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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

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

Gracious, loving God, who taught us to give thanks for all things, to dread nothing but the loss of closeness with You, and to cast all our cares on You, set us free from timidity when it comes to living the absolutes of Your commandments and speaking with the authority of Your truth. We are living in a time of moral confusion. There is a great deal of talk about values, but our society often loses its grip on Your standards. We affirm the basics of honesty, integrity, and trustworthiness. We want to be authentic people rather than professional caricatures of character. Free us from capricious dissimulations, covered duality, and covert duplicity. Instead of manipulating with power games, help us to motivate with patriotism. Grant us the passion we knew when we first heard Your call to political leadership, the idealism we had when we were driven by a cause greater than ourselves, and the inspiration we knew when Your Spirit was our only source of strength. May this be a day to recapture our first love for You and our first priority of glorifying You by serving our Nation. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID 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 (Ms. STABENOW). The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 17, 2002.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, there will be a period of morning business until 10:30 a.m. The first half of the time will be under the control of Senator DASCHLE or his designee. The second half of the time will be under the control of Senator LOTT or his designee.

We will resume consideration of the Interior appropriations bill at 10:30 a.m. The Senate will recess from 12:30 p.m. to 2:15 p.m. for the weekly party conferences. At 2:15 p.m., the Senate will resume consideration of the homeland security bill.

At 4:15 p.m. today, the Senate will resume consideration of the Interior appropriations bill, with 60 minutes of debate, equally divided, between the chairman and ranking member of the Subcommittee on Interior of the Appropriations Committee, Senator BYRD and Senator BURNS. The cloture vote on the Byrd amendment to the Interior appropriations bill will occur at approximately 5:15 p.m. today. Senators have until 1 p.m. today to file first-degree amendments and until 4:15 p.m. today to file second-degree amendments to the Interior appropriations bill.

Madam President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes. Under the previous order, the first half of the time shall be under the control of the majority leader or his designee.

The Senator from North Dakota.

LET'S HAVE AN ECONOMIC SUMMIT

Mr. DORGAN. Madam President, several weeks ago I wrote to President Bush and suggested it is time—perhaps past the time—to have an economic summit in this country to talk about the challenges we are facing with this American economy.

It is interesting, if you look at what has happened. We had gone through a

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

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period of almost unprecedented growth and opportunity. The 1990s was a period in which people were working. We had increases in the number of jobs available, home ownership, personal income, and the stock market was moving up. The economy was growing.

It solves a lot of problems in a country when you have an economy that is growing. There is no social program that is as good as a good job that pays well, and people who are trained and skilled and able to assume those jobs.

But in recent years—the last year and a half, 2 years—we have hit some rough water here, and the economy is not doing well. We have a series of things that have happened.

Early in the President's term, he proposed a fiscal policy with a $1.7 trillion tax cut, the bulk of which goes to the upper income folks in the country. And he said: Well, we are going to have surpluses for 10 straight years.

I was on this floor and said—I am the conservative on this—I don't think you ought to predict, with any precision, what is going to happen 10 years from now. We don't know what is going to happen 3 months from now or 3 years from now, let alone 10 years from now.

The President, and others here, insisted: No. We are going to have all these surpluses, and this money belongs to the American people. Let's give it back. Let's lock it in, and do it now.

In a matter of months, we had a war on terrorism, the terrible and tragic attack on this country of September 11. We have a recession that occurs shortly after this new fiscal policy is developed, which probably was occurring even as it was being developed. And then we have a series of corporate scandals, scandals unlike any we have seen in our lifetime, certainly, and perhaps in a century or so. In addition to that, we see a stock market that begins to collapse.

So all of these things, coming together, have dramatically changed what is happening in Government. Big budget surpluses have now turned to big budget deficits. And it is as if nothing has happened. We have the administration, the President, and others acting as if: Well, nothing has really changed. There is no need to be talking about these things.

Of course there is a need for us to be talking about them. Things have changed in a dramatic way. As a result of that, I think we ought to come together and have an economic summit of some type with the President, to talk about what kind of fiscal policy can put this country's economy back on track, so that those who are out of work can find work, so that those whose life savings in their 401(k)s, that have been dissipated, can begin to see them grow once again, so that the economy produces opportunity and jobs once again.

This isn't going to happen just by accident. It is going to happen if we take a look at what is not working and what are the potential solutions to make it work.

I understand the discussion in the last few weeks has been all Iraq all the time. I am not suggesting it is not important. That is a very important matter, a serious and deadly issue for this country. It is also the case, however, as the newspaper tells us this morning, that the President is out 2 days a week campaigning across the country and fundraising and so on. He has a right to do that as well. But if he has the time to do that, then he also has the time to work with us to construct a fiscal policy that relates to what we face today.

Today we face an economy in trouble. We face a war on terror. We face budget surpluses that have turned to budget deficits. We face a stock market in great turmoil. We face a a circumstance of well over 6 percent of our population out of work, unable to find jobs. It is time for us to stop, take stock, and evaluate what works and what doesn't. How do we put together a plan that moves this country toward economic opportunity and economic growth once again? I understand why some want to ignore it, but it is not the right thing for this country.

I have been chairing hearings for the last 8 or 10 months on the subject of corporate scandals. That is an important issue. It has also played a role in injuring the feelings of people and the confidence they have in the economy. There is a difference in how we view those issues.

For example, I was trying to offer an amendment to the corporate responsibility bill that passed the Senate. I was blocked by the Republican side. Regrettably, that amendment is not now law. The rest of the bill is law. The amendment is very simple. It says, if you are a corporate executive and you are taking a company into bankruptcy, the 12 months before you run that company into the ground, if you are getting bonus payments and incentive payments, we have a right to recapture them and force a disgorgement of those payments. You should not get incentives and bonuses when you run a company into the ground.

Since I was blocked from offering that and it is not now law—I will continue to try—the Financial Times came out with an analysis. They said that the 25 largest bankruptcies in America occurred in the last year and a half; 208 corporate executives took $3.3 billion in compensation out of those corporations before those corporations were run into the ground. I will hold a hearing on that in the next couple weeks.

There is something fundamentally wrong with what is going on in those areas. We have people who don't want to talk about it. The administration doesn't want to talk about it. That is not the issue they want to bring to the floor and have a debate on. But that is what we should have a debate on. How do you establish confidence in this economy if you don't clear up those kinds of problems?

So whether it is corporate scandals, a troubled economy, a recession, a war on terrorism, a stock market that acts like a yo-yo, we need to put the pieces of this puzzle together again. It is not going to get put together by people just ignoring the issue.

One of the significant issues facing our country at this moment is an economy that is in very serious trouble. It does no service to our country to deny that. Let's try to find a way to fix it. There may not be a way where one party says, we have all the answers, or the other side says, we have all the answers. Maybe the answers are the best of what both have to offer, instead of getting the worst of what each has to offer. In order to get there, you have to sit down and talk about it.

I urge the President to respond to these requests for an economic summit, to sit down with us and talk about what is wrong with the economy and how you put this back together towards an economy and a future of economic growth and opportunity once again.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

NATIONAL AND DOMESTIC SECURITY

Mr. DURBIN. Madam President, I thank my colleague from North Dakota for raising what I think is an important and timely issue; that is, what are we going to focus on, what will be our interest, what will be the real objective and issue we will make the centerpiece for our discussion over the next 7 weeks before the election on November 5.

It is very clear what the President wants to focus on. He wants to focus, it appears, exclusively on the issue of Iraq. Of course, we all concede that national security is our No. 1 priority. I happen to believe, as most do, that Democrats and Republicans have stood together since September 11 of 2001. We have provided the President the resources with the authority, and we have told him we will stand shoulder to shoulder with him in fighting a war on terrorism.

There is little disagreement on Saddam Hussein and Iraq. I haven't heard a single Member of Congress from either party in either Chamber stand to defend Saddam Hussein. This man is a thug. He has been a threat to his own people, to the region, and certainly, if he is developing weapons of mass destruction, then they could be a threat way beyond that region of the world.

We have to take it very seriously, as we have. I thought we made real progress last week. There was a time in early August when voices from the White House were telling us: We are just going to have to go it alone. The United States will have to take on Saddam Hussein by itself. Incidentally, we don't need congressional approval. We have father Bush's war approval which

will be good enough for son Bush as President.

I disagree with that, but that was an argument being made out of the White House. There was also a suggestion that the President and the United States need not go to the United Nations to talk about inspections; that we would just, frankly, achieve regime change on our own.

Thank goodness cooler heads prevailed. Thank goodness, last week, the President not only acknowledged that he would come to Congress for any approval before we would go to war, he also went to the United Nations in New York on September 12 and made a historic speech, calling on the United Nations to live up to its responsibility, its mandate, in terms of the power and weaponry of Iraq, and basically said to the United Nations: It is time for us to prove this organization has a future.

Good news followed. This morning's paper suggests that Iraq got the message, a message delivered not just by the United Nations but by a lot of nations that historically had been at least friendly with Iraq and have now said they have no choice, they have to reopen their country to meaningful inspections. If the press reports are accurate, Saddam Hussein has said he will allow U.N. inspections on an unconditional basis now. That is a dramatic mark of progress. I hope the White House will take yes for an answer. I hope the White House will realize that we can seize a historic opportunity to send inspection teams in to find out exactly what is going on in Iraq.

If it is threatening to us, to anyone in the region, or to the people of Iraq, we have to use the authority of the United Nations to make certain that it becomes a peaceful situation. I think progress has been made. I will tip my hat to the President and to those in the White House for that fact.

But mark my words, there are some who will not take yes for an answer. They won't be satisfied that the U.N. is living up to its responsibility if it sends in inspectors. They will not be satisfied that Saddam Hussein has said: We are opening our borders. They will say: We can't trust him. It will never work. Let's prepare to invade.

That makes a mockery of the President's visit to New York last week, to the United Nations. He has called on the United Nations to act. Now it is time to give them an opportunity to act. We should respond accordingly. If it is successful, if we can bring Iraq under control through this fashion, without a war, without the loss of innocent life, then thank goodness we can consider that alternative, and we should pursue it. If not, of course, there is another day for us to consider the options that may be at our disposal.

