthly RC–SBP benefits average about $325 for beneficiaries over 62. The current benefit for forgotten widows is low for two reasons. First, the fiscal year 1998 legislation initially set the ACMSS benefit at the minimum allowable amount a service member could elect, even though most members participate at a higher level. Second, the 1997 legislation did not take into account cost of living increases that the widows would have received for more than two decades. If these widows had been enrolled in these programs in 1972 at the minimum level, their monthly benefit today would be approximately $434, rather than $185.

The Forgotten Widows' Benefit Equity Act of 2002 amends the Annuity for Certain Military Surviving Spouses program established in the fiscal year 1998 Defense Authorization Bill. It does not change the eligibility criteria for the program. It directs the Department of Defense to calculate each surviving spouse's annuity assuming that the member had enrolled in the SBP before he died and had elected a base amount equal to his retired pay. For almost all forgotten widows this will be much more than the current annuity; if it is not, the survivor will continue to receive the current benefit. This approach ensures that the survivors' annuities take into account the members' rank and years of service, and the past cost of living increases.

It is possible that some of the members would not have elected to participate in the SBP, or would not have chosen a base amount of 100 percent of retired pay, and thus the survivors would have received a lower benefit. However, they were never given that choice. And most members today do

choose to participate at or near the highest level. In addition, this legislation is not retroactive; the forgotten widows will not be compensated for the thousands of dollars of benefits they would have received for over 20 years.

These women, whose husbands devoted over 20 years of their lives to defending our freedoms and some of whom received no pensions of their own, were abandoned by our government for at least 20 years. While Congress recognized our responsibility to them in 1998, we have not fully met our obligation to provide them with an adequate, fair benefit. We can and must do better. We must stand by our Memorial Day promises to remember those who sacrificed for our country. I ask my colleagues to do what is right and support passage of the Forgotten Widow's Benefit Equity Act of 2002.

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. 2632

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 ''Forgotten Widows' Benefit Equity Act of 2002''.

SEC. 2. EQUITABLE AMOUNT OF SURVIVOR ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES.

(a) FORMULA.—Subsection (b) of section 644 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 1448 note) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) An annuity payable under this section for the surviving spouse of a deceased member shall be equal to the higher of $186 per month, as adjusted from time to time under paragraph (3), or the applicable amount as follows:

''(A) In the case of the surviving spouse of a deceased member described in subparagraph (A) of subsection (a)(1) who died before September 21, 1972, the amount computed under the SBP program, from the day after the date of death, as if—

''(i) the SBP program had become effective on the day before the date of the death of the deceased member; and

''(ii) the member had effectively elected to provide the maximum survivor annuity for the surviving spouse under the SBP program.

''(B) In the case of the surviving spouse of a deceased member described in subparagraph (A) of subsection (a)(1) who died after September 20, 1972, the amount computed under the SBP program, from the day after the date of death, as if the member had effectively elected to provide the maximum survivor annuity for the surviving spouse under that program.

''(C) In the case of the surviving spouse of a deceased member described in subparagraph (B) of subsection (a)(1) who died before October 1, 1978, the amount computed under the SBP program, from the day after the date of death, as if—

''(i) the SBP program, as in effect on October 1, 1978, had become effective on the day before the date of the death of the deceased member;

''(ii) the member had been 60 years of age on that day; and

''(iii) the member had effectively elected to provide the maximum survivor annuity for the surviving spouse under the SBP program.''; and

(2) in paragraph (3), by inserting after ''the annuity that is payable under this section'' the following: ''in the amount under paragraph (1) that is adjustable under this paragraph''.

(b) SBP PROGRAM DEFINED.—Subsection (d) of such section is amended by adding at the end the following new paragraph:

''(3) The term 'SBP program' means subchapter II of chapter 73 of title 10, United States Code.''.

(c) EFFECTIVE DATE AND APPLICABILITY.—(1) The amendments made by subsections (a) and (b) shall take effect on October 1, 2002.

(2) The Secretary concerned shall recompute under section 644 of Public Law 105–85 (as amended by subsections (a) and (b)) the amounts of the survivor annuities that are payable under such section for months beginning after the effective date under paragraph (1).

(3) No benefit shall be payable for any period before the effective date under paragraph (1) by reason of the amendments made by subsections (a) and (b).

By Mr. BIDEN (for himself, and Mr. GRASSLEY):

S. 2633. A bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlling substance, and for other purposes; to the Committee on the Judiciary.

Mr. BIDEN. Madam President, over the past several years, I have become increasingly concerned with the trafficking and use of the newest fad drug, Ecstasy. All across the country, thousands of teenagers are treated for overdoses and Ecstasy-related health problems in emergency rooms each year. And recent statistics from the Partnership for a Drug Free America show that teen use of Ecstasy has increased 71 percent since 1999. Unless we mount a major education campaign across schools and campuses nationwide, we may not be able to counter the widespread misconception that Ecstacy is harmless, fashionable and hip.

Much of the abuse of Ecstasy and other club drugs happens at all-night dance parties known as ''raves.'' A few months ago in the Caucus on International Narcotics Control I held a hearing to take an in-depth look at the phenomenon of these all-night dance parties and recent efforts at the Federal, State and local levels to crack down on rave promoters who allow rampant drug use at their events and do everything they can to profit from it.

It is common for rave organizers to go to great lengths to portray their events as safe so that parents will allow their kids to attend. They advertise them as alcohol-free parties and some even hire off-duty police officers to patrol outside the venue. But the truth is that many of these raves are drug dens where use of Ecstasy and other ''club drugs,'' such as the date rape drugs Rohypnol, GHB and Ketamine, is widespread.

But even as these promoters work to make parents think that their events are safe, they send a different message to kids. Their promotional flyers make clear that drugs are an integral part of the party by prominently featuring terms associated with drug use, such as the letters ''E'' or ''X,'' street terms for Ecstasy, or the term ''rollin,'' which refers to an Ecstasy high. They are, in effect, promoting Ecstasy along with the rave.

By doing so, the promoters get rich as they exploit and endanger kids. Many supplement their profits from the $10 to $50 cover charge to enter the club by selling popular Ecstasy paraphernalia such as baby pacifiers, glow sticks, or mentholated inhalers. And party organizers know that Ecstasy raises the core body temperature and makes the user extremely thirsty, so they sell bottles of water for $5 or $10 apiece. Some even shut off the water faucets so club goers will be forced to buy water or pay admission to enter an air-conditioned ''cool down room.''

Despite the conventional wisdom that Ecstasy and other club drugs are ''no big deal,'' a view that even the New York Times Magazine espoused in a cover story, these drugs can have serious consequences, and can even be fatal.

After the death of a 17-year-old girl at a rave party in New Orleans in 1998, the Drug Enforcement Administration conducted an assessment of rave activity in that city which showed the close relationship between these parties and club drug overdoses. In a two year period, 52 raves were held at the New Orleans State Palace Theater, during which time approximately 400 teenagers overdosed and were treated at local emergency rooms. Following ''Operation Rave Review'' which resulted in the arrest of several rave promoters and closing the city's largest rave, overdoses and emergency room visits dropped by 90 percent and Ecstasy overdoses have been eliminated.

State and locals governments have begun to take important steps to crack down on rave promoters who allow their events to be used as havens for illicit drug activity. In Chicago, where Mayor Daley has shown great leadership on this issue, it is a criminal offense to knowingly maintain a place, such as a rave, where controlled substances are used or distributed. Not only the promoter, but also the building owner and building manager can be charged under Mayor Daley's law. The State of Florida has a similar statute making such activity a felony.

And in Modesto, California, police officers are offering ''rave training classes'' to parents to educate them about the danger of raves and the club drugs associated with them.

And at the Federal level, there have been four cases in which Federal prosecutors have used the so called ''crack

house statute'' or other Federal charges to go after rave promoters. These cases, in Little Rock, AR, Boise, ID, Panama City, FL, and New Orleans, LA, have had mixed results, culminating in two wins, a loss and a draw, suggesting that there may be a need to tailor this Federal statute more precisely to the problem at hand. Today I am proposing legislation, Reducing Americans' Vulnerability to Ecstasy Act, or the ''RAVE'' Act, which will do just that. I am pleased to have Senator GRASSLEY as the lead cosponsor.

The bill tailors the crack house statute to address rave promoters' actions more specifically so that Federal prosecutors will be able to use it to prosecute individuals who allow rampant drug use at their events and seek to profit from putting kids at risk. The legislation also addresses the low penalties for trafficking gamma hydroxybutyric acid, GHB, by directing the United States Sentencing Commission to examine the current penalties and consider increasing them to reflect the seriousness of offenses involving GHB.

But the answer to the problem of drug use at raves is not simply to prosecute irresponsible rave promoters and those who distribute drugs. There is also a responsibility to raise awareness among parents, teachers, students, coaches, religious leaders, etc. about the dangers of the drugs used and sold at raves. The RAVE Act directs funds to the DEA for that purpose. Further, the bill authorizes nearly $6 million for the DEA to hire a Demand Reduction Coordinator in each state who can work with communities following the arrest of a significant local trafficker to reduce the demand for drugs through prevention and treatment programs.

It is the unfortunate truth that most raves are havens for illicit drugs. Enacting the RAVE Act will help to prosecute the promoters who seek to profit from exploiting and endangering young lives and will take steps to educate youth, parents and other interested adults about the dangers of Ecstasy and other club drugs associated with raves.

I hope that my colleagues will join me and support this legislation.

Mr. GRASSLEY. Madam President, I am pleased to join my colleague Senator BIDEN today in introducing the RAVE Act, or Reducing America's Vulnerability to Ecstacy Act of 2002. I believe this legislation will help America's law enforcement go after the latest methods drug dealers are using to push drugs on our kids. As drug dealers discover new drugs and new methods of pushing their poison, we must make sure our legal system is adequately structured to react appropriately. I believe this legislation does that.

Many young people perceive Ecstasy as harmless and it is wrongly termed a recreational or ''kid-friendly'' drug. This illegal substance does real damage to real lives. Although targeted at teenagers and young adults, its use has spread to the middle-aged population and rural areas, including my own State of Iowa. Ninety percent of all drug treatment and law enforcement experts say that Esctasy is readily accessible in this country. We cannot continue to allow easy access to this drug or ignore the consequences of its use.

The sale of illicit narcotics, whether on a street corner here in Washington, D.C., or a warehouse in Des Moines, IA, must be confronted and halted wherever possible. One of the new, ''trendy'' illicit narcotics is Ecstasy, an especially popular club drug that is all too often being sold at all-night dance parties, or raves. Ecstasy is an illegal drug that has extremely dangerous side effects. In general, Ecstasy raises the heart rate to dangerous levels, and in some cases the heart will stop. It also causes severe dehydration, a condition that is exacerbated by the high levels of physical exertion that happens at raves. Users must constantly drink water in an attempt to cool off, a fact that some rave promoters take advantage of by charging exorbitant fees for bottles of water. Too often, users collapse and die because their bodies overheat. And even those who survive the short-term effects of Ecstasy use can look forward long-term problems such as depression, paranoia, and confusion, as scientists have learned that Ecstasy causes irreversible changes to the brain.

The legislation that we introduce today is the result of information gathered during a series of hearings held by the Caucus on International Narcotics Control. It will help U.S. attorneys shut down raves and prosecute rave promoters who knowingly maintain a place where drugs are used, kept, or sold by expanding the existing statute that allows the closure and prosecution of crack house operators.

The statute would only be applicable if the rave promoters or location owners ''knowingly and intentionally'' either use or allow to be used space for an event where drugs will be ''manufactured, stored, distributed, or used.'' This legislation will not eliminate all raves. Provided rave promoters and sponsors operate such events as they are so often advertized, as places for people to come dance in a safe, alcohol-free environment, then they have nothing to fear from this law. But this legislation will give law enforcement the tools needed to shut down those rave operators and promoters who use raves as a cover to sell drugs. Innocent owners or proprietors will remain exempt from prosecution.

This legislation is an important step, but a careful one. Our future rests with the young people of this great nation and America is at risk. Esctasy has shown itself to be a formidable threat and we must confront it on all fronts, not only through law enforcement but education and treatment as well. I hope my colleagues will join us in supporting the RAVE Act, and help us work towards its quick passenge.

By Mr. KENNEDY:

S. 2638. A bill to encourage health care facilities, group health plans, and health insurance issuers to reduce administrative costs, and to improve access, convenience, quality, and safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Madam President, today I am introducing the Efficiency in Health Care, eHealth Care, Act. The time is long overdue to improve the efficiency and effectiveness of America's antiquated healthcare information technology systems. We can achieve large cost savings and improve patient care by bringing the nation's health care systems into the information age.

The eHealth Care Act provides modern standards for financial transactions such as billing and claims processing that can only be met by adoption of the same kind of high volume, speedy, cost-efficient technology that has dramatically lowered administrative costs in other industries. The new standards will be coupled with grants to health care providers to assist them in upgrading their information technologies to meet these new demands.

Estimates are that administrative costs currently represent 20 to 30 percent of health care spending, or up to $420 billion each year. While other industries are making full use of available information technology, health care has been a very slow adopter. And this bill will reduce health care administration by as much as $300 billion a year, enough to provide universal health coverage for every American many times over.

The sad fact is that processing a single health care transaction can cost as much as 25 dollars. Other industries have drastically reduced administrative costs by using modern information technology. Banks and brokerages have cut their costs to less than a penny per transaction using modern technology. Health care remains one of the few industries clinging to antiquated 20th century technology while the rest of the Nation's businesses have moved into the 21st century. This bill will provide the tools for health care systems to make a great leap forward by using new technologies to cut costs.

Recent breakthroughs in technology not only can save money, but also can provide more timely and accurate billing and claims transactions. Today, only 10 or 15 percent of all patient charts are available electronically, and it costs about $9 each and every time a doctor has to pull a patient's chart. Even worse, despite the high cost, the patient's chart is often incomplete. Through advances in technology, doctors should be able to access complete patient records at a huge cost saving. That is not only more efficient care, it is better care.

Today, 30 percent of doctor's claims leave the physician's office with errors, and nearly 15 percent get lost. Manual procedures for handling referrals, eligibility, treatment authorizations, and

explanations of benefits can add anywhere from $10 to $85 per transaction. In fact, estimates are that $250 billion is spent each year on medical claims paperwork. Paper claims processing amounts to $28,000 per physician and $12.7 billion for all physicians each year. Conducting these transactions online could cut that figure tenfold. We are clearly not getting much bang for our buck. The eHealth Care Act will provide the standards needed for health plans, insurers, providers, and patients to realize both the cost savings and better billing and claims transactions.

But the cost to the health care system is not just monetary. The eHealth Care bill will also set standards for physicians ordering prescription medications. Medication errors are responsible for over 7,000 deaths annually, but doctors currently write only 1 percent of prescriptions electronically. By requiring adoption of computerized systems for writing prescriptions, errors due to mistaken prescriptions or illegible handwriting will be reduced. There is no excuse for patients to be harmed and even die when we have the technology to save them.

I look forward to working with my colleagues here in the Senate to get this very important legislation passed.

By Mr. KENNEDY (for himself and Mr. CORZINE):

S. 2639. A bill to provide health benefits for workers and their families; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Madam President, today I am introducing the Health Care for Working Families Act, a bill that will make the basic human right to health care a reality for millions of working Americans and their families.

The tragedy of September 11 created a special obligation to address the injustices that have festered for far too long within our national family. The brave passengers of Flight 93 fought and defied the terrorists and saved the lives of thousands. Construction and health workers braved the treacherous fire and debris to rescue survivors and recover the remains of those who lost their lives. Police and firefighters, and ordinary citizens, gave their lives so that others might live. And thousands of Americans all over the country lined up to donate blood to help the victims.

I believe that the most enduring legacy of the September 11 attacks is a new sense of community among all Americans. A nation that has united to battle a terrorist threat from abroad can also unite to vanquish the conditions here at home that curtail the opportunities and sadden the lives of so many of our fellow citizens. Just as the British people came together after World War II to provide health care for all citizens of the United Kingdom, we join hands after September 11 to guarantee all citizens of the United States the protection and opportunity that should be their birthright. There is no area where action is more urgently needed than health care.

Americans are rightly proud to be at the forefront of medical and scientific advancement. In the past year, we successfully mapped the human genome. We developed new pharmaceuticals to target specific cancers. We have seen the promise stem cell research gives to millions suffering from chronic diseases. We clearly recognize the value of scientific achievement and have always been supportive of the great institutions and individuals that are driving our progress.

But our successes in the science of medicine must not blind us to the great failure of our health care system, the failure to provide affordable, quality health insurance to all our people. We lead the world in medical research. We lead the world in our capacity to cure and treat the most complex and deadly illnesses. But we lag behind every country in the industrial world in guaranteeing all our people access to the best medical care we can offer. And today we face another health care crisis as the number of the uninsured has begun to rise and rise rapidly.

Health care is not just another commodity. It is not a gift to be rationed based on the ability to pay. The state of a family's health should not be determined by the size of a family's wealth.

Yet, thirty-nine million Americans now have no health insurance at all. Over the course of a year, 30 million more will lack coverage for an extended period. It is unacceptable that any American is uninsured. It is shameful that thirty-nine million Americans are uninsured. And it is intolerable that the number of uninsured is now rising again and, if we do nothing, could reach more than 52 million by the end of the decade.

Who are the 39 million uninsured Americans who must go without the health care they need because they must do without the health insurance they deserve? Over 80 percent are members of working families. They are grocery baggers, car mechanics, construction workers. They are factory workers, nurses and nurses aides, secretaries and the self-employed. They are child care workers and waiters and cooks. They are teachers and social workers. They are veterans. They are people who wake up every morning and go to work. They work hard 40 hours a week and fifty-two weeks a year, but all their hard work cannot buy them the health insurance they need to protect themselves and their families, because they can't afford it and their employers don't provide it.

They play by the rules. They stand by their families and their country. But when it comes to health insurance, America has let them down.

A recent report by the Institute of Medicine lays out the stark result of America's failure to provide health insurance. Cancer, stroke, heart disease, leukemia, AIDS, and other serious illnesses know nothing about insurance, or economic class or race or creed. They can strike anyone equally. And when they do, the uninsured are left out and left behind. In hospital or out, young or old, black or white, the uninsured receive less care, suffer more pain, and die at higher rates than those who are insured.

One-third of uninsured Americans will simply go without care when they get sick instead of seeking medical attention. They stop and ask themselves whether their symptoms or their childrens symptoms are truly worth a doctor visit. Is this cough just a cold or could it be strep throat? Is this pain in my bones indicative of something more serious or will it eventually go away if I ignore it? Millions of families are forced to decide between their health and other necessities of life. They ration health care for themselves and their children, and too often they pay a terrible price.

Every year, 8 million uninsured Americans fail to take their medications because they can't afford to pay for their prescriptions. 300,000 children with asthma never get treated by a doctor. Uninsured women diagnosed with breast cancer are 50 percent more likely to die from the disease because their cancer is diagnosed later. 32,000 Americans with heart disease go without life-saving bypass surgery or angioplasty. The chilling bottom line is that Americans without health insurance are one-quarter more likely to die prematurely solely because they lack coverage.

The legislation I am introducing today is a major step forward toward the day when all Americans will enjoy the health insurance that should be their birthright This measure will require every firm with more than 100 workers to provide health insurance coverage for employees and their dependents. This coverage must be as good as the coverage now provided for Federal employees. If good health insurance coverage is available to every member of the Senate, to every member of the House, and to the President of the United States, it ought to be available to every other American too.

This measure alone would assure coverage for more than a third of today's uninsured workers.

For generations we have required employers to contribute to Social Security and then to Medicare. We have required them to pay a minimum wage, and contribute to unemployment insurance. Now it is time to say, at least for large firms, that they also have an obligation to contribute to the cost of health insurance for their employees. The vast majority of large businesses already do so, and the rest should fulfill that obligation, too.

The legislation I am introducing is supported by more than 100 health, labor, elderly, disability, church, and family groups. It deserves the support of Congress as the single most important way to move America closer to the goal of health care for all.

This legislation is an important first step toward the day when the fundamental right to health care will be a reality for every American. But it is only a first step. Later this year, after broad consultation with affected groups, I will introduce legislation to assure that all Americans, wherever they work, wherever they live, have the quality, affordable health insurance coverage they deserve.

Health care is a defining test of our commitment and our national character. The American people have shown that they are ready for great missions. They are the creators of the new spirit of September 11. Now, we in public life must live up to the standards they have set.

We must strive to do what is best, in health and education as well as national defense, and we must measure our success by what we accomplish not just for one political party or another, not for this or that interest group, but for America and its enduring ideal of liberty and justice for all.

By Mrs. FEINSTEIN:

S. 2640. A bill to provide for adequate school facilities in Yosemite National Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Madam President, I am pleased to introduce this legislation today to authorize the Interior Department to provide critical services to three national parks in my home State of California.

With the passage of this bill, Yosemite, Manzanar, and Golden Gate National Parks will receive the Federal support needed to continue to offer a broad range of services to the millions of tourists and Californians who visit these national treasures each year.

This bill meets four distinct needs in these parks: it authorizes the Interior Secretary to designate Federal emergency funds to small schools in Yosemite National Park, allows the Yosemite Area Regional Transportation System, YARTS, to continue operating and extends the Manzanar and Golden Gate National Recreational Area, GGNRA, Advisory Commissions for ten more years.

The first component of this bill provides critical funds to three small schools nestled in the heart of Yosemite National Park.

Approximately 126 children of park service employees are taught in the quaint one-room buildings of Wawoma, El Portal, and Yosemite Valley elementary schools. The remote location of these schools, along with their small sizes and California's unique method for funding education, have all contributed to the schools amassing a combined deficit of $241,000. In their efforts to continue to provide basic educational services to students, the schools have had to cut supplemental instruction that would normally be available to students taught outside of the Park.

In light of these facts, this bill allows the Interior Secretary to assist these schools if their combined state funding falls below $75,000. It also clarifies how funds will be used by limiting allocations to providing general upkeep, maintenance, and classroom instruction.

Furthermore, this legislation allows the Park Service to allot federal funds for the continuing operation of the Yosemite Area Regional Transportation System, YARTS.

YARTS is a bus service that gives visitors the option of taking a free shuttle through Yosemite National Park instead of driving on their own. Since it began operating in 2000, this service has played a crucial role in improving visitor accessibility to the Park's attractions, alleviating traffic congestion on access roads and reducing the amount of air pollution emitted by incoming cars.

The Federally funded demonstration project that allowed YARTS to offer services on a temporary basis expired in May and since then, YARTS has leveraged local funds to ensure that services were not discontinued.

Both the Park Service and YARTS are supportive of continuing their mutually beneficial agreement. This legislation would do just that by taking the burden off local entities and providing the necessary assistance that this service needs.

The last component of this bill will extend the advisory commissions of the Manzanar Historic Site and Golden Gate National Recreation Area for ten more years.

Both of these commissions have active committees that represent a wide range of user groups from bicyclists to bird watchers to outdoor enthusiasts. They provide a vital communications link between the Park Service and the surrounding communities that enjoy the attractions that these national sites have to offer. Without these commissions, the Park Service would be hard pressed to provide the same level of service and attention to the broad interests and diverse communities that they serve.

I continue to be a strong advocate for public involvement in Park Service decisions. I believe that these commissions have been essential in ensuring that the Park Service upholds its commitment to allow community participation in its decision making process, particularly when it comes to contentious issues.

California's national parks are truly invaluable, each one of the parks that this bill supports offers an opportunity for visitors and residents to enjoy unique national habitats and open spaces. This legislation mark the beginning of a process that I hope will result in the Park Service and the community working together not only to protect the environment, but also the interests of the nearby communities. I invite my colleagues to join me in supporting this bill.

By Mrs. MURRAY (for herself, Mr. BAUCUS, Ms. CANTWELL, Mr. DAYTON, and Mr. WELLSTONE):

S. 2641. A bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products; to the Committee on Environment and Public Works.

Mrs. MURRAY. Madam President, today I rise and join my colleagues Senators BAUCUS, CANTWELL, DAYTON, and WELLSTONE in introducing legislation to improve protections for workers and consumers against a known carcinogen: asbestos. The primary purpose of the Ban Asbestos in America Act of 2002 is to require the Environmental Protection Agency, EPA, to ban the substance by 2005.

Most Americans believe that asbestos has already been banned. People have this misconception in part because EPA tried to ban it in 1989, and the ban was well publicized. But what wasn't so publicized was the fact that in 1991, the 5th Circuit Court of Appeals overturned EPA's ban, and the first Bush Administration didn't appeal the decision to the Supreme Court. While new uses of asbestos were banned, existing ones were not.

People also believe asbestos has been banned because the mineral has been heavily regulated, and some uses are now prohibited. But the sweeping ban that EPA worked for ten years to put in place never went into effect. As a result, products such as asbestos clothing, pipeline wrap, roofing felt, vinyl-asbestos floor tile, asbestos-cement shingle, disc brake pads, gaskets and roof coatings still contain asbestos today. Had EPA's ban gone into effect, these products would no longer be allowed to contain this deadly substance.

This morning I met with three people who wish there had been better protections in place against the dangers of asbestos years ago. I had the honor of meeting Mrs. Susan Vento, the wife of the beloved Congressman Bruce Vento from Minnesota who died from a disease caused by asbestos in October of 2000 at the age of 60. Representative Vento was exposed to asbestos when he worked in factories in St. Paul during college.