That is the issue of national security. I have to tell you, as I travel around the State of Illinois, there are people who want to talk about other issues of security; for example, health care security.

The Presiding Officer, the Senator from Michigan, has been a leader on the issue of prescription drugs. As I go about the State of Illinois, people are interested in Iraq, but I still run into people, senior citizens in particular but ordinary families as well, who talk about the fact that they cannot afford to buy the prescriptions they need to keep themselves and their children healthy. I don't see the kind of fervor and desire coming out of the Republican side when it comes to health care security as there is for national security.

When it comes to health care security, the cost of health insurance, I went yesterday to speak to the Illinois State Chamber of Commerce. The members who were gathered there of the major corporations in Illinois agree with the major unions in Illinois that the cost of health insurance is bankrupting our system. Businesses cannot afford to buy insurance for the owners of the business, let alone for the employees. The premiums go up 25, 35 percent a year. Labor unions are seeing every increasing dollar amount on an hourly basis eaten up completely by the cost of health insurance increases.

Have we heard a word from this administration about health care security, about the cost of health insurance? Of course not.

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

Mr. DURBIN. I am happy to yield.

Mr. REID. I also heard the Senator from North Dakota speak this morning. It appears that I am hearing the fact that we can talk about Iraq and, at the same time, we can deal with some of these economic issues with this staggering economy. Is that what the Senator is saying?

Mr. DURBIN. That is exactly right. I say this to the people at the White House who make up the schedule: Can you give us 4 hours a week on the economy? Pick the 4 hours and let's talk about it in realistic terms. Let's talk about health security 1 hour a week. Can we do that? Can the White House find time in the busy schedule of dealing with national security and making campaign trips to raise money for candidates to give us 1 hour a week to talk about health care? I don't think that is too much to ask. And I think Congress ought to reciprocate. We ought to be answering in terms of what we can do to try to lift the burden, whether it is the cost of prescription drugs or the cost of health insurance for businesses and families across America.

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

Mr. DURBIN. I am happy to yield.

Mr. REID. The Senator served in the House of Representatives. Is the Senator aware that this administration—a Republican administration—has significant control and direction that it can give to the House of Representatives, which is led by the Republicans?

Mr. DURBIN. Absolutely. The Speaker of the House almost has unilateral power to set the business for the House, now controlled by the President's party.

Mr. REID. Would the Senator acknowledge that the House basically has been doing nothing? We have appropriations bills that we are waiting for them to do. I have not heard the President say one word about the inaction of the House. Has the Senator?

Mr. DURBIN. I have not. The Senator is aware of the fact that we have the Patients' Bill of Rights that has gone nowhere in conference with the House and Senate, and there are issues we have tried to raise time and again—energy, for example—and all of these things have died in conference.

Mr. REID. Would the Senator also acknowledge that this bill, which is very important to constituencies all over America, on terrorism insurance—and the President went to Pennsylvania a couple weeks ago and said: I am for hardhats, not for trial lawyers. Does the Senator realize that is lost because the Republican House will not let us even hold a meeting on this bill?

Mr. DURBIN. I am aware of that. I say to the Senator from Nevada that I heard from not only businesses and developers and unions but from ordinary people about terrorism insurance. There is a fear—legitimate fear—if we don't pass something soon, it is going to have a dramatic negative impact on employment.

We are already losing jobs. That is another issue the White House won't discuss. I have talked about national security and health care security. There is an income security thing, as well—not only the loss of jobs in this country but terrorism insurance plays right into this. What is the President doing? What is Congress doing? Can the President give us 1 hour a week on the economy, 1 hour a week on income security, to talk about what we can do to increase the number of jobs? A meeting in Waco, TX, in August for a day is not enough. It takes a bipartisan, honest effort and to engage the Congress in doing something. Let's pass the terrorism bill. Let's have the President call on Democrats and Republicans to get it done this week. We should do it this week. If we do not, we are not meeting our responsibility.

Mr. REID. If the Senator will further yield, the Senator is aware that the newspapers in Washington indicate that the President has been in Iowa, over the period of a year, I think 11 times. The Senator is aware that Iowa is where the first primary is held. The Senator from Illinois is aware that Iowa is where there are close elections.

I would like the Senator to respond, isn't it necessary that the President be more engaged in what is going on in domestic issues rather than politicking around the country?

Mr. DURBIN. That is the very point I am making. I concede that the President is the leader of his party, and every President has spent time trying to help his party and its candidates. I

don't begrudge any President doing that as we come close to an election. As I travel in my State, the people are more focused on the problems that families are running into when it comes to the basic necessities of life than on the next election. They are hoping this President and all candidates will address issues as basic as income security, health care security, and, may I add, pension security.

This is something that has become a devastating issue for families in Illinois. Former steelworkers worked a lifetime and paid in religiously, week after week, month after month, year after year, with the promise that when they retired, they would have a pension and health care. They now find themselves high and dry with bankrupt companies. I haven't heard a word from the administration about pension security. This really hits a lot of people close to home.

I grew up in an area in Illinois that had a lot of steel mills. I used to apply there for jobs in the summer and hope that I could get one of those great-paying jobs. I have gone to meet with displaced steelworkers. I see tough men, muscular people, who worked hard their whole lives, who just don't take much foolishness at all, break down and cry in front of me because at age 59 they have lost all their health insurance protection. These are retirees who really followed the rules and did what they were supposed to do in America. Can we ask the President for 1 hour a week to talk about pension security—Just 1 hour? I think that would be an indication the President is listening to the people across America in terms of the economic issues.

Mr. REID. Will the Senator yield?

Mr. DURBIN. Yes.

Mr. REID. It has been discussed on the floor that we have held up in the other body, which has the ability to move very quickly, terrorism insurance, Patients' Bill of Rights, election reform, energy policies for this country, bankruptcy reform. So we know things are held up there.

Now, I say to my friend from Illinois, I am kind of a hawk. I was the first Democrat to support President Bush when he wanted to go into Iraq the first time. I consider myself a hawk rather than a dove. I am looking very closely at Iraq and I think we need to do that. But in doing that, is the Senator aware that Lawrence Lindsey, the President's chief economic adviser, indicated in the Wall Street Journal yesterday that the war in Iraq will cost this country about $200 billion? Is the Senator also aware that I had a conversation with the chief executive officers of the airlines last Thursday in my office? The first thing the spokesperson, the chief executive officer of one of the largest airlines in the world, told me was: If there is a war in Iraq, we all go broke.

That was told to me in my office last week: If there is a war in Iraq, we all go broke, all the major airlines in America.

So the Senator is aware we not only need to focus on Iraq—the military aspects of it—but also what it does to the domestic policy, which the President is ignoring. Is the Senator aware we need to also consider that?

Mr. DURBIN. That is a very important point, not to mention the most basic concern, of course. If we go to war, lives of Americans will be lost. Innocent people will die. War should be the last decision we make, the last option we take. Thank goodness, we now have movement through the United Nations. I am asking that the President and the White House, now that progress is being made, spend some small portion of their time focusing on the economic issues the Senator from Nevada raises. I have talked about health care security, income security, pension security. I will add a fourth one—Social Security.

We realize the President's tax package of last year is going to take $2 trillion out of the Social Security trust fund over the next 10 years—$2 trillion—with no promise to repay any of it at a time when the baby boomers, by the millions, will start arriving and asking for Social Security. Social Security is our contract with America—our real contract—the one that comes from the heart. We have had it since the days of Franklin Roosevelt. Is it too much to ask this administration to give us an hour a week to focus on Social Security and its future, and Medicare, talk about the reimbursement for health care for senior citizens and hospitals and providers across America? These are real issues. I certainly have hospitals in rural areas and hospitals in the inner city struggling to survive at this point in time.

When you talk about the issues on which we should be focusing, national security is important, and I think it ought to be No. 1 on the agenda; but, for goodness' sake, don't ignore the rest of America and the lives we have to lead and the impact that our failure to act is going to have. That is why I look at 7 weeks before the next election and say to the President and the White House: Give us an hour a week at least to talk about the economy in this country, about the need to breathe life back into this economy.

It is only 2 years ago we were doing so well. We had all of this accumulation of wealth. People saw their retirement plans growing. They were making plans to leave their jobs early and enjoy a comfortable life with their families.

People were seeing their stock portfolios improving to the point where they were considering options. They knew they had money to send their kids to college. Now look what we are up against, and not a word from the White House. One little meeting in Waco, TX, does not make economic policy for America.

Where is this administration? Where is this President? Where is the economic leadership this country needs?

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

Mr. DURBIN. I will be happy to yield.

Mr. REID. Las Vegas, Clark County, has the sixth largest school district in America. About 250,000 students go to school in the Las Vegas area in one school district. Chicago, I am sure, is larger than that; is that not true?

(Mr. CARPER assumed the Chair.)

Mr. DURBIN. That is true.

Mr. REID. Has the Senator heard coming from the White House during the past 2 months, 3 months, a single word about education?

Mr. DURBIN. No, I have not. I say to the Senator from Nevada, he joined me and Democrats and Republicans in passing the No Child Left Behind legislation the President asked for to put more resources in education. The Senator from Nevada is just as aware as I am that when the President's budget came up, he did not fund his own programs. He did not put the money into the schools as he promised.

As I go across my State—and I bet the State of Nevada is in the same situation—we have seen a downturn in State revenues, cutbacks in State budgets, schools are suffering. They are saying: Where is that Federal money President Bush promised us? It is not there, and this administration does not want to talk about that. They do not want to talk about education security for this country. They want to talk only about national security. They do not want to talk about income security, pension security, health care security, Social Security, or doing something to make our schools more secure.

One has to ask oneself: Is that as good as it gets? Is that the best we can hope for from this White House, to focus exclusively on Iraq and the Middle East? I think it is a mistake.

We have made progress. I tip my hat to the President. Let's use the United Nations. Let's bring Saddam Hussein under control, but for goodness' sake, let's get our economy under control, too. It is really out of hand. People across the country—families, small businesses, family farmers—are suffering as a result.

Ms. STABENOW. Will my friend from Illinois yield?

Mr. DURBIN. I will be happy to yield.

Ms. STABENOW. Having had the opportunity to preside and listen to the discussion, I thank him for putting into perspective what our challenge is, not only on the national security front; I thank him for focusing on the fact we are together and stand for safety and security, but also the fact we need to be focused on our economic security as well.