I also had the privilege of meeting Lt. Col. James Zumwalt, the son of the legendary Navy Admiral Elmo Zumwalt who also died in 2000 of mesothelioma, a rare cancer of the lining of the lungs and internal organs caused by asbestos. Like so many others who served in the Navy, Admiral Zumwalt was exposed to asbestos during his military service.

In addition, I had the pleasure to meet Mr. Brian Harvey, a former English teacher from Washington State University and a survivor of the deadly disease. Like Congressman Vento, Mr. Harvey was exposed to asbestos working summers during college, only Mr. Harvey worked in a timber mill in Shelton, WA instead of in factories in St. Paul. Mr. Harvey received aggressive treatment from the University of

Washington, and his triumph over the deadly disease offers all of us hope.

You don't have to tell Mrs. Vento, Lt. Colonel Zumwalt or Mr. Harvey that asbestos can kill, or that it hasn't been banned. Unfortunately, they already know about asbestos.

I have also heard from other Washington State residents about the devastating effects that asbestos exposure can have on people's lives. I'd like to take a moment to tell you about an e-mail I received from two of my constituents, Mr. Charles Barber and his wife, Ms. Karen Mirante, who live in Seattle. They wrote to me last year to express support for my efforts on asbestos. Mr. Barber and Ms. Mirante had just recently learned that both of their fathers were diagnosed with mesothelioma, the same deadly disease that took the lives of Congressman Vento and Admiral Zumwalt.

Mr. Barber's father, Rudolph ''Rudy'' Barber, was a World War II veteran who worked at Todd shipyards. Then he worked for Boeing for 35 years building airplanes. According to his son, when Rudy served on a troopship during the war he recalled sleeping in a bunk under asbestos-coated pipes which flaked so badly that he had to shake out his sleeping bag every morning.

A few years after retiring from Boeing, Rudy Barber started to develop breathing problems. First he was told by one doctor that his disease could be cured with surgery, but it wasn't. After undergoing surgery, another doctor diagnosed him with mesothelioma. After a year and a half of suffering and of enduring repeated radiation and chemotherapy treatments, Mr. Barber died on April 28, 2002. According to his family, he never complained and continued to help his family and neighbors with maintenance and farm work for as long as he could.

Karen Mirante's father, Fred Mirante, was a retired truck driver who was active in labor issues. While the source of Mr. Mirante's exposure to asbestos is unknown, it is likely that he breathed in asbestos from brakes when he worked on cars. After receiving experimental therapies for the disease and after a two and one-half year battle, he died on June 4, 2002. June 16, last Sunday, was the first Father's Day that Mr. Barber and Ms. Mirante had to spend without their cherished, hard-working dads.

I mention Bruce Vento, Admiral Zumwalt, Mr. Harvey, Mr. Barber and Mr. Mirante to demonstrate that asbestos disease strikes all different types of people in different professions who were exposed to asbestos at some point in their lives. Asbestos knows no boundaries. It is still in thousands of schools and buildings throughout the country, and is still being used in some consumer products.

I first became interested in this issue because, like most people, I thought asbestos had been banned. But in 1999, the Seattle Post-Intelligencer starting running stories about a disturbing trend in the small mining town of Libby, Montana. Residents there suffer from high rates of asbestosis, lung cancer and mesothelioma. These findings prompted Montana Senator MAX BAUCUS to ask EPA to investigate. The agency found that the vermiculite mine near Libby, which operated from the 1920s until 1990, is full of tremolite asbestos. EPA is still working to clean up Libby, which is now a Superfund site.

W.R. Grace, the company which ran the mine, had evidence of the harmful health effects of its product, but did not warn workers, town residents or consumers. Instead, the product was shipped to over 300 sites nationally for processing and then was used to make products such as home insulation and soil additives. EPA and the Agency for Toxic Substances and Disease Registry, ATSDR, have determined that 22 sites are still contaminated today, including one in Spokane, WA.

At many plants where vermiculite from Libby was processed, waste rock left over from the expansion process was given away for free, and people used it in their yards, driveways and gardens. During its investigation into sites around the country which processed vermiculite from Libby, ATSDR discovered a picture taken of two darling little boys, Justin and Tim Jorgensen, climbing on waste rock given out by Western Minerals, Inc. in St. Paul, MN sometime in the late 1970s. According to W.R. Grace records, this rock contained between 2 and 10 percent tremolite asbestos. This rock produced airborne asbestos concentrations 135 times higher than the Occupational Safety and Health Administration's current standard for workers. Thankfully, neither Justin nor Tim has shown any signs of disease, but their risks of developing asbestos diseases, which have latency periods of 15 to 40 years, are increased from their childhood exposures.

People may still today be exposing themselves to harmful amounts of asbestos in vermiculite. As many as 35 million homes and businesses may have insulation made with harmful minerals from Libby. And EPA has also tested agricultural products, soil conditioners and fertilizers, made with vermiculite, and determined that some workers may have been exposed to dangerous concentrations of tremolite asbestos.

As I learned more about Libby, and how asbestos has ended up in products by accident, I was shocked to learn that asbestos is still being used in products on purpose. While some specific uses have been banned, the EPA's more sweeping ban was never put into effect because of an asbestos industry backed lawsuit. As a result, new uses of asbestos were banned, but most existing ones were not. Asbestos is still used today to make roofing products, gaskets, brakes and other products. In 2001 the U.S. consumed 13,000 metric tons of it. Asbestos is still entering the product stream in this country, despite its known dangers to human health.

In contrast, asbestos has been banned in these 20 countries: Argentina, Austria, Belgium, Chile, Croatia, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Latvia, the Netherlands, Norway, Poland, Saudi Arabia, Sweden, Switzerland, and the United Kingdom. Now it is time for the United States to ban asbestos, too. According to EPA, 27 million Americans had significant exposure to the material on the job between 1940 and 1980. It is time for the sad legacy of asbestos disease we have witnessed during the 20th century to come to an end. I want to ensure our government does all it can to minimize future suffering and death caused by this substance.

That is why today I am introducing the Ban Asbestos in America Act of 2002. The legislation has four main parts. First and foremost, this bill protects public health by doing what the EPA tried to do 13 years ago: ban asbestos in the United States. The bill requires EPA to ban it by 2005. Like the regulations EPA finalized in 1989, companies may file for an exemption to the ban if there is no substitute material available: if there is no substitute material available and EPA determines the exemption won't pose an unreasonable risk of injury to public health or the environment.

Second, the bill requires EPA to conduct a pubic education campaign about the risks of asbestos products. Within 6 months of passage, the EPA and the Consumer Product Safety Commission will begin educating people about how to safely handle insulation made with vermiculite. I believe the government needs to warn people that their insulation, if made with vermiculite, may be contaminated with asbestos. Home owners and workers may be unknowingly exposing themselves to asbestos when they conduct routine maintenance near this insulation. While EPA has agreed to remove vermiculite insulation from homes in Libby, the agency currently has no plans to do this nation-wide.

The legislation also requires EPA to conduct a survey to determine which foreign and domestic products being consumed in the United States today have been made with asbestos. There is no solid, up-to-date information about which products contain it, although EPA has estimated that as many as 3,000 products still do.

The survey will provide the foundation for a broader education campaign so consumers and workers will know how to handle as safely as possible asbestos products that were purchased before the ban goes into effect.

Third, the legislation requires funding to improve treatment for asbestos diseases. The bill directs the Secretary of Health and Human Services, working through the National Institutes of Health, to ''expand, intensify and coordinate programs for the conduct and support of research on diseases caused

by exposure to asbestos.'' The Ban Asbestos in America Act requires the creation of a National Mesothelioma Registry to improve tracking of the disease. If there had been an asbestos disease tracking system in place, public health officials would have detected the health problems in Libby much sooner, and may have saved lives.

In addition, the bill authorizes funding for 7 mesothelioma treatment centers nationwide to improve treatments for and awareness of this fatal cancer. As was the case with Mr. Harvey, who received treatment from the University of Washington, early detection and proper treatment make the difference between life and death. This bill authorizes $500,000 for each center for five years. This means more mesothelioma patients will receive treatments that can prolong their lives.

In response to the EPA Inspector General's report on Libby, Montana, EPA committed to create a Blue Ribbon Panel on asbestos and other durable fibers. However, because of insufficient resources, EPA has now narrowed the focus of the Panel to address issues surrounding only the six regulated forms of asbestos. The bill requires EPA to expand its Blue Ribbon Panel on Asbestos to address issues beyond those surrounding the six regulated forms of asbestos.

The Ban Asbestos in America Act of 2002 expands the Blue Ribbon Panel's scope to include nonasbestiform asbestos and other durable fibers. The Panel shall include participation by the Department of Labor, the Department of Health and Human Services and the Consumer Product Safety Commission. In its response to the Inspector General, EPA was originally planning for the Panel to address implementation of and grant programs under Asbestos Hazard Emergency Response Act, creation of a National Emissions Standard for Hazardous Pollutants under the Clean Air Act for contaminant asbestos, and other legislative and regulatory options for protecting public health.

The Administration also promised for the Panel to review the feasibility of establishing a durable fibers testing program within EPA, options to improve protections against exposure to asbestos in asbestos-containing products in buildings, and public education. The Ban Asbestos in America Act of 2002 requires the Panel to address these subjects as EPA originally planned.

The legislation also requires the Panel to explore the need to establish across federal agencies a uniform asbestos standard and a protocol for detecting and measuring asbestos. Currently, asbestos is regulated under at least 11 statutes. There are different standards within EPA and across federal agencies, and agencies rely on different protocols to detect and measure the substance. This has led to widespread confusion for the public, for example, in 2000, there were reports that there was asbestos in crayons. There has also been confusion surrounding asbestos exposure in New York City following the collapse of the World Trade Center Towers. And in Libby, the EPA Inspector General's report cited split jurisdiction and multiple standards as one of the reasons EPA didn't do a better job of protecting the people of Libby from exposure to asbestos in the first place.

The Blue Ribbon Panel will also review the current state of the science on the human health effects of exposure to asbestos and other durable fibers, whether the current definition of asbestos containing material should be modified throughout the Code of Federal Regulations, and current research on and technologies for disposal of asbestos-containing products and contaminant asbestos products. The bill leaves up to the discretion of the Panel whether it will expand its scope to include manmade fibers, such as ceramic and carbon fibers. The Blue Ribbon Panel's recommendations are due 2 years after enactment of the Act.

Our Federal agencies need to do a better job of coordinating and working together on asbestos, which will mean less confusion for the public and improved protection for everyone.

The toll that asbestos has taken on people's lives in this country is staggering. And while Senators BAUCUS, CANTWELL, DAYTON, WELLSTONE, and I continue to mourn the loss of Congressman Bruce Vento, Admiral Elmo Zumwalt, more than 200 people from Libby and thousands of others, today our message is one of hope.

Our hope is that by continuing to work together, we will build support for the Ban Asbestos in America Act. If we can get this legislation passed, fewer people will be exposed to asbestos, fewer people will contract asbestos diseases in the first place, and those who already have asbestos diseases will receive treatments to prolong and improve quality of life. I urge my colleagues to support this important legislation. I ask unanimous consent that the text of the Ban Asbestos in America Act of 2002 be printed in the RECORD.

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

S. 2641

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 ''Ban Asbestos in America Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Administrator of the Environmental Protection Agency has classified asbestos as a category A human carcinogen, the highest cancer hazard classification for a substance;

(2) there is no known safe level of exposure to asbestos;

(3)(A) in hearings before Congress in the early 1970s, the example of asbestos was used to justify the need for comprehensive legislation on toxic substances; and

(B) in 1976, Congress passed the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(4) in 1989, the Administrator promulgated final regulations under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) to phase out asbestos in consumer products by 1997;

(5) in 1991, the United States Court of Appeals for the 5th Circuit overturned the regulations, and the Administrator did not appeal the decision to the Supreme Court;

(6) as a result, while new uses of asbestos were banned, asbestos is still being used in some consumer and industrial products in the United States;

(7) available evidence suggests that—

(A) imports of some types of asbestos-containing products may be increasing; and

(B) some of those products are imported from foreign countries in which asbestos is poorly regulated;

(8) many people in the United States incorrectly believe that—

(A) asbestos has been banned in the United States; and

(B) there is no risk of exposure to asbestos through the use of new commercial products;

(9) asbestos has been banned in Argentina, Austria, Belgium, Chile, Croatia, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Latvia, the Netherlands, Norway, Poland, Saudi Arabia, Sweden, Switzerland, and the United Kingdom;

(10) asbestos will be banned throughout the European Union in 2005;

(11) the World Trade Organization recently upheld the right of France to ban asbestos, with the United States Trade Representative filing a brief in support of the right of France to ban asbestos;

(12) the 1999 brief by the United States Trade Representative stated, ''In the view of the United States, chrysotile asbestos is a toxic material that presents a serious risk to human health.'';

(13) people in the United States have been exposed to harmful levels of asbestos as a contaminant of other minerals;

(14) in the town of Libby, Montana, workers and residents have been exposed to dangerous levels of asbestos for generations because of mining operations at the W.R. Grace vermiculite mine located in that town;

(15) the Agency for Toxic Substances and Disease Registry found that over a 20-year period, ''mortality in Libby resulting from asbestosis was approximately 40 to 60 times higher than expected. Mesothelioma mortality was also elevated.'';

(16)(A) in response to this crisis, in January 2002, the Governor of Montana requested that the Administrator of the Environmental Protection Agency designate Libby as a Superfund site; and

(B) the Administrator is in the process of placing Libby on the National Priorities List;

(17)(A) vermiculite from Libby was shipped for processing to 42 States; and

(B) Federal agencies are investigating potential harmful exposures to asbestos-contaminated vermiculite at sites throughout the United States; and

(18) although it is impracticable to ban asbestos entirely because asbestos is a naturally occurring mineral in the environment and occurs in several deposits throughout the United States, Congress needs to do more to protect the public from exposure to asbestos.

SEC. 3. ASBESTOS-CONTAINING PRODUCTS.

(a) IN GENERAL.—Title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) is amended—

(1) by inserting before section 201 (15 U.S.C. 2641) the following:

"Subtitle A—General Provisions";

and

(2) by adding at the end the following:

"Subtitle B—Asbestos-Containing Products

"SEC. 221. DEFINITIONS.

''In this subtitle:

''(1) ASBESTOS-CONTAINING PRODUCT.—The term 'asbestos-containing product' means any product (including any part) to which asbestos is deliberately or knowingly added or in which asbestos is deliberately or knowingly used in any concentration.

''(2) CONTAMINANT-ASBESTOS PRODUCT.—The term 'contaminant-asbestos product' means any product that contains asbestos as a contaminant of any mineral or other substance, in any concentration.

''(3) COVERED PERSON.—The term 'covered person' means—

''(A) any individual;

''(B) any corporation, company, association, firm, partnership, joint venture, sole proprietorship, or other for-profit or nonprofit business entity (including any manufacturer, importer, distributor, or processor);

''(C) any Federal, State, or local department, agency, or instrumentality; and

''(D) any interstate body.

''(4) DISTRIBUTE IN COMMERCE.—

''(A) IN GENERAL.—The term 'distribute in commerce' has the meaning given the term in section 3.

''(B) EXCLUSIONS.—The term 'distribute in commerce' does not include—

''(i) an action taken with respect to an asbestos-containing product in connection with the end use of the asbestos-containing product by a covered person that is an end user; or

''(ii) distribution of an asbestos-containing product by a covered person solely for the purpose of disposal of the asbestos-containing product.

''(5) DURABLE FIBER.—

''(A) IN GENERAL.—The term 'durable fiber' means a silicate fiber that—

''(i) occurs naturally in the environment; and

''(ii) is similar to asbestos in—

''(I) resistance to dissolution;

''(II) leaching; and

''(III) other physical or chemical processes expected from contact with lung cells and fluids.

''(B) INCLUSIONS.—The term 'durable fiber' includes—

''(i) richterite;

''(ii) winchite;

''(iii) erionite; and

''(iv) nonasbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite.

''(6) FIBER.—The term 'fiber' means an acicular single crystal or similarly elongated polycrystalline aggregate particle with a length to width ratio of 3 to 1 or greater.

"SEC. 222. PANEL ON ASBESTOS AND OTHER DURABLE FIBERS.

''(a) PANEL.—

''(1) IN GENERAL.—The Administrator shall continue the panel (established by the Administrator and in existence on the date of enactment of this subtitle) to study asbestos and other durable fibers.

''(2) PARTICIPATION.—The Secretary of Labor, the Secretary of Health and Human Services, and the Chairman of the Consumer Product Safety Commission shall participate in the activities of the panel.

''(b) ISSUES.—The panel shall study and, not later than 2 years after the date of enactment of this section, provide the Administrator recommendations for, public education programs relating to—

''(1) the need to establish, for use by all Federal agencies—

''(A) a uniform asbestos exposure standard; and

''(B) a protocol for measuring and detecting asbestos;

''(2) the current state of the science relating to the human health effects of exposure to asbestos and other durable fibers;

''(3) implementation of subtitle A;

''(4) grant programs under subtitle A;

''(5) revisions to the national emissions standards for hazardous air pollutants promulgated under the Clean Air Act (42 U.S.C. 7401 et seq.);

''(6) legislative and regulatory options for improving consumer and worker protections against harmful health effects of exposure to asbestos and durable fibers;

''(7) whether the definition of asbestos-containing material, meaning any material that contains more than 1 percent asbestos by weight, should be modified throughout the Code of Federal Regulations;

''(8) the feasibility of establishing a durable fibers testing program;

''(9) options to improve protections against exposure to asbestos from asbestos-containing products in buildings;

''(10) current research on and technologies for disposal of asbestos-containing products and contaminant-asbestos products; and

''(11) at the option of the panel, the effects on human health that may result from exposure to ceramic, carbon, and other manmade fibers.

"SEC. 223. STUDY OF ASBESTOS-CONTAINING PRODUCTS AND CONTAMINANT-ASBESTOS PRODUCTS.

''(a) IN GENERAL.—In consultation with the Secretary of Labor, the Chairman of the International Trade Commission, the Chairman of the Consumer Product Safety Commission, and the Assistant Secretary for Occupational Safety and Health, the Administrator shall conduct a study on the status of the manufacture, processing, distribution in commerce, ownership, importation, and disposal of asbestos-containing products and contaminant-asbestos products in the United States.

''(b) ISSUES.—In conducting the study, the Administrator shall examine—

''(1) how consumers, workers, and businesses use asbestos-containing products and contaminant-asbestos products that are entering commerce as of the date of enactment of this subtitle; and

''(2) whether consumers and workers are being exposed to unhealthful levels of asbestos through exposure to products described in paragraph (1).

''(c) REPORT.—Not later than January 1, 2005, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.

"SEC. 224. PROHIBITION ON ASBESTOS-CONTAINING PRODUCTS.

''(a) IN GENERAL.—Subject to subsection (b), the Administrator shall promulgate—

''(1) not later than January 1, 2004, proposed regulations that prohibit covered persons from manufacturing, processing, or distributing in commerce asbestos-containing products; and

''(2) not later than January 1, 2005, final regulations that prohibit covered persons from manufacturing, processing, or distributing in commerce asbestos-containing products.

''(b) EXEMPTIONS.—

''(1) IN GENERAL.—Any person may petition the Administrator for, and the Administrator may grant an exemption from the requirements of subsection (a) if the Administrator determines that—

''(A) the exemption would not result in an unreasonable risk of injury to public health or the environment; and

''(B) the person has made good faith efforts to develop a substance, or identify a mineral, that—

''(i) does not present an unreasonable risk of injury to public health or the environment; and

''(ii) may be substituted for an asbestos-containing product.

''(2) TERMS AND CONDITIONS.—An exemption granted under this subsection shall be in effect for such period (not to exceed 1 year) and subject to such terms and conditions as the Administrator may prescribe.

''(c) INVENTORY.—

''(1) IN GENERAL.—Subject to paragraph (3), each covered person (other than an individual) that possesses an asbestos-containing product that is subject to the prohibition established under this section shall establish an inventory of the asbestos-containing product possessed by the covered person as of January 1, 2005.

''(2) CONTENTS.—The inventory of a covered person subject to paragraph (1) shall—

''(A) be in writing; and

''(B) include—

''(i) the type of each asbestos-containing product possessed by the covered person;

''(ii) the number of product units of each asbestos-containing product in the inventory of the covered person; and

''(iii) the location of the product units.

''(3) RECORDS.—The information in an inventory of a covered person shall be maintained for a period of not less than 3 years.

''(4) WAIVER.—The Administrator may waive the application of this subsection to an end user that possesses a de minimis quantity of an asbestos-containing product, as determined by the Administrator.

''(d) DISPOSAL.—

''(1) IN GENERAL.—Except as provided in paragraph (2), not later than June 1, 2005, each covered person that possesses an asbestos-containing product that is subject to the prohibition established under this section shall dispose of the asbestos-containing product, by a means that is in compliance with applicable Federal, State, and local requirements.

''(2) EXEMPTION.—Nothing in paragraph (1)—

''(A) applies to an asbestos-containing product that—

''(i) is no longer in the stream of commerce; or

''(ii) is in the possession of an end user; or

''(B) requires that an asbestos-containing product described in subparagraph (A) be removed or replaced.

"SEC. 225. PUBLIC EDUCATION PROGRAM.

''(a) IN GENERAL.—Not later than March 1, 2005, and subject to subsection (c), in consultation with the Chairman of the Consumer Product Safety Commission and the Secretary of Labor, the Administrator shall establish a program to increase awareness of the dangers posed by asbestos-containing products and contaminant-asbestos products in the marketplace, including homes and workplaces.

''(b) GREATEST RISKS.—In establishing the program, the Administrator shall—

''(1) base the program on the results of the study conducted under section 223;

''(2) give priority to asbestos-containing products and contaminant-asbestos products used by consumers and workers that pose the greatest risk of injury to human health; and

''(3) at the option of the Administrator on receipt of a recommendation from the panel, include in the program the conduct of projects and activities to increase public awareness of the effects on human health that may result from exposure to—

''(A) durable fibers; and

''(B) ceramic, carbon, and other manmade fibers.

''(c) MINIMAL RISKS.—If the Administrator determines, on the basis of the study conducted under section 223, that asbestos-containing products used by consumers and workers do not pose an unreasonable risk of injury to human health, the Administrator shall not be required to conduct a program under this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) VERMICULITE INSULATION.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Consumer Product Safety Commission shall begin a national campaign to educate consumers concerning—

(1) the dangers of vermiculite insulation that may be contaminated with asbestos; and

(2) measures that homeowners and business owners can take to protect against those dangers.

SEC. 4. ASBESTOS-CAUSED DISEASES.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

''SEC. 417D. RESEARCH ON ASBESTOS-CAUSED DISEASES.

''(a) IN GENERAL.—The Secretary, acting through the Director of NIH and the Director of the Centers for Disease Control and Prevention shall expand, intensify, and coordinate programs for the conduct and support of research on diseases caused by exposure to asbestos, particularly mesothelioma, asbestosis, and pleural injuries.

''(b) ADMINISTRATION.—The Secretary shall carry out this section—

''(1) through the Director of NIH and the Director of the Centers for Disease Control and Prevention; and

''(2) in collaboration with the Administrator of the Agency for Toxic Substances and Disease Registry and the head of any other agency that the Secretary determines to be appropriate.

''(c) REGISTRY.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Director of the Centers for Disease Control and Prevention, in cooperation with the Director of the National Institute for Occupational Safety and Health and the Administrator of the Agency for Toxic Substances and Disease Registry, shall establish a National Mesothelioma Registry.

''(2) CONTENTS.—The Registry shall contain information on diseases caused by exposure to asbestos, particularly mesothelioma.

''(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available for the purposes described in subsection (a) under other law, there are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2003 and each fiscal year thereafter.

''SEC. 417E. MESOTHELIOMA TREATMENT PROGRAMS.

''(a) FUNDING.—The Secretary, in consultation with the Director of NIH and the Director of the Centers for Disease Control and Prevention, shall provide not to exceed $500,000 for each of fiscal years 2003 through 2007 to each institution described in subsection (b) to strengthen the mesothelioma treatment programs carried out at those institutions.

''(b) INSTITUTIONS.—The institutions described in this subsection are the following:

''(1) The Memorial Sloan-Kettering Hospital, New York, New York.

''(2) The Karmanos Cancer Institute at Wayne State University, Detroit, Michigan.

''(3) The University of California at Los Angeles Medical School, Los Angeles, California.

''(4) The University of Chicago Cancer Research Center, Chicago, Illinois.

''(5) The University of Pennsylvania Hospital, Philadelphia, Pennsylvania.

''(6) The University of Texas, through the M.D. Anderson Cancer Research Center Houston, Texas.

''(7) The University of Washington, Seattle, Washington.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,500,000 for each of fiscal years 2003 through 2007.''.

SEC. 5. CONFORMING AMENDMENTS.

The table of contents in section 1 of the Toxic Substances Control Act (15 U.S.C. prec. 2601) is amended—

(1) by inserting before the item relating to section 201 the following:

''Subtitle A—General Provisions'';

and

(2) by adding at the end of the items relating to title II the following:

''Subtitle B—Asbestos-Containing Products

''Sec. 221. Definitions.

''Sec. 222. Panel on asbestos and other durable fibers.

''Sec. 223. Study of asbestos-containing products and contaminant-asbestos products.

''Sec. 224. Prohibition on asbestos-containing products.