Mr. President, I wonder, also, if the Senator might add to his list—I know he is aware of the fact we have passed a very important prescription drug bill. We had two focuses in the Senate: One, to add Medicare coverage and, two, to lower prices for everyone.

The point the Senator from Illinois made this morning about the high

price of health care for businesses, for our farmers, for everybody is also very much a part of what we passed to lower prices by getting more competition with generic drugs, opening the border to Canada to bring lower prices, giving States more flexibility.

I wonder if the Senator will comment on the fact that the Senate has passed this very important bill, sent it to the House, and it has received no action this fall. We have nothing yet in committee. We have not seen the President speaking out about the fact we passed a bill that will actually lower prices, bring more competition, address the fact that our seniors and our families are having to struggle right now—in fact, right now, as we are here, there are people who are watching C–SPAN 2 saying: Do I eat today or buy my medicine?

We had a bill which passed the Senate. We would greatly appreciate the President's leadership in encouraging the House of Representatives to pass this bill this fall. We could dramatically lower prices immediately with the passage of that bill.

Mr. DURBIN. I say to the Senator from Michigan, first, let me acknowledge—and I am sure my colleagues know as well—Senator STABENOW has been a leader on the issue of prescription drugs. She has been tenacious. Thank goodness she has been. She took a bus trip to Canada.

The PRESIDING OFFICER. The time of the majority leader has expired. Twenty-eight minutes remain on the other side.

Mr. REID. Mr. President, I ask unanimous consent that until someone comes from the other side, we be allowed to use that time. The minute someone's head pops in that door, we will quit. In the meantime, there seems to be no need to have the Senate voiceless.

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

Mr. DURBIN. I thank the Chair. I thank the Senator from Nevada.

The point the Senator from Michigan makes is an important one. We did pass a prescription drug bill. It was not what we wanted. We wanted a voluntary program under Medicare which would be universal and available for all Americans so they could get the benefits of Medicare when it came to prescription drugs.

We could not convince our Republican friends to go along with us on that, but we did pass a bill in terms of generic drugs to reduce costs for all families across America, to let States come up with their own plans so they could find ways to reduce costs for all the citizens in their State, as well as the safe reimportation of drugs from countries that have much lower costs. Those are three good issues, but do not forget the fourth.

Senator ROCKEFELLER's amendment provides that $6 billion, on an emergency basis, will be given for Medicaid to States facing high unemployment. These States have cut back in reimbursements to providers and hospitals. My State is one of them—I bet the State of Michigan is too—and that $6 billion would come back to the States right now. It would help them keep hospitals open and provide basic health care.

We cannot get the House of Representatives to consider that legislation. Now they are talking about dropping everything and coming up with a resolution on Iraq. Why is it they can drop everything for a resolution on Iraq, but cannot drop everything, when it comes to prescription drugs, to move the issue forward?

Our bill is there. It is pending. It would be a help to all families across America, not just the families of senior citizens.

I say to the Senator from Michigan, we have to keep reminding the President and the Republican leadership that there are many issues in this country, not the least of which is good quality health care for everyone.

Ms. STABENOW. Absolutely.

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

Mr. REID. Mr. President, before the Senator yields, may I ask one more question?

Mr. DURBIN. Of course.

Mr. REID. What the Senator said is we can focus on Iraq and that there are many issues the President can help us on: Getting appropriations bills passed in the House would help us; doing something on election reform—we had another debacle in Florida 2 years after the original debacle; we passed a bill and are waiting to get that out of conference. We have the energy bill we need to get out of conference with the House. There is terrorism insurance, bankruptcy—am I missing anything?—generic drugs. That is one issue about which the Senator from Illinois and I did not talk.

Mr. DURBIN. Patients' Bill of Rights.

Mr. REID. Patients' Bill of Rights. There are so many issues with which we need to deal in the Congress that the President can help us with if we were not on the one track of Iraq.

It seems to me—and one can read about this in the editorial pages every day—that the President could be doing this to divert attention from these domestic issues. Has the Senator read some of those comments, I say to my friend from Illinois?

Mr. DURBIN. I have read the speculation. I do not buy it. I do not believe it, but the point I am trying to make in the course of this—and I think we all are—is that the President has made progress. The United Nations is moving forward. Inspections are going to be ordered. Saddam Hussein has agreed to them. That is real progress. I salute the President for that progress.

What I am now saying is, let's focus on America and some of the things we need to do to win the economic war in this country. I am asking for a very small pledge of time from the White House to focus on these economic issues that face our country. We can do both. The United States can defend itself, fight a war on terrorism, keep a watchful eye on Iraq and still be worried about the issues that American families in Nevada, Illinois, and Delaware think about every day: What about my job? What about my pension? How am I going to pay for that health insurance? Can we pay for these prescription drugs? Is Social Security really in good shape for years to come?

These are real gut-wrenching issues for real families. I think it is a responsibility of the White House to get beyond the agenda they have focused on for the last several weeks and open it up to new issues and new concerns that are universal across America.

We talked about education. Kids are back in school, and there is a lot of concern about whether our schools have the quality teachers they need, whether the kids are going to get the education they deserve. We have to put money back in education. We have to focus on making certain we have after-school programs for kids who need a special helping hand, smaller class sizes—something we pushed for in the past—make sure teachers are paid as the professionals they are. These are real needs.

When we talk about filling real needs, I do not want to overlook in health care a shortage in nursing. I would like the White House to give us 15 minutes this week or next week with an idea for the agenda of having more nurses in America. This is a serious shortcoming in health care in the United States. Hospitals have reduced their number of beds; nursing and convalescent homes, the same, for one simple reason: There are not enough nurses.

We need an initiative, a national leadership. I hope the President will not ignore this. When you listen to the agenda we could be considering, it is substantial, but it gets to the heart of the real issues about which Americans are concerned. I sincerely hope we move on that and move on it quickly. We owe it to the American people.

I yield the floor.

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

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

DOING THE SENATE'S WORK

Mr. DASCHLE. Mr. President, I know Senators are just getting back into town from the Jewish holiday yesterday. And I hope we can make the most of this week. We have a lot to do, on the Interior appropriations bill as well as on the issue of homeland security.

As our colleagues are aware, this afternoon we will have a cloture vote on the Byrd amendment. I reluctantly filed that cloture vote last week because we are now in the third week of debate on the Interior appropriations bill as well as on homeland security. With all of the work that must be done and with all of the issues we must address, we simply cannot prolong this debate indefinitely.

Seventy-nine Senators a couple of weeks ago voted for an amendment offered by the distinguished Senator from Montana, myself, and others responding to the crisis we now face in drought-stricken parts of the country. The regions of the country which are experiencing drought are growing—the Southeast, the Midwest, and the far West—areas throughout the country that have experienced drought conditions, and in some cases it is unprecedented.

We also have a very serious situation with regard to firefighting, so serious that this administration changed its position from one which said we will not provide any new resources for firefighting—that all firefighting moneys that ought to be dedicated to firefighting this fall be taken from the Forest Service budget. They changed from that position to say, we now recognize how serious this situation is, and we will commit $850 million and ask the Congress to support it.

You have two very important priorities in dealing with disaster and crisis: One with the Forest Service and firefighting needs. This is urgent. This is extraordinarily important to the ongoing effort to fight fires throughout the country, especially again in the West. And, second, as I noted, the drought.

We have voted for this legislation. We have gone on record on a bipartisan basis in support of this legislation. I know there are those who still would like to work out other compromises relating to other issues, and if that can be done, I certainly will welcome it.

But we simply cannot go on week after week after week without more notable progress, without more of a tangible way with which to address these needs, and, secondly, without a way to recognize that we have a lot of work to do in a very short period of time. We have what amounts to about 15 legislative days left prior to the time we adjourn for the year. I am troubled, to say the least, by the extraordinary list of items that have to be addressed and the very minimal amount of time legislatively we have to address them.

I come to the floor this morning urging colleagues on both sides of the aisle to recognize the need, to recognize the urgency, to recognize the shortness of legislative time available, and to recognize how important it is that we move on to accomplish as much as we possibly can in a very short period of time.

I can only hope we will get a good vote this afternoon—I would like it to be unanimous—on cloture, so at least on this particular amendment we have the opportunity to move on to other issues, and hopefully to a time for final passage on the Interior appropriations bill.

I will have more to say about homeland security later on in the day, but I must say, this is something that just begs our support, recognizing the prioritization it deserves as we consider the schedule and the need that is so clearly a recognition around the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, the majority leader makes a very good point. I am struck by what we are debating off the floor, which is timber health. At the heart of that is how we deal with judicial appeals, which has brought a new dynamic to that debate on forest health and how we manage our public lands; that is, not a denial of judicial appeals, but also in the area of timber restraining orders.

People can file appeals—we do not want to deny that—but also how we deal with the decision-rendering process, which does cause some concern with folks using timber restraining orders as a tool in the process to get their way. Basically, that is what we have here.

We are on a time line, if we go off this. Those who do not want to see anything move press us into a time line, and then we go on home knowing there is a timeframe on that debate.

Given the time we have and the leader's decision to double-track these two issues in order to facilitate and deal with these issues in a short time line, we have to take a look at that. I know the leader is. I congratulate him for his push on this and to make it a reality. But so far, it hasn't come to be and does not get us to where I think we want to be before we go home in October. We want to move forward as fast as we can.

But also there is lingering debate out there that a lot of folks are concerned about—especially on our forests. I want to bolster the leader's contention that drought relief and disaster relief in farm and ranch country are still with us. Just on Sunday past—here we are in the middle of September with football in the air—it was 92 degrees in Billings, MT. The Yellowstone River is as low as I have ever seen it. Above the Bighorn River where it spills into the Yellowstone, you can walk across that river just about anywhere and not get your knees wet. We still have that concern.

The leader is right. It passed this body overwhelmingly. It should be allowed to move forward with the apparatus in front of us in which to get that relief out to our people who are suffering at this time. I appreciate his leadership on that.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5093, which the clerk will report by title.

The assistant legislative clerk read as follows:

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

Pending:

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I would like to speak directly to the issues raised both by the majority leader and the Senator from Montana; specifically, with respect to how we are going to resolve issues related to the health of our forests.