''Sec. 225. Public education program.''.

By Mr. NELSON of Florida (for himself, Mr. THOMAS, Mrs. FEINSTEIN, and Mr. BAYH):

S. 2642. A bill to require background checks of alien flight school applicants without regard to the maximum certificated weight of the aircraft for which they seek training, and to require a report on the effectiveness of the requirement; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Madam President, in the wake of the September 11 terrorist attacks, it was discovered that many of the hijackers received flight training in the United States. In addition, Zacarias Moussaoui, the alleged ''20th hijacker,'' was apprehended by investigators in Minnesota after accounts that he was only interested in learning to fly, not land, an airplane.

Section 113 of the Aviation and Transportation Security Act requires background checks of all foreign flight school applicants seeking training to operate aircraft weighing 12,500 pounds or more. While this provision should help ensure that events like the September 11 attacks are not performed by U.S.-trained pilots using hijacked jets in the future, it does nothing to prevent different types of potential attacks against our domestic security.

The FBI recently issued a terrorism warning indication that small planes might be used to carry out attacks. We need to ensure that we are not training terrorists to perform these activities. We can't allow critical warnings to go unheeded.

Today I am introducing legislation that would close this dangerous loophole by requiring background checks on all foreign applicants to U.S. flight schools, regardless of the aircraft on which they plan to train. I am joined in this effort by Senators THOMAS, FEINSTEIN, and BAYH, and I look forward to the Senate's prompt consideration of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FLIGHT SCHOOL BACKGROUND CHECKS.

Section 44939(a) of title 49, United States Code, is amended by striking ''having a maximum certificated takeoff weight of 12,500 pounds or more''.

SEC. 2. REPORT ON EFFECTIVENESS OF BACKGROUND CHECK REQUIREMENT.

Within 1 year after the date of enactment of this Act, the Secretary of Transportation and the Attorney General shall submit a joint report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure evaluating the effectiveness of activities conducted under section 44939 of title 49, United States Code.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 287—CONGRATULATING THE DETROIT RED WINGS ON WINNING THE 2002 NATIONAL HOCKEY LEAGUE STANLEY CUP CHAMPIONSHIP AND AGAIN BRINGING THE CUP HOME TO HOCKEYTOWN

Mr. LEVIN (for himself and Ms. STABENOW) submitted the following resolution; which was considered and agreed to:

S. RES. 287

Whereas on June 13, 2002, the Detroit Red Wings (in this resolution referred to as the ''Red Wings'') defeated the Carolina Hurricanes, 3–1, in game 5 of the National Hockey League championship series;

Whereas this victory marks the Red Wings' 10th Stanley Cup Championship, continuing the team's reign as the most storied American hockey team;

Whereas this victory marks the Red Wings' third Stanley Cup Championship in the past 6 years, establishing them as one of the great dynasties in the history of the National Hockey League;

Whereas the Red Wings, who average over 30 years of age, proved once again that talent and experience can triumph over more youthful competition;

Whereas the Red Wings had the best record in the National Hockey League for the decade of the 1990s as well as this past year;

Whereas Nicklas Lidstrom, who has anchored the Detroit Defense for 11 years, became the first European-born player to win the Conn Smythe Trophy for the most valuable player in the playoffs;

Whereas Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Detroit and Michigan, have returned Lord Stanley's Cup to Detroit yet again;

Whereas the Red Wings, who have played in Detroit since 1926, continue to hold a special place in the hearts of all Michiganders;

Whereas Detroit, otherwise known as ''Hockeytown, U.S.A.'', is home to the most loyal fans in the world;

Whereas the Red Wings are indebted to retiring head coach Scotty Bowman, who has brought the Red Wings to the playoffs 7 times in the last 8 years and who, with this year's victory, has earned his ninth Stanley Cup victory, surpassing his mentor Toe Blake for the most championships in league history;

Whereas the Red Wings are fortunate to have the leadership of team captain Steve Yzerman, who along with being one of the most respected athletes in all of sports, completed one of his best seasons ever despite a serious leg injury which will require surgery at the end of the season; and

Whereas each one of the Red Wings will be remembered on the most illustrious sports trophy, the Stanley Cup, as follows: Pavel Datsyuk, Boyd Devereaux, Kris Draper, Sergei Fedorov, Igor Larionov, Jason Williams, Steve Yzerman, Tomas Holmstrom, Luc Robitaille, Brendan Shanahan, Sean Avery, Ladislav Kohn, Brett Hull, Darren McCarty, Kirk Maltby, Chris Chelios, Mathieu Dandenault, Steve Duchesne, Jiri Fischer, Uwe Krupp, Maxim Kuznetsov, Nicklas Lidstrom, Fredrik Olausson, Jiri Slegr, Jesse Wallin, Dominik Hasek, and Many Legace: Now, therefore, be it

Resolved, That the Senate congratulates the Detroit Red Wings on winning the 2002 National Hockey League Stanley Cup Championship.

Mr. LEVIN. Madam President, I am submitting today, along with my colleague Senator STABENOW, a resolution congratulating the Detroit Red Wings, who on June 13th, 2002, defeated the Carolina Hurricanes 3–1 to win their third Stanley Cup in six years. With this victory, the Wings have further solidified their position as one of the most storied teams in all sports by bringing Lord Stanley's Cup home to Hockeytown for a 10th time.

Few doubted that this year's team could make a run at the Cup. Many have argued that this was the greatest hockey roster ever assembled. The last names alone evoke hockey greatness. Along with long time stars like Yzerman, Fedorov, Lidstrom, and Shanahan, this season's team included future hall of famers by the names of Hull, Robitaille, and Hasek. It was a team assembled to win, and in the end, that goal was reached.

This is not a story of individual talent, though surely there was a surplus of that. This is a story of teamwork and dedication. Despite the phenomenal play by Detroit's stars, they would not have succeeded had it not been for the contributions of players like Igor Larionov, Tomas Holmstrom, Kris Draper, Darren MacCarty and Steve Duchesne. Their selfless dedication was exemplified by Duchesne, who sat out only one shift, about ten minutes, after losing six teeth to an errant puck.

During the season many critics claimed that while Detroit had talent, the team was too old to endure the grueling playoffs, which last for over two months. They claimed that the Wings, who average over 30 years of age and have seven players over 35, would succumb to injury or fatigue against younger competition. However as the playoffs progressed, the team only grew stronger. All questions were put to rest in game three of the playoffs when 41 year old Igor Larionov scored two goals including the game winner in the third overtime.

Though the Wings are known for their powerful offense, it was their smothering defense which led to their victory. Throughout the playoffs, their defense kept the number of scoring chances for the opposing team to a bare minimum. The anchor of the Detroit defense was Nicklas Lidstrom who averaged over 31 minutes per game throughout the playoffs and over 35 minutes during the finals. For his exceptional contributions, he was awarded the Conn Smythe trophy as the Most Valuable player in the Playoffs.

Special recognition is also due to the Red Wings Captain, Steve Yzerman, who has been the team captain since 1986. During his career in the Motor City, this humble star has amassed 175 playoff points, besting the great Gordie Howe for the team record. For this year's playoffs, Yzerman led the team with 23 points, second in the NHL. Along with holding the team record for playoff goals, Stevie, as he is fondly known in Detroit, is the motivational leader of the team. When things were going poorly in the series against Vancouver, it was Yzerman who gave the motivational speech which led to a Wings victory and a tide shift in the series—all of this despite a knee which will need reconstructive surgery this off-season.

This victory also marks the end of an era, not only for Detroit, but for the NHL. Soon after the game ended, Scotty Bowman, the Red Wings coach since 1993, announced his retirement. When Scotty came to Detroit nine years ago, we had been without the Cup for nearly four decades. However, during his tenure, the Wings made it to the payoffs seven of eight years, and won the Stanley Cup three times. With this, his ninth Stanley Cup, victory Scotty also surpasses his mentor Toe Blake with the most cups in NHL history and joins Red Auerbach and Lakers coach Phil Jackson among the coaches with the most championship victories in major sports. I join with every Detroiter in saying, ''Thank you Scotty.''

Hockey has long been a second religion in Detroit. I fondly remember going to Red Wings games as a kid with my big brother, Sander—Congressman Levin now—and our mother. Those teams were also filled with future hall of famers: Sid Abel, Gordie Howe, Teddy Lindsay. These players and other Wings alumni established a winning tradition which continues to this day.

Yesterday, Senator STABENOW and I joined over a million fans in congratulating this fantastic team. The celebration was not only an outpouring of emotion and a celebration of talent, it was an affirmation of Detroit's title as Hockeytown. During the ceremonies, I had the opportunity to say thanks and farewell to Scotty Bowman. I also had the pleasure of chatting with Stevie Yzerman and his family. I wish him a speedy recovery from his surgery. More than anything else, he and the rest of the wings have been mentors to our children—along with being incredible hockey players on the ice they are charitable public citizens and dedicated family members .

I know my Senate Colleagues will join me and hockey fans around the country in congratulating the Red Wings for bringing hockey's ''Holy Grail'' back to Hockeytown.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, it was with great joy and excitement yesterday that I joined with Senator LEVIN as we celebrated the Stanley Cup win by the Detroit Red Wings. It was a beautiful sunshiny day in Detroit, and over a million people came out to join with all of us in thanking Scotty Bowman and thanking the entire team for their wonderful win again this year. We are so proud, as Senator LEVIN said, of what they do, not only on the ice but off the ice. So it is with great pleasure that I join with Senator LEVIN today in coauthoring this resolution of tribute to the Detroit Red Wings.

As has been said, this is the third time in 6 years the Detroit Red Wings have won the Stanley Cup. It is the 10th Stanley Cup in total that the Detroit Red Wings have won. We are pleased we are only behind the Montreal Canadiens, that have won it 23 times, and the Toronto Maple Leaves, that have won it 13 times. They are the only two teams that have won more Stanley Cups than our own Detroit Red Wings, of which we are so proud.

We also, yesterday, saw a wonderful tribute to the head coach and the entire coaching staff, but particularly Scotty Bowman, who has his ninth Stanley Cup win in his 30 years, and 9 years with Detroit. This is the most for any coach in the NHL. Sports Illustrated has called him the best coach in any sport. That is high praise.

Yesterday, the fans, of whom we have many—in fact, we in Detroit and in Michigan believe we have the best fans in the country, and indeed in the world, in Hockeytown everyone joined in rousing support and thanks to Scotty Bowman for all he has done to bring this team to another victory and also for leading a group of men who are role models both in their sport on the ice as well as in their own communities and personal lives.

We are sorry to see Scotty leave, but we are so grateful that he has spent this time in Detroit and that he has given his all to help our team achieve the very highest honors possible.

Interestingly, we know the Stanley Cup was named after Lord Stanley of Preston, the Governor General of Canada. In 1893, he started this award by purchasing a small, gold-plated, silver bowl from a London silversmith for $50.

The bowl was awarded to the best hockey team in Canada. The original cup is actually in a museum.

It was a great honor, yesterday, for me to see our Stanley Cup, to see the names that are engraved there, to know that Detroit has such a high place of honor, and that the Detroit Red Wings have once again brought the cup home to Detroit.

So congratulations to the Red Wings. We are so proud of you. It is my great pleasure to stand with Senator LEVIN in salute to our Detroit Red Wings today.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3891. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3843 proposed by Mr. BROWNBACK to the bill (S. 2600) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table.

SA 3892. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3871 submitted by Mr. HATCH and intended to be proposed to the bill (S. 2600) supra; which was ordered to lie on the table.

SA 3893. Mr. DASCHLE (for Mr. ENSIGN (for himself, Mr. KERRY, and Mr. STEVENS)) proposed an amendment to the bill H.R. 4560, to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

SA 3894. Mr. REID (for himself and Mr. SMITH, of New Hampshire) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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; which was ordered to lie on the table.

SA 3895. Mrs. HUTCHISON (for herself and Mr. BROWNBACK) submitted an amendment intended to be proposed by her to the bill S. 2514, supra; which was ordered to lie on the table.

SA 3896. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 2514, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3891. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3843 proposed by Mr. BROWNBACK to the bill (S. 2600) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table; as follows:

Strike all after ''SEC. ___.'' and insert the following:

PROHIBITION ON HUMAN CLONING.

(a) PURPOSE.—It is the purpose of this Act to prohibit human cloning.

(b) PROHIBITION.—

(1) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

''CHAPTER 16—PROHIBITION ON HUMAN CLONING

''Sec.

''301. Prohibition on human cloning.

''§ 301. Prohibition on human cloning

''(a) DEFINITIONS.—In this section:

''(1) HUMAN CLONING.—The term 'human cloning' means implanting or attempting to implant the product of nuclear transplantation into a uterus or the functional equivalent of a uterus.

''(2) HUMAN SOMATIC CELL.—The term 'human somatic cell' means any human cell other than a haploid germ cell.

''(3) NUCLEAR TRANSPLANTATION.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

''(4) NUCLEUS.—The term 'nucleus' means the cell structure that houses the chromosomes.

''(5) OOCYTE.—The term 'oocyte' means the female germ cell, the egg.

''(b) PROHIBITIONS ON HUMAN CLONING.—It shall be unlawful for any person or other legal entity, public or private—

''(1) to conduct or attempt to conduct human cloning; or

''(2) to ship the product of nuclear transplantation in interstate or foreign commerce for the purpose of human cloning in the United States or elsewhere.

''(c) PROTECTION OF RESEARCH.—Nothing in this section shall be construed to restrict practices not expressly prohibited in this section.

''(d) PENALTIES.—

''(1) CRIMINAL PENALTIES.—Whoever intentionally violates paragraph (1) or (2) of subsection (b) shall be fined under this title and imprisoned not more than 10 years.

''(2) CIVIL PENALTIES.—Whoever intentionally violates paragraph (1) or (2) of subsection (b) shall be subject to a civil penalty of $1,000,000 or three times the gross pecuniary gain resulting from the violation, whichever is greater.

''(3) FORFEITURE.—Any property, real or personal, derived from or used to commit a violation or attempted violation of the provisions of subsection (b), or any property traceable to such property, shall be subject to forfeiture to the United States in accordance with the procedures set forth in chapter 46 of title 18, United States Code.

''(e) RIGHT OF ACTION.—Nothing in this section shall be construed to give any individual or person a private right of action.''.

SA 3892. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3871 submitted by Mr. HATCH and intended to be proposed to the bill (S. 2600) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; which was ordered to lie on the table; as follows:

On page 1, line 4, before ''.'' insert the following: ''except for an individual or corporation which engages in wanton, willful, reckless or malicious conduct related to an act of terrorism and any amounts attributable to such punitive damages shall not count as insured losses for purposes of this Act''.

SA 3893. Mr. DASCHLE (for Mr. ENSIGN (for himself, Mr. KERRY, and Mr. STEVENS)) proposed an amendment to the bill H.R. 4560, to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Auction Reform Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Circumstances in the telecommunications market have changed dramatically since the auctioning of spectrum in the 700 megahertz band was originally mandated by Congress in 1997, raising serious questions as to whether the original deadlines, or the subsequent revision of the deadlines, are consistent with sound telecommunications policy and spectrum management principles.

(2) No comprehensive plan yet exists for allocating additional spectrum for third-generation wireless and other advanced communications services. The Federal Communications Commission should have the flexibility to auction frequencies in the 700 megahertz band for such purposes.

(3) The study being conducted by the National Telecommunications and Information Administration in consultation with the Department of Defense to determine whether the Department of Defense can share or relinquish additional spectrum for third generation wireless and other advanced communications services will not be completed until after the June 19th auction date for the upper 700 megahertz band, and long after the applications must be filed to participate in the auction, thereby creating further uncertainty as to whether the frequencies in the 700 megahertz band will be put to their highest and best use for the benefit of consumers.

(4) The Federal Communications Commission is also in the process of determining how to resolve the interference problems that exist in the 800 megahertz band, especially for public safety. One option being considered for the 800 megahertz band would involve the 700 megahertz band. The Commission should not hold the 700 megahertz auction before the 800 megahertz interference issues are resolved or a tenable plan has been conceived.

(5) The 700 megahertz band is currently occupied by television broadcasters, and will be so until the transfer to digital television is completed. This situation creates a tremendous amount of uncertainty concerning when the spectrum will be available and reduces the value placed on the spectrum by potential bidders. The encumbrance of the 700 megahertz band reduces both the amount of money that the auction would be likely to produce and the probability that the spectrum would be purchased by the entities that valued the spectrum the most and would put the spectrum to its most productive use.

(6) The Commission's rules governing voluntary mechanisms for vacating the 700 megahertz band by broadcast stations—

(A) produced no certainty that the band would be available for advanced mobile communications services, public safety operations, or other wireless services any earlier than the existing statutory framework provides; and

(B) should advance the transition of digital television and must not result in the unjust enrichment of any incumbent licensee.

SEC. 3. ELIMINATION OF STATUTORY DEADLINES FOR SPECTRUM AUCTIONS.

(a) FCC TO DETERMINE TIMING OF AUCTIONS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

''(15) COMMISSION TO DETERMINE TIMING OF AUCTIONS.—

''(A) COMMISSION AUTHORITY.—Subject to the provisions of this subsection (including paragraph (11)), but notwithstanding any other provision of law, the Commission shall determine the timing of and deadlines for the conduct of competitive bidding under this subsection, including the timing of and deadlines for qualifying for bidding; conducting auctions; collecting, depositing, and reporting revenues; and completing licensing processes and assigning licenses.

''(B) TERMINATION OF PORTIONS OF AUCTIONS 31 AND 44.—Except as provided in subparagraph (C), the Commission shall not commence or conduct auctions 31 and 44 on June 19, 2002, as specified in the public notices of March 19, 2002, and March 20, 2002 (DA 02–659 and DA 02–563).

''(C) EXCEPTION.—

''(i) BLOCKS EXCEPTED.—Subparagraph (B) shall not apply to the auction of—

''(I) the C-block of licenses on the bands of frequencies located at 710–716 megahertz, and 740–746 megahertz; or

''(II) the D-block of licenses on the bands of frequencies located at 716–722 megahertz.

''(ii) ELIGIBLE BIDDERS.—The entities that shall be eligible to bid in the auction of the C-block and D-block licenses described in clause (i) shall be those entities that were qualified entities, and that submitted applications to participate in auction 44, by May 8, 2002, as part of the original auction 44 short form filing deadline.

''(iii) AUCTION DEADLINES FOR EXCEPTED BLOCKS.—Notwithstanding subparagraph (B), the auction of the C-block and D-block licenses described in clause (i) shall be commenced no earlier than August 19, 2002, and no later than September 19, 2002, and the proceeds of such auction shall be deposited in accordance with paragraph (8) not later than December 31, 2002.

''(iv) REPORT.—Within one year after the date of enactment of this paragraph, the Commission shall submit a report to Congress—

''(I) specifying when the Commission intends to reschedule auctions 31 and 44 (other than the blocks excepted by clause (i)); and

''(II) describing the progress made by the Commission in the digital television transition and in the assignment and allocation of additional spectrum for advanced mobile communications services that warrants the scheduling of such auctions.

''(D) RETURN OF PAYMENTS.—Within one month after the date of enactment of this paragraph, the Commission shall return to the bidders for licenses in the A-block, B-block, and E-block of auction 44 the full amount of all upfront payments made by such bidders for such licenses.''.

(b) CONFORMING AMENDMENTS.—

(1) COMMUNICATIONS ACT OF 1934.—Section 309(j)(14)(C)(ii) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(C)(ii)) is amended by striking the second sentence.

(2) BALANCED BUDGET ACT OF 1997.—Section 3007 of the Balanced Budget Act of 1997 (111 Stat. 269) is repealed.

(3) CONSOLIDATED APPROPRIATIONS ACT.—Paragraphs (2) and (3) of section 213(a) of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of an Act making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes (Public Law 106–113; 113 Stat. 1501A–295), are repealed.

SEC. 4. COMPLIANCE WITH AUCTION AUTHORITY.

The Federal Communications Commission shall conduct rescheduled auctions 31 and 44 prior to the expiration of the auction authority under section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)).

SEC. 5. PRESERVATION OF BROADCASTER OBLIGATIONS.

Nothing in this Act shall be construed to relieve television broadcast station licensees of the obligation to complete the digital television service conversion as required by section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)).

SEC. 6. INTERFERENCE PROTECTION.

(a) INTERFERENCE WAIVERS.—In granting a request by a television broadcast station licensee assigned to any of channels 52–69 to utilize any channel of channels 2–51 that is assigned for digital broadcasting in order to continue analog broadcasting during the transition to digital broadcasting, the Federal Communications Commission may not, either at the time of the grant or thereafter, waive or otherwise reduce—

(1) the spacing requirements provided for analog broadcasting licensees within channels 2–51 as required by section 73.610 of the Commission's rules (and the table contained therein) (47 CFR 73.610), or

(2) the interference standards provided for digital broadcasting licensees within channels 2–51 as required by sections 73.622 and 73.623 of such rules (47 CFR 73.622, 73.623),

if such waiver or reduction will result in any degradation in or loss of service, or an increased level of interference, to any television household except as the Commission's rules would otherwise expressly permit, exclusive of any waivers previously granted.

(b) EXCEPTION FOR PUBLIC SAFETY CHANNEL CLEARING.—The restrictions in subsection (a) shall not apply to a station licensee that is seeking authority (either by waiver or otherwise) to vacate the frequencies that constitute television channel 63, 64, 68, or 69 in order to make such frequencies available for public safety purposes pursuant to the provisions of section 337 of the Communications Act of 1934 (47 U.S.C. 337).

SA 3894. Mr. REID (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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; which was ordered to lie on the table; as follows:

Strike section 641 and insert the following:

SEC. 641. PAYMENT OF RETIRED PAY AND COMPENSATION TO DISABLED MILITARY RETIREES.

(a) IN GENERAL.—Section 1414 of title 10, United States Code, is amended to read as follows:

''§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation

''(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—Except as provided in subsection (b), a member or former member of the uniformed services who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation is entitled to be paid both without regard to sections 5304 and 5305 of title 38.

''(b) SPECIAL RULE FOR CHAPTER 61 CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

''(d) DEFINITIONS.—In this section:

''(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

''(2) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.''.

(b) REPEAL OF SPECIAL COMPENSATION PROGRAM.—Section 1413 of such title is repealed.

(c) CONFORMING AMENDMENT.—Section 641(d) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1150; 10 U.S.C. 1414 note) is repealed.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of title 10, United States Code, is amended by striking the items relating to sections 1413 and 1414 and inserting the following new item:

''1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

(f) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person by reason of section 1414 of title 10, United States Code, as amended by subsection (a), for any period before the effective date specified in subsection (e).

SA 3895. Mrs. HUTCHISON (for herself and Mr. BROWNBACK) submitted an amendment intended to be proposed by her to the bill S. 2514, to authorize appropriations for fiscal year 2003 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; which was ordered to lie on the table; as follows:

At the end add the following:

DIVISION D—REVENUE PROVISIONS

SEC. . MARRIAGE PENALTY RELIEF PROVISIONS MADE PERMANENT.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of Act) shall not apply to title III of such Act (relating to marriage penalty relief).

SA 3896. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 2514, to authorize appropriations for fiscal year 2003 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; which was ordered to lie on the table; as follows:

On page 100, between lines 3 and 4, insert the following:

SEC. 503. REINSTATEMENT OF AUTHORITY TO REDUCE SERVICE REQUIREMENT FOR RETIREMENT IN GRADES ABOVE 0–4.

Section 1370 of title 10, United States Code, is amended by striking ''December 31, 2001'' in subsections (a)(2)(A) and (d)(5) and inserting ''September 30, 2004''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on June 25, 2002, in SR–328A at 10 a.m. The purpose of this hearing will be to consider nominations.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, June 18, 2002, at 10 a.m., to conduct a markup of the Public Company Accounting Reform and Investor Protector Act of 2002.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, June 18, 2002, at 10 a.m., to hear testimony regarding Elder Justice: Protecting Seniors from Abuse and Neglect.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, June 18, 2002, at 2:30 p.m. The Committee on Finance intends to complete a mark up on H.R. 7, to provide incentives for charitable contributions; S. 2498, the Tax Shelter Transparency Act; and S. 2119, the Reversing the Expatriation of Profits Offshore Act.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, June 18, 2002 at 2:30 p.m. to hold a hearing on issues pertaining to water resources development programs within the U.S. Army Corps of Engineers. The hearing will be held in SD–406.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, June 18, 2002, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on the implementation of the Texas Restoration Act, Public Law 100–89.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Protecting the Innocent: Proposals to Reform the Death Penalty'' on Tuesday, June 18, 2002, in Dirksen Room 226 at 10 a.m.

Witness List

Panel I: The Honorable William D. Delahunt, United States Representative (D–10th District, MA); and the Honorable Ray LaHood, United States Representative (R–18th District, IL).

Panel II: Mr. Barry Scheck, Cofounder, The Innocence Project, Benjamin N. Cardozo School of Law, New York, NY; Mr. James S. Liebman, Simon H. Rifkind Professor of Law, Columbia Law School, New York, NY; Mr. Larry Yackle, Professor of Law, Boston University Law School, Boston, MA; the Honorable Paul A. Logli, State's Attorney, Winnebago County, Illinois, Rockford, IL; and Mr. William G. Otis, Adjunct Professor of Law, George Mason University Law School, Falls Church, VA.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 18, 2002 at 10:00 a.m. and 2:30 p.m. to hold a closed hearing on the Joint Inquiry into the events of September 11, 2001.