I know the discussion has greatly focused on fires and the catastrophic results of fires this year. I am going to talk about that to a great extent. But I would like to make a point at the very beginning which I hope we don't lose sight of; that is, fire is merely one component of the problem we have to deal with. What we are really talking about is the health of our forests, both for the protection of people from catastrophic wildfires and also for the ecological benefits that a healthy forest provides. It provides wonderful recreation for our citizens. It provides habitat for all of the flora and fauna we not only like to visit and like to see but to understand that it is very important for ecological balance in our country. It protects endangered species. It provides a home for all of the other fish, insects, birds, mammals, and reptiles we would like to protect, whether they are endangered or not.

In order to have this kind of healthy forest, we have come to a conclusion, I think pretty much unanimously in this country, that we are going to have to manage the forest differently than we have in the past.

What the debate is all about is how the Congress is going to respond to this emergency, not just from the catastrophic wildfires but from the other

devastation of our forests that has created such an unhealthy condition that it literally threatens the health of probably somewhere between 30 and 70 million acres of forest land in the United States.

The administration has come forth with a far-reaching proposal that will begin to enable us to treat these forests in a sensible way. We have legislation pending before us—an amendment by the Senator from Idaho—that was put in place as a means of being able to discuss this. And we have been trying, over the course of the last week or so, to negotiate among ourselves in the Senate to be able to come to some conclusion about what amendment it might be possible to adopt as part of the Interior appropriations bill so that it will be easier for us to go in and manage these forests.

I am sad to say that so far our efforts at negotiation have not borne fruit. I think, therefore, it is necessary today to begin to recognize that unless we are able to reach agreement pretty soon, we are going to have to press forward with the kind of management approach that I believe will enable us to create healthy forests again.

Let me go back over some of the ground that has been discussed but perhaps put a little different face on it in talking about my own State of Arizona.

Some people may not think of the State of Arizona as containing forests. They may think of it as a desert State. The reality is, a great deal of my State is covered with some of the most beautiful forests in the entire United States—the entire world, for that matter. We have the largest Ponderosa pine forest in the United States. Ponderosa pines are enormous, beautiful trees, with yellowing bark. It is not uncommon at all for them to have a girth of 24 inches and above in a healthy forest. They are a little bit like if you want to think of the sequoia trees in California—not quite as big but coming close to that kind of magnificent tree.

One hundred years ago, the ponderosa pine forests in Arizona were healthy. These trees were huge. They were beautiful. There were not very many per acre; and that, frankly, was what enabled them to grow so well. They were not competing with a lot of small underbrush or small trees for the nutrients in the soil, the Sun, the water, which is relatively scarce in Arizona, and they grew to magnificent heights.

Several things happened to begin to change the circumstances. First of all, loggers came in and, seeing an opportunity, cut a lot of these magnificent trees. Secondly, grazing came in, and all of the grasses that grew because of the meadow-like conditions in which this forest existed were nibbled right down to the base in some cases. A lot of small trees, therefore, began to crop up and crowd out the grasses, and pretty soon there was not any grass. There was simply a dense undergrowth of little trees that began to crowd out what was left of the bigger trees, as well.

Then came the fires because these little trees were so prone to burning. It is a dry climate. They are crowded together. Instead of having maybe 200 trees per acre, for example, you might have 2,000 trees per acre or more. But they are all little, tiny diameter trees that are very susceptible to fire. And the big trees that are left, of course, are susceptible to fire as well because when the lightning strikes, it sets the small trees on fire, which then quickly crown up to the larger trees, creating a ladder effect, going right on up to the top of the very biggest trees. It explodes in fire, as you have seen on television. That kind of environment is what we are faced with today.

The old growth has come back. We have some magnificent, big trees, but they are being crowded out by all of these very small-diameter trees and other brush and other fuel that has accumulated on the forest floor. So what happens when there is a fire—whether man set or lightning created—is that the fuel begins to burn. It burns quickly just like a Christmas tree, if you can imagine, if you have ever seen a Christmas tree burn. It quickly burns the smaller trees and underbrush, and then catches the branches, the lower branches of the bigger trees, and then crowns out, and then you have a big fire.

What is the result of the big fires in Arizona this year?

First of all, we can talk about the size of the fires. We can talk about the size of the Rodeo-Chediski fire in Arizona. It was about 60 percent the size of Rhode Island. This is simply one fire. You can see from this map the size of the Rodeo-Chediski fire. Here is the size of the State of Rhode Island. If you add in other fires that have occurred in Arizona this year, you have a size that exceeds the size of Rhode Island. That is in my State. That is how much has burned in my State—about 622,000 acres in this fire alone.

Let me show you what it looks like after that burn. And I have been there. I have walked it. I have driven through it. I have seen it from the air by helicopter. It is a devastating sight. Here it is, as shown in this photograph.

The ground is gray. It burned so hot that it created a silicone-like glaze over the soil. And, of course, it just absolutely takes all the pine needles and branches off the trees, so all you have are these sticks left standing. Some of these, by the way, are pretty good size trees. And there is salvageable timber in here if we are permitted to go in and do that salvaging.

But because of the glaze over the soil, the report from the experts in the field is that when the rains finally began to come, it did not soak into the soil; it ran off. And what you now find throughout the central and eastern part of Arizona is massive mud flow into the streams. It kills the fish. It makes the water unpalatable. It devastates the free flow of the water, so it creates new channels and erodes the soil. It goes around bridges, and there is one bridge that was very much in danger.

It flows into the largest lake in the State, Lake Roosevelt. And Roosevelt Lake is the biggest surface water source of water for the city of Phoenix and the other valley cities. There has been great concern that mud flow will affect the water quality and the water taste, as well as damaging the environment for the aquatic life in the lake and in the other streams.

There are some other sad things about this fire. Just to mention some of the devastation, the total of this fire was about 468,000 acres burned. The total in Arizona is about 622,000 acres. The structures burned in Arizona were about 423, the majority of which were homes and some commercial structures.

In the United States, this year alone, we have lost 21 lives as a result of the wildfires, and over 3,000 structures. The impacts on our forests in Arizona, the old growth trees will take 300 to 400 years to regenerate—300 to 400 years. To have a tree of any good size takes at least 100, 150 years.

We have endangered species in our forests, the Mexican spotted owl, for example. The fire burned through 20 of their protected active centers. So I think those who claim to be environmentalists, who want to protect a forest by keeping everybody out of it, and rendering it subject to this kind of wildfire have a lot of explaining to do when 20 of these protected centers for the Mexican spotted owls were ruined, devastated, burned up in this fire. The recovery time for this habitat is 300 to 400 years as well.

Twenty-five goshawk areas—this is another one of our protected species—and postfledging areas were impacted or destroyed. Wildlife mortalities—and these are just those that were actually documented—46 elks, 2 bears, and 1 bear cub, and, of course, countless other small critters.

I think it is interesting that air quality is something that is frequently overlooked when you think of these fires. I was up there. I know because I had to breathe it. But just one interesting statistic is that the greenhouse gases from the Rodeo fire emitted during 1 day—just 1 day of the fire; and this thing burned for 2 to 3 weeks in a big way, and then longer than that in a smaller way—but 1 day's emissions of greenhouse gases from the Rodeo fire surpassed all of the carbon dioxide emissions of all passenger cars operating in the United States on that same day.

So if we are really concerned about greenhouse gases, just stop and think, all of the emissions from all of the cars in the United States did not equal 1 day's worth of emissions from this one fire. Of course, there were a lot of other fires burning in the country as well.

Let me try to put this in perspective in terms of the amount of area of Arizona that is subject to this kind of fire.

We have about 4 million acres of forest in Arizona that is classified as condition 3. That is about one-third of all the forests in Arizona. Condition 3 is the area that is in the most danger of catastrophic wildfire. Here is a State map of Arizona. And the area in yellow is pretty much the forested area of our State, with the area depicted in red the class 3 area.

So you can see that a great deal of our ponderosa pine forest here is in very dire condition and needs to be treated as soon as possible.

The Grand Canyon is right here. You can see on the north rim, there are significant areas that need to be treated. Over here, near the Navaho Indian Reservation, there are areas that need to be treated. Flagstaff is here; you can see the mountains that rise over 12,000 feet just north of Flagstaff. Those areas are very much in danger. You have the Prescott National Forest, Coconino National Forest, the Tonto National Forest. The Apache Indian Reservation is probably the largest. This area is the watershed for Phoenix, the Gila River and its tributaries. It provides a great deal of the surface water for the city of Phoenix and surrounding areas.

These are beautiful mountain areas with a base elevation of over 7,000 feet. This area over here is 9,000 feet. The mountains rise over 11,000 feet, covered with ponderosa pines, spruce, fir, aspen, and others trees. All of this area is in grave danger of beetle kill disease, mistletoe, wildfire, and being weakened and dying from insufficient nutrients and water because of the condition of the forest.

It is a very matted, tightly packed forest with all of the little diameter trees literally squeezing out the big trees that we all want to save. It is called a dog hair thicket. It is so thick that a dog can't even run through it without leaving some of his hair behind.

Let me show you an example of what the forest used to look like and how it looks today. On the top you see a photograph of 1909. You can see these beautiful big ponderosa pine trees. There are some smaller ones back here. You have different age growths, and that is the way you like to have a forest so as the big ones grow older and die, there are others to take their place. You see a great deal of grass, sunshine, open space. You can imagine this is a very healthy forest because you don't have too much competition for what the trees need to grow. It is also a wonderful environment for elk and deer and butterflies and birds. It is open. You have plenty of grass for forage and so on.

This is the same area in the year 1992. This is the way much of our forests look today—absolutely dense, crowded. I am not sure if the chart is observable here, but you can see that the forest is now very crowded. Here you have beautiful, large ponderosa pines, a couple more back here, but they are being squeezed out by all of the smaller diameter trees.

What we are talking about in management is not cutting the big trees, not logging the forest. We are talking about taking out the bulk of these smaller diameter trees that are not doing anybody or anything any good and are clogging up the forests, preventing the grass from growing. They are ruining the habitat for other animals and creating conditions for insects, disease, and catastrophic wildfire.

For those who say we don't want to go back to logging, nobody is talking about that. We are talking about saving these big trees, not cutting them down.

The problem is, a lot of the environmental community is in total concert with this general management. But you have a very loud, activist, radical minority that is so afraid commercial businesses will want to cut large trees, that they want to destroy any commercial industry. In the State of Arizona, there is essentially no logging industry left. We have two very small mills, and the Apache Indian Reservation has two mills. The Apache Reservation I will get to in a moment because that is where the Rodeo-Chediski fire occurred.

What we are talking about here is having well-designed projects, after consultation with all of the so-called stakeholders, with the Forest Service having gone through all of the environmental planning and designating projects, stewardship projects with enhanced value so that they can go to these commercial businesses and say: Can you go into this forest and clean all of this out and make it look like this? Whatever you take out of here that we mark for you to be able to take out, you can sell that. You can turn it into chipboard, fiberboard. You can turn it into biodegradable products for burning and creating electricity. You can perhaps take some of the medium-size trees and get some boards out of them, maybe some two-by-fours. Can you make enough of a profit to do this for us because there is not enough money for us to appropriate to treat 30 or 40 or 50 million acres?

We are talking about a lot of money we simply don't have. You have to rely upon the commercial businesses to do that. Some of the radicals are so concerned that when they are doing this job for us, they will say: We don't have anything more to do; we want to take the big trees. And they are concerned that we won't have the ability to tell them no. Therefore, they are going to prevent us from cleaning up the forest for making it healthy again. They will create a condition that results in the catastrophic wildfires I was talking about; in effect, cutting off our nose to spite our face.

We are not going to do what everybody recognizes needs to be done because maybe when that is all done, 40 years from now, somebody will say: We want to go after the big trees.

Does anybody believe the political environment in that setting is going to permit us to do that? None of us are going to agree to that. I don't agree to it today.

Let me tell you a story. Former Secretary of Interior Bruce Babbitt is a very strong supporter of what we are talking about. An area he used to hike in when he was young is called the Mt. Trumbull area on the north rim of the Grand Canyon north of Flagstaff. As Secretary of Interior, being BLM land under the jurisdiction of the Department of Interior, he was able to do the rules and regulations that enabled us to go in and do the clearing. So they hired a couple of brothers that had a small business. They brought some pieces of equipment down from Oregon. One of them was a very small caterpillar thing that could snip all these small diameter trees. They cleaned out a fairly good size area. They made enough money to be in business, and isn't that fine. What they left was a forest that looked more like this.

I remember one tree that a BLM person there said: I have to show you this. Here was a tree that looked like a big California sequoia. It was a big ponderosa pine. The boughs came all the way down to the ground. And all around it were these small dog hair thicket kind of trees and brush. He said: We have to get them to clean this out because this tree is very much in danger of burning. If any spark comes within a mile or so, it will just climb up this ladder.

That beautiful tree, that was maybe 200 or 300, 400 years old, is going to go up in flames. That is the kind of tree we are trying to protect. For those who say we want to somehow do logging and so on, I simply say they are wrong; we are not. This is what we are trying to create, not this.

Let's go on to talk about some of the other aspects. In Arizona, there were about 4 million acres classified as condition 3, meaning most subject to catastrophic wildfire. Nationally, there are just under 75 million such class 3 acres. Out of this, the Forest Service identifies about 24 million as the highest risk of catastrophic fires. And this definition means they are so degraded that they require mechanical thinning before fire can be safely reintroduced.

According to the General Accounting Office, we have a very short period of time in which to treat these acres. According to a 1999 study, the GAO says we have 10 to 25 years to treat this 30 plus million acres of class 3 land if we are to prevent unstoppable fires.

This shows you what can be done when you treat the acres. This is full restoration, meaning we have gone in and cut out quite a few of the small diameter trees leaving relatively few, mostly larger trees per acre. This is exactly what this particular acre had on it when the cutting and thinning had

been done, going in and cutting out the small diameter trees.

In Arizona you can introduce fire in prescribed burns during the month of October and November because it is cooler. It is moist, and the fires are not going to get out of control. Fire was introduced here in this area in October, the wet month, and you can see that it is burning along the ground, burning the fuel that has accumulated on the ground. It is not going to go through this tree here or these trees here. It may burn some of the smaller trees, but what is going to be left is a nice environment in which you have grasses that can crop up the next spring and reintroduce a lot of species and habit and protect, as well, from fire.

If lightning were to strike one of these trees and start a fire, it would return along the ground like this. In the hot summer months, once it has been treated, it is likely, with all of the fuel having burned off the previous winter, the fire will move around the ground and it will not crown out to a higher degree of fire.

The reason you cannot treat these forests with fire alone, and you have to mechanically thin and cut out some of the underbrush first, is demonstrated by the next chart. This shows you what happened when we left this many trees per acre. This shows you when you do minimal thinning. They didn't do very much thinning, and they reintroduced fire, and you can see this fire is starting to climb the trunks of these trees and is going to crown out. You see it coming up along the top of this tree. It is going to catch the crowns of a lot of these larger trees. They are at great risk of burning and a fire starting. This is during the wet month of October when you have a lot of moisture. If you don't take out very many trees, a la this particular treatment here, minimal thinning, and you introduce fire, you are going to have a risk of fire in the hot months. It is going to be a very grave risk.

Let's turn to the third chart, which shows what happens when you don't do anything at all, you only burn. This demonstrates why you have to do thinning first. No thinning was done on this particular acre. This is during the cool, wet month of October in Arizona. They introduced fire, and look at what happened. It got out of control and created a crown fire. This is the beginning of what the Rodeo-Chediski fire looked like.

So it is too late in much of our forests to introduce prescribed burning. It will go out of control. You have to go in, as I said, and thin it out first and then, that fall, you set a prescribed burn and you burn all of the fuel on the ground. Thereafter, the grasses grow and everything regenerates and you have a very nice environment.

There is another myth. I talked about cutting old-growth trees. When people talk about saving old growth, we need to be careful because the reality is that a lot of old-growth trees, particularly in Arizona, are not big trees at all. They are not the ones you necessarily want to save. If you have been on the California coast, perhaps you have seen trees over a thousand years old. Some of the oldest ones are gnarled.

Which tree here is the oldest? Interestingly, this smaller tree is 60 years old and this bigger one is 55 years old. This is the younger tree—the big one. This tree was in an area that wasn't competing for a lot of nutrients, water, and sun. It was in a more open area. It grew as you would expect it to—very well, very quickly, and very big.

Obviously, this is a tree we are going to want to preserve. It will get bigger and bigger. But if you have that area in which the trees are crowded together in these very dense thickets, you can have a tree no bigger than this small one after 60 years. In fact, I have another one about the same size that is 88 years old.

Old growth would be something over 120 to 150 years. We have trees not much bigger than this that are designated old growth. We desire to create an environment in which you get these big beautiful trees that grow old and big and create the habitat for all of the fauna I discussed before for which we are trying to preserve the forests. This is an illustration of why you don't want to have arbitrary limits on cutting old-growth trees. The tree you want to save is this big one, not that one, the small one. That makes a much nicer environment and one that is better for the wildlife.

(Mrs. CLINTON assumed the Chair.)

Mr. KYL. Let me now discuss one of the concerns that has cropped up during the discussions about the kind of legislation we want.

There are those organizations in the environmental movement that understand there is too much public opinion in favor of doing something to manage our forests now because of this wildfire season, this catastrophic fire season. They understand they have to make some concessions. They have concluded that the best thing to be for is what they call urban/wild interface management. What that is supposed to mean is that you can go in and thin the areas right around communities and right around people's expensive million-dollar summer homes, and the like, but you cannot go out into the forests themselves.

We will put up the chart that shows the class 3 lands.

The problem is, first of all, it treats very few acres. This will illustrate the point. We don't have very many communities in these forests. There are five or six little towns in this whole area here. To do urban/wild interface management alone, by going out a half mile around the city limits of those little towns, is going to do nothing to enhance the environment in the rest of the forest. It will do nothing to protect the habitat of the endangered species out there. Actually, it does very little to protect the communities themselves.

The Rodeo-Chediski fire—and I will show you the chart later—burned with such ferocity and intensity that the small areas that had been treated provided little or no protection. It was only the areas where there had been a larger area of treatment that were protected as a result of the fire.

I can tell you, while the fire was still burning in the eastern area, we helicoptered up to the Rodeo-Chediski lookout and we drove about another 2 miles on a road that divided between an area that had been treated—that is to say, there had been thinning, and I believe prescribed burning in the area as well, and on the other side of the road it was not treated. The side that was not treated looked like a moonscape. There was no living thing. Every tree had all of the branches and pine needles burned off—nothing but ghostly, ghastly sticks. On the side that was treated, you could hardly see that a fire had gone through there. It laid on the ground, and it burned itself out. It was in a large enough area that it did not burn in that area.

Unfortunately, where you had just a thin, light, little strip of a quarter mile or half mile, the fire jumped right over it. I saw that as well in different areas.

Part of the problem is a phenomenon that exists particularly in the West, where you have dry, hot conditions on the ground. The fire crowns out, as you have seen on television, and these massive spires of flame go 100, 150 feet in the air, which creates a plume of high, hot air, smoke, ashes, cinders, carried upward, and it looks like a mushroom cloud from an atomic kind of explosion because the column of hot air rises like this and it creates a mushroom effect. It gets up into the cooler atmosphere, 15,000, 20,000 feet, and it cannot rise any more because the heat doesn't sustain it. The cool air dampens it down and begins to create condensation. Eventually, the weight of the plume that has risen is greater than the capacity of the hot air to sustain it and it collapses. The firefighters call it a phenomenon of a collapsing plume. What happens then is the whole thing comes crashing down, creating a huge rush of air down on the ground, which pushes out all of the hot cinders, sparks, smoke, and ash out, like this, for 2 or 3 miles.

That happened many times in the Rodeo-Chediski fire. I witnessed the creation of one such plume in an area of Canyon Creek, where I have been hiking and camping. It was devastated by this fire. So it doesn't do you any good to create a bulldozer kind of a firebreak, or a quarter of a mile or half mile of thinning, if the fire can spread with such ferocity. That is what happened over and over in this particular fire.