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

SUBCOMMITTE ON CONSUMER AFFAIRS, FOREIGN COMMERCE, AND TOURISM

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs, Foreign Commerce and Tourism be authorized to meet on steroid use in professional baseball and antidoping issues in amateur sports on Tuesday, June 18, 2002, at 9:30 a.m.

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. REID Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Tuesday, June 18, at 2:20 p.m. in SD–366. The purpose of this hearing is to receive testimony on the following bills:

S. 198, to require the Secretary of the Interior to establish a program to provide assistance through states to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land;

S. 1846, to prohibit oil and gas drilling in Finger Lakes National Forest in the State of New York;

S. 1879, to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska;

S. 2222, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation;

S. 2471, to provide for the independent investigation of Federal wildland firefighter fatalities; and

S. 2482, to direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road.

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

PRIVILEGES OF THE FLOOR

Mr. REID. Madam President, I ask unanimous consent that Kim Vandecar, a fellow with the Commerce Committee, be granted the privileges of the floor for the duration of the terrorism insurance debate.

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

Mr. LEVIN. Madam President, I ask unanimous consent that the following named staff members of the Committee on Armed Services be granted the privilege of the floor at all times during the Senate's consideration of and votes relating to S. 2514, the National Defense Authorization Act for Fiscal Year 2003;

Dara R. Alpert, Charles W. Alsup, Judith A. Ansley, Kenneth Barbee, Michael N. Berger, Leah C. Brewer, David L. Cherington, Christine E. Cowart, Daniel J. Cox, Jr., Madelyn R. Creedon, Kenneth M. Crosswait.

Richard D. DeBobes, Marie F. Dickinson, Edward H. Edens IV, Gabriella Eisen, Evelyn N. Farkas, Richard W. Fieldhouse, Daniel K. Goldsmith, Brien R. Green, Creighton Green, William C. Greenwalt, Gary M. Hall, Carolyn M. Hanna, Mary Alice A. Hayward, Jeremy L. Hekhuis.

Ambrose R. Hock, Gary J. Howard, Robert Andrew Kent, Jennifer Key, George W. Lauffer, Maren R. Leed, Gerald J. Leeling, Peter K. Levine, Patricia L. Lewis, David S. Lyles.

Thomas L. MacKenzie, Michael J. McCord, Ann M. Mittermeyer, Thomas C. Moore, Cindy Pearson, Arun A. Seraphin, Joseph T. Sizeas, Christina D. Still, Carmen Leslie Stone, Scott W. Stucky, Mary Louise Wagner, Richard F. Walsh, Nicholas W. West, Bridget M. Whalan.

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

Mr. WARNER. Madam President, I ask unanimous consent that Brett Rota, senator ENSIGN's legislative assistant; Mark Swayne, a military fellow working in my office; Randy Rotte and J. C. Nicholson, fellows in the Office of Senator HUTCHISON; and William Zirzow, a DOD legislative fellow in the Office of Senator COLLINS be granted the privilege of the floor throughout the debate on S. 2514.

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

EXECUTIVE SESSION

CONVENTION ON RIGHTS OF THE CHILD ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICT—TREATY DOCUMENT NO. 106–37A

Mr. REID. Madam President, I ask unanimous consent that the Senate

proceed to executive session to consider Executive Calendar No. 5, the Optional Protocol No. 1 to the Convention on Rights of the Child on Involvement of Children in Armed Conflict; that the protocol be considered as having advanced through its parliamentary stages up to and including the presentation of the resolution for ratification and that the understandings and conditions be agreed to.

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

Mr. REID. Madam President, I ask for a division.

The PRESIDING OFFICER. A division has been requested. Senators in favor of the ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification, with its understandings and conditions, was agreed to as follows:

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO RATIFICATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT, SUBJECT TO UNDERSTANDINGS AND CONDITIONS.

The Senate advises and consents to the ratification of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children In Armed Conflict, opened for signature at New York on May 25, 2000 (Treaty Doc. 106–37; in this resolution referred to as the ''Protocol''), subject to the understandings in section 2 and the conditions in section 3.

SEC. 2. UNDERSTANDINGS.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the United States instrument of ratification of the Protocol:

(1) NO ASSUMPTION OF OBLIGATIONS UNDER THE CONVENTION ON THE RIGHTS OF THE CHILD.—The United States understands that the United States assumes no obligations under the Convention on the Rights of the Child by becoming a party to the Protocol.

(2) IMPLEMENTATION OF OBLIGATION NOT TO PERMIT CHILDREN TO TAKE DIRECT PART IN HOSTILITIES.—The United States understands that, with respect to Article 1 of the Protocol—

(A) the term ''feasible measures'' means those measures that are practical or practically possible, taking into account all the circumstances ruling at the time, including humanitarian and military considerations;

(B) the phrase ''direct part in hostilities''—

(i) means immediate and actual action on the battlefield likely to cause harm to the enemy because there is a direct causal relationship between the activity engaged in and the harm done to the enemy; and

(ii) does not mean indirect participation in hostilities, such as gathering and transmitting military information, transporting weapons, munitions, or other supplies, or forward deployment; and

(C) any decision by any military commander, military personnel, or other person responsible for planning, authorizing, or executing military action, including the assignment of military personnel, shall only be judged on the basis of all the relevant circumstances and on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken.

(3) MINIMUM AGE FOR VOLUNTARY RECRUITMENT.—The United States understands that Article 3 of the Protocol obligates States Parties to the Protocol to raise the minimum age for voluntary recruitment into their national armed forces from the current international standard of 15 years of age.

(4) ARMED GROUPS.—The United States understands that the term ''armed groups'' in Article 4 of the Protocol means nongovernmental armed groups such as rebel groups, dissident armed forces, and other insurgent groups.

(5) NO BASIS FOR JURISDICTION BY ANY INTERNATIONAL TRIBUNAL.—The United States understands that nothing in the Protocol establishes a basis for jurisdiction by any international tribunal, including the International Criminal Court.

SEC. 3. CONDITIONS.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) REQUIREMENT TO DEPOSIT DECLARATION.—The President shall, upon ratification of the Protocol, deposit a binding declaration under Article 3(2) of the Protocol that states in substance that—

(A) the minimum age at which the United States permits voluntary recruitment into the Armed Forces of the United States is 17 years of age;

(B) the United States has established safeguards to ensure that such recruitment is not forced or coerced, including a requirement in section 505(a) of title 10, United States Code, that no person under 18 years of age may be originally enlisted in the Armed Forces of the United States without the written consent of the person's parent or guardian, if the parent or guardian is entitled to the person's custody and control;

(C) each person recruited into the Armed Forces of the United States receives a comprehensive briefing and must sign an enlistment contract that, taken together, specify the duties involved in military service; and

(D) all persons recruited into the Armed Forces of the United States must provide reliable proof of age before their entry into military service.

(2) INTERPRETATION OF THE PROTOCOL.—The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997 (relating to condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988).

(3) REPORTS.—

(A) INITIAL REPORT.—Not later than 90 days after the deposit of the United States instrument of ratification, the Secretary of Defense shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report describing the measures taken by the military departments to comply with the obligation set forth in Article 1 of the Protocol. The report shall include the text of any applicable regulations, directives, or memoranda governing the policies of the departments in implementing that obligation.

(B) SUBSEQUENT REPORTS.—

(i) REPORT BY THE SECRETARY OF STATE.—The Secretary of State shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a copy of any report submitted to the Committee on the Rights of the Child pursuant to Article 8 of the Protocol.

(ii) REPORT BY THE SECRETARY OF DEFENSE.—Not later than 30 days after any significant change in the policies of the military departments in implementing the obligation set forth in Article 1 of the Protocol, the Secretary of Defense shall submit a report to the Committee on Foreign Relations and the Committee on Armed Services of the Senate describing the change and the rationale therefor.

CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY—TREATY DOCUMENT NO. 106–37B

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of Executive Calendar No. 6, the Optional Protocol No. 2 to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; that the protocol be considered as having advanced through its parliamentary stages up to and including the presentation of the resolution of ratification; and that the reservation, understandings, declaration, and condition be agreed to.

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

Mrs. BOXER. Madam President, I am very pleased that today the Senate is approving two Optional Protocols to the U.N. Convention on the Rights of the Child. The Optional Protocol on Involvement of Children in Armed Conflict, also known as the Child Soldiers Protocol, aims to prevent children under the age of 18 from directly participating in hostilities. The second treaty, the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography aims to strengthen efforts to put a stop to the trafficking and exploitation of children.

Last March, I chaired a Senate Foreign Relations Committee hearing on these two Protocols that featured members of the State, Justice, and Defense Departments. I appreciate the cooperation the committee received from these agencies in making ratification of these two treaties possible. The hearing also featured a panel of private witnesses that was led by Jo Becker, a tireless advocate on the issue of banning the use of child soldiers.

During her testimony, Ms. Becker pointed out that in Afghanistan, two generations of children have been subject to recruitment, first into the resistance to Soviets forces, and then into various warring factions. It is well-known that the Taliban recruited children from the religious schools in Pakistan.

The Child Soldiers Protocol requires parties to the treaty to (1) take ''all feasible measures'' to ensure that individuals under the age of 18 do not take a ''direct part'' in hostilities; (2) ban involuntary recruitment into the armed forces for those under the age of 18; and (3) raise the minimum age for voluntary recruitment into the armed

forces from the current benchmark of 15 years of age to that of 16 or higher. Under current law, the minimum age for voluntary recruitment in the U.S. is already set at 17.

Why is ratification of the child Soldiers Protocol important? Right now, an estimated 300,000 children under the age of 18 are currently fighting in more than 30 conflicts around the world. In places like Sierra Leone, children have been kidnapped by rebel groups, given drugs, and forced to commit atrocities. Child soldiers not only lose their childhood, they develop psychological scars, they suffer physical injuries, and, in the worst cases, they die.

Listen to the story of a 16-year old girl who was abducted by the Lord's Resistance Army in Uganda:

One boy tried to escape, but he was caught . . . his hands were tied, and they made us, the other new captives, kill him with a stick. I felt sick. I knew this boy from before. We were from the same village. I refused to kill him and they told me they would shoot me. They pointed a gun at me, so I had to do it. The boy was asking me. ''Why are you doing this?'' I said I had no choice. After we killed him, they made us smear his blood on our arms . . . They said we had to do this so we would not fear death and so we would not try to escape . . . I still dream about the boy from my village who I killed. I see him in my dreams, and he is talking to me and saying I killed him for nothing, and I am crying.

Here is another story from a former child soldier in Sierra Leone:

''Most times I dream, I have a gun, I'm firing, I'm killing, amputating. I feel afraid thinking that perhaps these things will happen to me again. Sometimes I cry...''

And finally another says, ''my schoolmates and I met our old teacher, and we knocked him down. We killed the teacher and we took his books and burned them.''

I am proud that the Senate is taking action today to put an end to these stories. Formally adopting the protocol's standards for U.S. military operations will enable the U.S. to be able to effectively pressure other governments and forces to end the use of children within their own military ranks.

The second treaty the Senate is approving today is the Protocol on the Sale of Children, Child Prostitution and Child Pornography. The Sale of Children Protocol requires parties to the treaty to make sure that these acts are fully covered by penal or criminal law.

The abuse of children is a global problem. Millions of boys and girls under the age of 18 are bought and sold each year. Girls are particularly vulnerable. According to the United Nations Children's Fund (UNICEF), girls appear to be forced into the sex industry at increasingly younger ages, partly as a result of the mistaken belief that younger girls are unlikely to be infected with HIV or AIDS.

Let me mention just a few atrocious examples:

A 15-year-old boy from Mali watched the torture and subsequent deaths of two other forced laborers who tried to escape from a coffee plantation in the Ivory Coast.

A 14-year-old girl from Mexico was brutally raped and then prostituted for months by traffickers in Florida who lured her there by promising a job in the restaurant industry.

An 11-year-old in Thailand was included in a sexually explicit videotape produced by a pornographer in the United States.

Under the Protocol, countries are encouraged to cooperate to protect children trafficked across borders. The Optional Protocol also calls on nations to ensure that children who have been sexually trafficked, exploited or sexually abused receive services to ensure a complete physical and psychological recovery.

Ratification of this treaty is important to protect these vulnerable children. These children cannot often get help on their own—not only because of their young age—but also because they have no birth certificates or official documents. They are, in effect, ''invisible.''

Earlier this year, both of these protocols attained the necessary 10 ratifications to make them operative. The Child Soldier Protocol entered into force on February 12. The Sale of Children Protocol entered into force on January 18.

Once again, I am pleased that the United States is adding its name as a ratifying party to these two treaties and I hope that more nations join us in expanding international protections for children.

Mr. REID. I ask for a division vote.