Let me explain that, notwithstanding the fact that there had been some treatment around some of our communities. Just stop and think about this

for a moment. About 30,000 Arizonans had to pick up everything they had within about a 6-hour—I forget exactly how many hours of warning it was, but it was very few hours. They had to pick up what they could in their pickup trucks and cars and find somewhere else to live for the next 2 weeks. Show Low, AZ, is a town of over 20,000, 25,000 people, and in Pinetop and Lakeside and McNary, a few smaller towns, they had all had to leave. They could not go back in for anything. A few people tried to feed livestock and keep horses and cattle and pets alive, but a lot was lost when these people had to be gone for 2 weeks.

Just think of having to leave your home and not knowing whether it was going to burn or not. Some did burn, but the towns were saved.

Interestingly, one of the reasons Show Low was saved was that a canyon to the southwest had been treated. It had been thinned, and there had been prescribed burning in that area I believe 2 or 3 years before; I have forgotten exactly how long before.

When the fire hit that area, the combination of that plus the backfire they lit in this particular canyon prevented the fire from reaching the outskirts—it reached the outskirts but prevented the fire from burning the town of Show Low.

Think about that. What we need to do is not treat quarter-mile or half-mile or even mile-long strips of property around fancy summer homes or small communities but, rather, treat the forest itself—as much as we can treat, as quickly as we can treat it. Only in that way will we get the environment back to the healthy state it was.

Only by treating large areas of the forest will we be able to return it to the status shown on this chart, where the small mammals will have a place to graze, really small animals will have a place to hide from the hawks, which will have a place to get the small mammals. We will have the birds, the butterflies, and more introduced as a result of this kind of treatment.

I mentioned before the issue of salvage timber. There is objection even to going in and cutting down the trees. I will show a chart of these trees. This is a huge amount of timber that could be salvaged as a result of the fire. In this kind of landscape, we need to cut some of the trees to lay it down and stop some of the erosion which inevitably occurs because of this kind of fire. It will enhance the regrowth of that area. Even seeding and planting does not do any good because the water washes all that material into the streambeds and it does not take.

This is timber that has a huge amount of value if it is able to be removed quickly, but disease will set in and deterioration will occur within a few months. If it is not removed in a 12-to-18 month period, it is lost. This is one way to help pay for what we are trying to do. Rabid, radical environmentalists do not want to even salvage that timber. Why? Again, because it will actually provide some jobs for the commercial timber industry and the mills that would mill the trees into lumber. They do not want them to be in existence because they then pose a threat to the rest of the forest. That is their logic. It is amazing logic.

Most of the Rodeo-Chediski fire was not on Forest Service land. Sixty-some percent was on the White Mountain Apache Indian Reservation. One can see on this chart the area of the fire. The green area is the Apache-Sitgreaves National Forest, and the yellow area is the Fort Apache Indian Reservation.

The White Mountain Apache Tribe relies a great deal on the revenues of its timber operations to sustain its tribal operations. In fact, it is the tribe's biggest source of revenue.

Also significant to the tribe is the revenue it derives from the hunting that it permits on its land. The White Mountain Apache Tribe for decades has been very smart about how they have managed their forests. They understand that if you are going to have wild turkey, if you are going to have bear, if you are going to have wildcat, huge elk that people are willing to pay $10,000 to hunt, if you are going to have that kind of wildlife that will bring in these kinds of trophy hunters who will pay the tribe a lot of money to hunt on the reservation, then you have to do a couple of things. First, you can only take out the number of animals necessary to keep healthy herds, a healthy group of bear or lion, or whatever it might be. So they take out very few of those animals, just enough to keep the forest ecosystem in balance.

Second, you have to have a healthy forest. You have to have a forest that is not all grown over in this dog-hair thicket environment but, rather, the more open forest that I showed before. The reason is that these elk have to have grass on which to graze, as I said. You are not going to have an environment where the lions are going to be able to go after the smaller critters because there will not be any small critters if they do not have places to forage and places to hide.

The White Mountain Apache Tribe has been very smart about the way they have managed the forests. They have not been subject to the same restrictions as has the Forest Service. They have been able to do more prescribed burns. They have been able to do thinning and utilize that small-diameter timber in their mills, and they have taken out modest amounts of medium- and a little bit of larger diameter timber as well.

Some environmentalists say: You cannot do that; there has to be a diameter cap of 20 inches, 16 inches, or some number. The tribe has not been subjected to that. It has asked itself the question—it is the type of question experts, such as Wally Covington from Northern Arizona University, ask: Not to define old growth or diameter cap, but take a look at the area and determine its carrying capacity. What will this particular area carry? What did it carry 100 years ago in terms of the kinds of trees, and other growth, and the number of trees?

When one determines that, then one knows what kind of treatment is called for. In some areas, you are going to cut all but 150 trees, leaving mostly large trees with a few more intermediate-size trees. In other areas, you may cut less. It may be that an area is so full of medium-size growth trees, let's say 20-inch diameter trees—you may be taking several of those out or maybe quite a few of those out. It does not mean you are harming the environment. It means you are reducing the number of stems to the carrying capacity of the land so it can rejuvenate, so it can grow back, and the trees left will be the magnificent trees we are trying to preserve. We will have grass and all the rest that is necessary for healthy flora and fauna.

That is the idea of this treatment. Over the years, the Apache Tribe has done a good job managing their forests. As a result, they have had less of a problem with fire. There are several different areas that have been treated, and in the bear report that followed the devastating fire, there is quite a bit of discussion about the kind of timber that was lost, the areas that were not as heavily damaged, and a discussion of the areas preserved, by and large, because they had been treated in the past.

I find it interesting, by the way, and I am going to digress here—let me make this point. We need to help the Fort Apache Tribe salvage the timber that is salvageable in this area. They do not have the capacity in their mills to do it, but they can mill some of it and then sell some of it to others. They have to get to it right away. They are making plans to do that. They need about $6.7 million to complete this project. I hope we will be able to provide that to them and it will help sustain the reservation.

As to the Forest Service, there are objections already to salvaging the same timber. We do not know where this boundary is when we are on the ground. It is all the same. Why the Apache area can be salvaged but not the Forest Service area I cannot explain. Nobody can rationally explain it. We need to salvage there as well. Yet there are those who object to any opportunity to salvage this timber.

One of the ideas for legislation was to have an opportunity to complete some stewardship projects or enhanced value projects that would in a temporary way—maybe over a 3-year-period of time, for example—treat areas of the forest that have not burned to see how well this kind of management worked.

This has been tried in the past. One of the cases is the so-called Baca timber sale. When we talk about timber sales, some of the more radical environmentalists get all upset because we

are actually going to sell some timber to a mill that can mill it into lumber and build homes and lower the price of homes, by the way, so we do not have to buy all the timber from Canada at higher prices.

This Baca timber sale was proposed in 1994 to reduce hazardous fuels both in the interface and to improve forest health. It followed 5 years of planning and public participation. All the stakeholders were involved. But environmentalists appealed and litigated the case for 3 years.

The Baca timber sale was in this area. When the Rodeo fire went through that area, it burned about 90 percent of the proposed area. An area that could have been treated, that could have been made healthy, that the fire would largely have skipped around, was left to be ravaged by this catastrophic fire. The same environmental groups currently threaten lawsuits that would prevent the restoration of this area, which is why I mention that.

I ask my colleagues, when are we going to say we are no longer going to be jerked around by the radical environmentalists' agenda to destroy the commercial timber industry so they never have to worry about any big trees being cut, in the process permitting the forests to burn, destroying the habitat, endangering lives, burning homes, and burning up the same trees they want to save, as well as the environment for the species?

I mentioned before some of the species. The goshawk is an example. In 1996, the Forest Service proposed a project to thin near the nest of the goshawk, partly to reduce the fire hazards that were presented to the goshawk. These radical environmentalists appealed. That year the fire burned through the forests, including the goshawk nest. That is what happens when irresponsible environmentalists have control.

What does the control result from? It results from the fact we have a legal system that was designed to provide the maximum environmental input into decisions about abuse by some of the radical environmental groups. Let me cite some statistics from a report released in July by the Forest Service that covered the appeal and litigation activities on the mechanical treatment projects during the last 2-year period. Out of 326 Forest Service decisions during this study period, 155 were appealed, more than half; 21 decisions that were administratively appealed ultimately led to Federal lawsuits.

What happens with the lawsuits? You get an injunction which prevents you from moving forward with the project. In many cases either it burns while the project is pending or the Forest Service decided to move on rather than fight the appeal. The appeal, therefore, goes away, the work never having been done.

In the southwestern region of Arizona and New Mexico, 73 percent of all treatment decisions were appealed. Nationwide it was almost half—48 percent of the project decisions in fiscal year 2001 and 2002. Again, 73 percent in our area were appealed.

We cannot operate that way. The Forest Service is spending half of its budget preparing for these projects and fighting them and doing the work in litigation and on appeals to respond to the environmental community activity. About half of their budget is spent directly fighting the appeals, dealing with the injunctions, or preparing the projects in such a way as to be immune from this kind of litigation, which almost inevitably appears anyway.

On administrative appeals alone in 1999 through 2001, in Arizona—just one State—environmental groups filed 287 administrative appeals; 75 of these were filed by two groups that are very active. In litigation in the last 5 years, the Sierra Club and the Center for Biological Diversity litigated 11 projects in Arizona and in 10 years litigated 17 projects, including the Baca timber sale which was 90 percent burned while on appeal because of the litigation that ensued.

This is what has to stop. The administration, President Bush, has visited these areas and has concluded that the best way to try to deal with this problem is to keep the environmental laws in place so there is never any question about the application of the proper standards for the projects that are developed but to make it more difficult for those who are appealing for the sake of delay, to delay projects to the point they are no longer worth proceeding. In other words, move the process along.

The President's idea is you still have to have sales or projects that comply with the NEPA process where there is environmental review by the State holders, but you cannot get a temporary restraining order or preliminary permanent injunction in court unless the court decided the case and imposed a permanent injunction on the sale, but you could not go in advance and get that injunction, which is frequently what happens today.