The PRESIDING OFFICER. A division has been requested. Senators in favor of ratification please stand. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification, with its reservation, understandings, declaration and condition, was agreed to as follows:

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO RATIFICATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION, AND CHILD PORNOGRAPHY, SUBJECT TO A RESERVATION, UNDERSTANDINGS, A DECLARATION, AND A CONDITION.

The Senate advises and consents to the ratification of the Optional Protocol Relating to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, opened for signature at New York on May 25, 2000 (Treaty Doc. 106–37; in this resolution referred to as the ''Protocol''), subject to the reservation in section 2, the understandings in section 3, the declaration in section 4, and the condition in section 5.

SEC. 2. RESERVATION.

The advice and consent of the Senate under section 1 is subject to the reservation, which shall be included in the United States instrument of ratification of the Protocol, that, to the extent that the domestic law of the United States does not provide for jurisdiction over an offense described in Article 3(1) of the Protocol if the offense is committed on board a ship or aircraft registered in the United States, the obligation with respect to jurisdiction over that offense shall not apply to the United States until such time as the United States may notify the Secretary-General of the United Nations that United States domestic law is in full conformity with the requirements of Article 4(1) of the Protocol.

SEC. 3. UNDERSTANDINGS.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the United States instrument of ratification of the Protocol:

(1) NO ASSUMPTION OF OBLIGATIONS UNDER CONVENTION ON THE RIGHTS OF THE CHILD.—The United States understands that the United States assumes no obligations under the Convention on the Rights of the Child by becoming a party to the Protocol.

(2) THE TERM ''SALE OF CHILDREN''.—The United States understands that the term ''sale of children'', as defined in Article 2(a) of the Protocol, is intended to cover any transaction in which remuneration or other consideration is given and received under circumstances in which a person who does not have a lawful right to custody of the child thereby obtains de facto control over the child.

(3) THE TERM ''CHILD PORNOGRAPHY''.— The United States understands the term ''child pornography'', as defined in Article 2(c) of the Protocol, to mean the visual representation of a child engaged in real or simulated sexual activities or of the genitalia of a child where the dominant characteristic is depiction for a sexual purpose.

(4) THE TERM ''TRANSFER OF ORGANS FOR PROFIT''.—The United States understands that—

(A) the term ''transfer of organs for profit'', as used in Article 3(1)(a)(i) of the Protocol, does not cover any situation in which a child donates an organ pursuant to lawful consent; and

(B) the term ''profit'', as used in Article 3(1)(a)(i) of the Protocol, does not include the lawful payment of a reasonable amount associated with the transfer of organs, including any payment for the expense of travel, housing, lost wages, or medical costs.

(5) THE TERMS ''APPLICABLE INTERNATIONAL LEGAL INSTRUMENTS'' AND ''IMPROPERLY INDUCING CONSENT''.—

(A) UNDERSTANDING OF ''APPLICABLE INTERNATIONAL LEGAL INSTRUMENTS''.—The United States understands that the term ''applicable international legal instruments'' in Articles 3(1)(a)(ii) and 3(5) of the Protocol refers to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption done at The Hague on May 29, 1993 (in this paragraph referred to as ''The Hague Convention'').

(B) NO OBLIGATION TO TAKE CERTAIN ACTION.—The United States is not a party to The Hague Convention, but expects to become a party. Accordingly, until such time as the United States becomes a party to The Hague Convention, it understands that it is not obligated to criminalize conduct proscribed by Article 3(1)(a)(ii) of the Protocol or to take all appropriate legal and administrative measures required by Article 3(5) of the Protocol.

(C) UNDERSTANDING OF ''IMPROPERLY INDUCING CONSENT''.—The United States understands that the term ''improperly inducing consent'' in Article 3(1)(a)(ii) of the Protocol means knowingly and willfully inducing consent by offering or giving compensation for the relinquishment of parental rights.

(6) IMPLEMENTATION OF THE PROTOCOL IN THE FEDERAL SYSTEM OF THE UNITED STATES.—The United States understands that the Protocol shall be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered therein, and otherwise by the State and local governments. To the extent that State and local governments exercise jurisdiction over such matters, the Federal Government shall, as necessary, take appropriate measures to ensure the fulfillment of the Protocol.

SEC. 4. DECLARATION.

The advice and consent of the Senate under section 1 is subject to the declaration that—

(1)(A) the provisions of the Protocol (other than Article 5) are non-self-executing; and

(B) the United States will implement Article 5 of the Protocol pursuant to chapter 209 of title 18, United States Code; and

(2) except as described in the reservation in section 2—

(A) current United States law, including the laws of the States of the United States, fulfills the obligations of the Protocol for the United States; and

(B) accordingly, the United States does not intend to enact new legislation to fulfill its obligations under the Protocol.

SEC. 5. CONDITION.

The advice and consent of the Senate under section 1 is subject to the condition that the Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997 (relating to condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988).

Mr. REID. I ask unanimous consent that the motions to reconsider be laid upon the table, that any statements relating to the conventions be printed in the RECORD; that the President be immediately notified of the Senate's action; and the Senate return to legislative session.

The motions to lay on the table were agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 9355(a), appoints the following Senators to the Board of Visitors of the U.S. Air Force Academy:

The Senator from Colorado (Mr. ALLARD), at large;

The Senator from Georgia (Mr. CLELAND), designated by the chairman of the Committee on Armed Services;

The Senator from Idaho (Mr. CRAIG), from the Committee on Appropriations (reappointment); and

The Senator from South Carolina (Mr. HOLLINGS), from the Committee on Appropriations (reappointment).

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 6968(a), appoints the following Senators to the Board of Visitors of the U.S. Naval Academy:

The Senator from Mississippi (Mr. COCHRAN), from the Committee on Appropriations;

The Senator from Arizona (Mr. MCCAIN), designated by the chairman of the Committee on Armed Services;

The Senator from Maryland (Ms. MIKULSKI), from the Committee on Appropriations; and

The Senator from Maryland (Mr. SARBANES), at large.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the following Senators to the Board of Visitors of the U.S. Military Academy:

The Senator from Ohio (Mr. DEWINE), from the Committee on Appropriations (reappointment);

The Senator from Louisiana (Ms. LANDRIEU), from the Committee on Appropriations (reappointment);

The Senator from Rhode Island (Mr. REED), designated by the chairman of the Committee on Armed Services; and

The Senator from Pennsylvania (Mr. SANTORUM), at large.

MEASURES INDEFINITELY POSTPONED—H.R. 2586 and S. 1779

Mr. REID. I ask unanimous consent that the following calendar items be indefinitely postponed: Calendar No. 170, H.R. 2586, and Calendar No. 293, S. 1779.

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

AMERICAN SOCIETY OF CIVIL ENGINEERS

Mr. REID. I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 417, S. Con. Res. 104.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 104) recognizing the American Society of Civil Engineers on the occasion of the 150th anniversary of its founding and for the many vital contributions of civil engineers to the quality of life of the people of the United States, including the research and development projects that have led to the physical infrastructure of modern America.

There being no objection, the Senate proceeded to the immediate consideration of the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, with no further intervening action or debate, and that any statements related thereto be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 104) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 104

Whereas, founded in 1852, the American Society of Civil Engineers is the oldest national engineering society in the United States;

Whereas civil engineers work to constantly improve buildings, water systems, and other civil engineering works through research, demonstration projects, and the technical codes and standards developed by the American Society of Civil Engineers;

Whereas the American Society of Civil Engineers incorporates educational, scientific, and charitable efforts to advance the science of engineering, improve engineering education, maintain the highest standards of excellence in the practice of civil engineering, and protect the public health, safety, and welfare;

Whereas the American Society of Civil Engineers represents the profession primarily responsible for the design, construction, and maintenance of the roads, bridges, airports, railroads, public buildings, mass transit systems, resource recovery systems, water systems, waste disposal and treatment facilities, dams, ports, waterways, and other public facilities that are the foundation on which the economy of the United States stands and grows; and

Whereas the civil engineers of the United States, through innovation and the highest professional standards in the practice of civil engineering, protect the public health and safety and ensure the high quality of life enjoyed by the people of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the American Society of Civil Engineers on the occasion of the 150th anniversary of its founding;

(2) commends the many achievements of the civil engineers of the United States; and

(3) encourages the American Society of Civil Engineers to continue its tradition of excellence in service to the profession of civil engineering and to the public.

AMERICAN SOCIETY OF CIVIL ENGINEERS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 418, H. Con. Res. 387.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A House concurrent resolution (H. Con. Res. 387) recognizing the American Society of Civil Engineers for reaching its 150th anniversary and for the many vital contributions of civil engineers to the quality of life of our Nation's people including the research and development projects that have led to the physical infrastructure of modern America.

There being no objection, the Senate proceeded to consider the House concurrent resolution.

Mr. REID. I ask unanimous consent the concurrent resolution and preamble be agreed to en bloc, and the motion to reconsider be laid on the table with no further intervening action or debate, and any statements be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 387) was agreed to.

The preamble was agreed to.

REFERRAL OF MEASURE—S. 1272

Mr. REID. I ask unanimous consent that S. 1272, the Prisoner Of War Assistance Act of 2001, be discharged from the Veterans Affairs Committee and then referred to the Committee on the Judiciary.

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

CONGRATULATING THE DETROIT RED WINGS

Mr. REID. I ask unanimous consent the Senate proceed to S. Res. 287, submitted today by Senators LEVIN and STABENOW.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 287) congratulating the Detroit Red Wings on winning the 2002 National Hockey League Stanley Cup Championship and again bringing the Cup home to Hockeytown.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 287) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 287

Whereas on June 13, 2002, the Detroit Red Wings (in this resolution referred to as the ''Red Wings'') defeated the Carolina Hurricanes, 3–1, in game 5 of the National Hockey League championship series;

Whereas this victory marks the Red Wings' 10th Stanley Cup Championship, continuing the team's reign as the most storied American hockey team;

Whereas this victory marks the Red Wings' third Stanley Cup Championship in the past 6 years, establishing them as one of the great dynasties in the history of the National Hockey League;

Whereas the Red Wings, who average over 30 years of age, proved once again that talent and experience can triumph over more youthful competition;

Whereas the Red Wings had the best record in the National Hockey League for the decade of the 1990s as well as this past year;

Whereas Nicklas Lidstrom, who has anchored the Detroit Defense for 11 years, became the first European-born player to win the Conn Smythe Trophy for the most valuable player in the playoffs;

Whereas Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Detroit and Michigan, have returned Lord Stanley's Cup to Detroit yet again;

Whereas the Red Wings, who have played in Detroit since 1926, continue to hold a special place in the hearts of all Michiganders;

Whereas Detroit, otherwise known as ''Hockeytown, U.S.A.'', is home to the most loyal fans in the world;

Whereas the Red Wings are indebted to retiring head coach Scotty Bowman, who has brought the Red Wings to the playoffs 7 times in the last 8 years and who, with this year's victory, has earned his ninth Stanley Cup victory, surpassing his mentor Toe Blake for the most championships in league history;

Whereas the Red Wings are fortunate to have the leadership of team captain Steve Yzerman, who along with being one of the most respected athletes in all of sports, completed one of his best seasons ever despite a serious leg injury which will require surgery at the end of the season; and

Whereas each one of the Red Wings will be remembered on the most illustrious sports trophy, the Stanley Cup, as follows: Pavel Datsyuk, Boyd Devereaux, Kris Draper, Sergei Fedorov, Igor Larionov, Jason Williams, Steve Yzerman, Tomas Holmstrom, Luc Robitaille, Brendan Shanahan, Sean Avery, Ladislav Kohn, Brett Hull, Darren McCarty, Kirk Maltby, Chris Chelios, Mathieu Dandenault, Steve Duchesne, Jiri Fischer, Uwe Krupp, Maxim Kuznetsov, Nicklas Lidstrom, Fredrik Olausson, Jiri Slegr, Jesse Wallin, Dominik Hasek, and Many Legace: Now, therefore, be it

Resolved, That the Senate congratulates the Detroit Red Wings on winning the 2002 National Hockey League Stanley Cup Championship.

ORDERS FOR WEDNESDAY, JUNE 19, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow at 10 a.m., Wednesday, June 19; that following the prayer and the Pledge of Allegiance, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Republican leader or his designee; and that at 11 a.m. the Senate resume consideration of the Department of Defense authorization bill.

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

PROGRAM

Mr. REID. Madam President, tomorrow we should get well into the Defense authorization bill. It is very important legislation. It is literally for the security of this country. I hope Senators who have amendments will come and offer them. We have, really, with a bill of this importance, limited time to complete it. I hope everyone will help us expedite passage. There is so much more we need to work on.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR SIGNATURE

Mr. REID. Madam President, I ask unanimous consent that Senator REID of Nevada be authorized to sign an enrolled bill today.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:30 p.m., adjourned until Wednesday, June 19, 2002, at 10 a.m.