In addition to that, the administrative appeals would be reduced or eliminated for certain sales. If you want to file suit, you can file suit and go directly to the judge. The hope would be that the judge would decide the case quickly and therefore either the project moves forward or it doesn't, but everyone knows they can move forward with alternative plans if the project cannot move forward. It seems to me on a trial basis, a limited basis, that would make sense.

What we proposed was we limit this proposal to class 3 areas—in my State of Arizona it would be only the red areas—that we limit it in time to maybe a 3-year authorization so we see how it works. If people do not think it works, we do not have to continue it. And that we limit the amount of acres that would be treated—maybe 5, 7, or 10 million acres per year, something like that. That, obviously, could be negotiated. And you would limit the way in which the appeals could be brought and have no temporary restraining order or preliminary injunction to be able to stop a particular sale. There would also be no limitation on the salvage projects I mentioned before.

Now, would these projects be logging? Would they be clearcut, et cetera? Of course not. First, they would have to be pursuant to the plans that have been developed by the forests. All of these regional plans have long ago discarded any kind of clearcut cutting. They have basically adopted the management theory of reducing the small diameter underbrush and small diameter trees, leaving, by and large, the larger older trees that we want to preserve.

Those are the plans in place now. They are the plans that would be proposed. If there is any plan that is not consistent with that, obviously, people could file a lawsuit and they could go to court and say, judge, this is not consistent with what we had in mind. And the court, of course, could say, that is right. If the proper environmental analysis had not been done or was inconsistent with the plan, the project could be stopped. That is what we are proposing.

As I said before, we have been in negotiations with our friends on the other side of the aisle. I mention in particular Senator FEINSTEIN from California has been very helpful in trying to find some middle ground, to craft a plan to permit us, over a very short period of time, to be able to treat a small amount of acreage and see how well it works. If it works well, perhaps we could go on from that. We got to the point of having a 1-year authorization, with 5 or 7 million acres maximum to be treated. It would be limited to this class 3 area. And a high priority would be given to urban wildland interface and to municipal watershed areas. Even that has not been accepted.

The question is whether or not we are going to be able to reach an agreement that permits us to fairly quickly pass an amendment, have it adopted and sent to the other body so we can begin negotiation for a conference report that enables us to send something to the President and begin treating these forests or whether we are basically going to be in a stalemate or gridlock with the two different camps in the Senate, neither one having the votes to prevail, with the result that nothing comes out of this legislative session and we will be left with an opportunity missed, and a heightened risk for the forests that we want to preserve.

That is the choice before the Senate. I call upon my colleagues who have been working on this to try to find a way to enable us to be able to treat some of the acres in good faith, and see how it works, and if it does work well, as we predict it will, to enable us to expand that to the roughly 30 million

acres that the General Accounting Office said we need to treat or else see burned.

Those are the stakes. I call upon my environmental friends, who are mostly concerned about protecting these areas of the forests, to think about the priorities.

Do we want to protect the habitat for those endangered species that we all would like to preserve? Do we want to protect the habitat for all the other flora and fauna? Do we want to have a healthy forest or do we want, in effect, to let it go to seed, risking catastrophic fire, disease, and insect devastation which will not protect the environment but will destroy it for all the purposes I mentioned before?

That is the choice before us. It seems to me there is no better time to act and, in fact, this may be the last opportunity to act this year in order to achieve this result. I urge my colleagues to find this compromise; if not, to support the kind of effort I propose that is a limited project with very tight constraints—in effect, a pilot or demonstration project to see if we can make this kind of forest management work.

I thank my colleagues for their indulgence.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, administration budget requests and congressional appropriations bills are a clear reflection of our priorities as a nation. As was discussed on the floor earlier today, it seems we had, from the administration, a focus on Iraq and nothing else.

I am happy to see a bill just came from the House. I would like very much to see other things coming from the House, not the least of which is the rest of the appropriations bills and the matters that are now in conference. No. 1 on the top of my list is the terrorism insurance bill. We need to have that done.

I think now we have the second debacle in a row in Florida. We have election reform that we have passed. It would be nice to finish that conference report as well as the Patients' Bill of Rights and the generic drug bill that seems lost over there sometimes. We have a lot of things that we need to complete.

And, of course, bankruptcy reform. Senator CARPER came to me this morning, here on the floor, and told me how desperately his constituents feel this is necessary to help many different industries. So there are a lot of things we need to do.

I listened patiently to the very erudite remarks of the Senator from Arizona. I would say it is not an either/or situation. It is not a question of forests burn down or the radical environmentalists caused all this. The fact is, what we are proposing is instead of 70 percent of the money being spent where there are no people, we reverse that and have 70 percent of the money spent in places such as Lake Tahoe, a beautiful lake shared by California and Nevada. We are very concerned about what happens if a fire occurs there.

My friend from Arizona said there are million-dollar homes, that is what we are trying to protect—and I am sure there are, in the Lake Tahoe area, some very expensive homes. But remember, this is also an area of hotels, motels, and ski lodges and the service people who work in those are not millionaires and don't have millionaire homes but they need to be protected. That is what this is all about.

As I said, the administration budget request and appropriations bills are a clear reflection of our priorities as a nation. It is where rhetoric meets reality. In an economic downturn, and that is what we are in now, it is more important to put people first, ahead of—instead of handouts to—corporations.

Unfortunately, I am sorry to say, the Bush administration's so-called healthy forest initiative would add to its already impressive list of corporate giveaways. This proposal is anti-community and anti-environment, plain and simple.

My friend is in a neighboring State, Arizona, and I know they have suffered these devastating fires. We have watched them and feel for them. But the answer is not to bash on radical environmentalists. That is not the cause of these fires. We have a number of people in America who feel very strongly that the proposals made by my friend from Arizona, where you basically take away judicial review of decisions made, is wrong. I do not think there are many who would put the League of Conservation Voters in the camp of radical environmentalists. In fact, I think they are very moderate. They see things the way the American people see things—a way to protect the environment. The League of Conservation Voters will grade all of us, all 100 Senators, on this amendment and on this vote.

I think it would be a shame if, because of the pending Craig amendment, that the minority would vote not to invoke cloture on this most important piece of legislation. We need to move forward with this bill. If cloture is invoked, the Craig amendment falls—no question about that. But we have tried to work something out and we have been unable to work it out.

My good friend from Oregon, Senator WYDEN—who is a consensus builder, who is a longtime legislator—understands the art of legislation is the art of compromise. He has worked for weeks trying to come up with a compromise. If WYDEN can't do it, it cannot be done, because he is someone who understands legislation and how to work out a so-called deal.

The League of Conservation Voters will grade us on this amendment in its annual scorecard. Whoever votes to agree to this amendment will fail, in their eyes, fail to protect the environment. That is what this vote is all about today.

Like the Bush plan, the Republican amendment is championed as a way to address the real fear and suffering of those who live in danger of wildfires. Sadly, this is simply a smokescreen for another corporate handout. This is tragic because wildfires have burned roughly 100,000 acres in Nevada and more than 6.3 million acres nationwide this year. The fire season is already one of the worst in the record. In Nevada, it is past. That doesn't mean we can't still have devastating fires, but this fire season has been bad. The one before it was bad. By December of this year we may have the grim distinction of it being the worst year for wildfires in American history.

Faced with this devastation, what is the administration's plan? It proposes to suspend environmental reviews of timber projects, making it easier for timber companies to harvest large, healthy, fire-resistant and, of course, profitable trees. The Republican plan will suspend the main environmental law applicable to our forest, NEPA, the National Environmental Policy Act. That is the law that forces the Forest Service to ensure its timber sales don't hurt the environment. It is the avenue through which local people and governments review these sales.

It would also prevent any meaningful judicial review of timber company and Forest Service actions. That is what this pending amendment would do. That is because in the Republican plan the issuance of temporary restraining orders and preliminary injunctions is prohibited. That is what restraining orders are all about. If you do not have a restraining order, by the time you get to court the trees are gone. What is the point of judicial review if the trees have already been clearcut by the time you walk through the courthouse door?

The Republican amendment also fails to target funding to the places where forests meet our communities, where people and property are at greatest risk. This is not a situation where there will not be work done in areas outside of municipalities, places where people live. But we are saying let's reverse things. Instead of spending 70 percent of the money where there are no people, let's spend 70 percent of the money where there are people.

The Republican amendment does not require that a certain percentage of funds be spent on wildlife/urban interface. Instead, it gives the Forest Service discretion to carve out big tree timber sales and cast aside community concerns, as they have been doing for such a long time.

There is no hard target to protect our communities because that is not what the Republican plan is about. It is about making it easier for the Administration to sell our forests to their favorite timber companies.

We already have a stack of GAO reports detailing the myriad of ways that our forests are mismanaged by our agencies.

For example, we know that government agencies do not target funding to

the wildland-urban boundary where we can best protect lives and livelihoods.

According to the President's own budget, only one-third of the fuels reduction budget was spent to directly protect people and homes. That report came out in February of this year.

Think about that. The Forest Service has a record of spending most funding out in the forests, away from people. That is not an acceptable record. They support logging of large, profitable—and fire resistant—trees. They place lower value on hazardous fuel reduction projects on forests and rangeland around communities.

Don't just take my word for it. In response to GAO requests, Forest Service officials themselves stated that they tend to ''(1) focus on areas with high-value commercial timber rather than on areas with high fire hazards or (2) include more large, commercially valuable trees in a timber sale than are necessary to reduce accumulated fuels.''

How does the President reward agency mismanagement? By repealing public oversight. The record of agencies in managing our forests demonstrates just how important it is to have that oversight.

When my colleagues vote on the Republican plan, they should ask ''Would it truly help communities threatened by fire?'' The answer is no.

I hope the minority will vote to invoke cloture and have this amendment go down. The Craig amendment should fall.

The big trees that would fall as a result of this amendment aren't the main cause of the wildfires now scorching many states—including mine, the State of Nevada, and of course, all over the West.

The real personal and economic danger facing Americans in the areas where our wildlands meet our communities is being used as the disguise for this latest giveaway to big corporations.

The Administration and the Republican amendment don't focus resources on these areas—a principle embraced in the National Fire Plan and the Western Governors' Association. I don't think they are radical environmentalists.

Instead, they make it easier to squander fire money on projects that are far from communities and that threaten to worsen future fires.

I am sorry that it appears that it is the modus operandi of the Bush Administration—roll back environmental laws, cut the public out of the process, keep people in the dark and turn over a public resource to corporations.

Corporations can handle anything; any problem in America, turned over to corporations. We need oversight of these corporations.

In this case, that choice puts people in harm's way—it diverts taxpayer dollars from public safety and, in many instances, to private plundering. We should instead spend fire money on projects that reduce the risk to communities in forests and rangeland at high risk of wildfire.

Mr. President, Nevada has relatively little commercial timber but we do have a terrible hazardous fuels problem that threatens Nevadans from Caliente to Reno—all over the State. Past practice proves that Congress needs to direct spending these funds to protect communities rather than accepting the President's new proposal.

Protecting people should be our priority today, not paving the way for companies to remove great trees from our public lands.

There could still be work done, and there will be work done in areas that the Senator from Arizona says there should be. What we are saying is all the money shouldn't be spent there. We are also asking: Why not have judicial review? Why not have the ability to look at what is being done by these agencies?

No one wants these fires to occur. They are devastating. But you have to recognize what appeared in, I believe, today's Washington Post—it could have been in yesterday's Washington Post—and what happened in Montana 2 years after the devastating fires. They reviewed in depth what happened there. We know fires have been burning for centuries—forever. You need to have these fires occur on occasion. That is why we have prescribed burning in all of the country. It is too bad we had the serious problem with prescribed burning in New Mexico. But we need prescribed burning. Burning makes for healthier forests. We have to deal with what we are calling for in the amendment that we want to offer; that is, have prescribed burning to make healthier forests. We want to improve forests so we have nature doing what it has to do.

We know pine trees can only germinate if there is a fire. There is new growth of pine trees after fires, which pop the pinecones, and causes the planting. That is something which is extremely important.

We tried to work something out on a compromise basis. We can't do that. The majority leader made the right decision. A cloture motion was filed. We are going to vote on that this evening.

I hope the Craig amendment will fall so we can move forward with this bill and complete this legislation.

I am disappointed we won't be able to offer our amendment. Our amendment would also not be germane. That is too bad because I believe we should focus on what is going to happen in urban centers—in areas where there are people. Hopefully, we can get the mix of money being spent so that more is done there and not out in the middle of nowhere.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I cannot sit idly by and not offer some comment on the Senator's statement.

No. 1, the Senator has flopped the money in regard to the President's budget. I might add that at least the president completed a budget. Seventy percent of this money would go to wildland urban interface, and 30 percent goes to the less populated areas, not the other way around as the Senator from Nevada suggested.

In this amendment, we change no environmental law. We deny no one the appeal process. Both administratively and judicially, those things don't change.

What I am asking Senators and this country to consider are environmental laws, NEPA, clean water, clean air, and the Forest Management Act, which has been in effect for some 25 years. We have been operating and managing under those laws for that long without some reform. Look at the track record. I'm asking for proof you are right to deny this; prove us wrong.

For years and years, I have followed football a little. I guess what makes that game great is there is only one rule book, and it is in every State across the Union. If we want to bring some discipline, look at that fact and compare it to what we are doing in our judicial system.

When I look at the appeals process—as the chief of the Forest Service said the other day, if you get 999 people out of 1,000 to agree on a management decision, it can all be stopped by one person. That has been the case ever since these laws were put into effect. We see the result, we get growth, and we burn. We do away with grazing, and we burn. If we do away with active management of a renewable resource, what was there before? We saw younger trees that grew old, matured, died, and regrowth occurred.

Once again, look at the track record of the management we have been under for the last 25 years. We see great regrowth and reforestation even in clearcuts where that management has worked: New trees, new forests, a renewable resource that is in demand by the American public, to carry on into the next generation and the next generation, a renewable resource that can be used by all Americans, all Americans; that is, if housing and the use of lumber appeals to you.

I realize some folks don't worry about the cost of a home or people getting into their first home. The folks on the other side of this issue are less caring about it. The League of Conservation Voters—who are a pretty moderate group, have a little radical group among them that actually makes the policy to carry out their appeals process in this situation.

Make no mistake about it, if they who want to manage the forests differently want us to prove why we think this plan would work, then I ask for the other side to use the same system to prove theirs has worked. For 25 years, those management practices have all but culminated, in the last 4 years, in the destruction of a renewable resource which could have been somewhat prevented.

Yes, there will always be fires. They even slash and burn after harvest is over. Do you know what? They grow back. They are wonderful. They are beautiful. But what I fear is that the way this system is now, people who have never had any dirt under their fingernails are making the management decisions on a resource that should be used for generations to come. It just does not make a lot of sense to me.

Compare the track records. No money goes to corporations. No law is changed. All rights are preserved. We are saying let's put the football at the 50-yard line. Nobody likes to start on their own 20.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, we are attempting to make a very important policy determination on the management of our public lands. Many of us have been on the floor over the last good number of years to talk with some concern about the changing character of our public lands and the impending crisis that might occur under the normal climate cycles across the United States as a result of catastrophic wildfires on our forested public lands.

Tragically enough, many of the alarms we were talking about were based on studies done over several decades, that inactive management of our public lands, in the absence of fire, was allowing a fuel buildup that ultimately could result in catastrophic wildfires.

We are now at that point where it has become obvious to the American public, from watching television this summer, and seeing the fires that have raged across the western forests, that something is wrong out there; that this was not a normal environment; that this was something they were not used to; Why were these beautiful forests now burning?

They were burning, they are burning—they are still burning—and have been since mid-June because of public policy that had largely taken fire out of the ecosystem but had not allowed a comparable activity in the ecosystem of our forested lands that would remove the underbrush and the small trees and maintain the kind of environmental balance that was there prior to European man coming upon the scene a couple hundred years ago, and especially in the last 65 to 70 years when we had become very good at putting out fires in our forests. It is from that perspective that brings us to the floor today.

A few moments ago, my colleague from Arizona was on the floor talking in great detail about the wildfires that swept across his State this summer—the white forests of southwestern Arizona, and the phenomenal damage that occurred there. It nearly wiped out an entire community. It clearly destroyed valuable ecosystems and watersheds and wildlife habitat to a point of ultimate devastation.

It, in fact, has created such an environment that it denies Mother Nature, once she has done this damage, the ability to come back and to create a resilient forest in a reasonably short period of time. By that I mean several decades.

These fires are now so intense, based on the fuel loading on these lands, that it is equivalent to literally tens of thousands of gallons of gasoline per acre in Btu's. The fire burns deep into the soil, soil loaded with organic materials that absorb and hold water and allow plants to flourish, creating what are known as hydrophobic soils. In other words, it caramelizes them; it fuses them; it ultimately destroys the ability of these lands to reproduce for decades.

Of course, because you have denied the ability of the land to absorb water, when the rains come in the fall, massive landslides, erosion, and watershed damage occurs. Right now, in Colorado, with the current rainfall, landslides are occurring as we speak. They are not making the national news that the fires that swept across those lands a couple of months ago did, but they are making the local news because the roads are blocked, people cannot traverse the area, watersheds are being damaged, and, of course, the quality of the water that now flows into the reservoirs that supply the urban areas of Denver and other places is in question—all because of public policy and a perception that has prevailed in public policy for the last several decades that inactive management, no management, man's hand not present in the forest, was, by far, the better way to go.

I am not even questioning the fact that several of the industries that were prevalent in our forests over the last century have lost credibility in the eyes of the American people. I am not even going to argue that forest policy of 30 years ago, based on certain attitudes and certain images, projected by national environmental groups, has not changed attitudes and has caused us to lose the support of the American public on certain aspects of national U.S. forest policy. I believe most of that is true.

But what I also believe is true is that a radical move from one position to the other, and holding the far position on the other side, is just as bad as maybe clear cutting policies of 40 or 50 years ago.

Many will now argue: But we are saving old-growth forests across our country by disallowing the human hand to touch the land. I suggest to those who so argue that this year we have lost over 2½ to 3 million acres of old-growth forest because we were not allowed to go in and take out the underbrush and the small trees that are below these older trees. And as the fires swept across the land, it took everything, including the old growth.

So radicalism or extremism or a fixed policy on one extreme or the other can produce the wrong results. Putting good stewards on the land who understand the science of the land and the science of the forest itself is, by far, the better way to go. But in the last decades, we have decided that the policy was bad. I say, collectively, as a Congress, we have decided that. So we began to micromanage from the floor of the Senate. Every Senator influenced by some of his or her environmental friends decided they were the forest experts. They would legislate the particulars or they would deny certain actions that should be happening on the public lands.

As a result, over the last number of years, we have seen the average number of fires and total number of acres destroyed per year begin to rapidly increase on our public forested lands.

What was once an average burn of 1 million, 1.5 million to 2 million acres a year is now up into the 6 to 7 to 8 million acres a year. And it seems now, if you were to graph it, to be progressively climbing.

This year we have now burned about 6.5 million acres of forested land—not just burned it but destroyed it. There is hardly a tree standing—watersheds destroyed, land hydrophobic, wildlife habitat gone. Mother Nature will not come in there and replace herself for a decade. In the meantime, watersheds will slip and slide off the face of these mountains in landslides, riparian areas destroyed and urban areas at risk.

We are, therefore, going to sit here, as a Congress, and say: This is OK. This is the right thing to do.

The majority leader some months ago knew that in the Black Hills of South Dakota it wasn't the right thing to do, and he was able to work with groups and accomplish for South Dakota some of what we would like to accomplish for the rest of the forested States of our country: an active form of management that brings groups together, creates local public interest, understands the dynamics of good stewardship, and allows some degree of active management.

So for the last several weeks we have worked very closely with a variety of Senators from both sides of the aisle to see if there was not a bipartisan way of accomplishing this. Tragically, some interest groups have some of our colleagues so locked into a single position that they can find no flexibility in their vote.

My colleague from Oregon, RON WYDEN, and Senator DIANNE FEINSTEIN of California have worked closely with us to try to make some of these changes. They have come a long way. I, too, have come a long way in trying to craft a middle ground that will allow active management on a select number of acres of land to prove to the American public that what we can do can be done right not only in improving forest health but, at the same time, not damaging the environment and, in a very short time, allowing that land to rapidly improve as wildlife habitat and watershed quality land and also be productive for additional tree production

for the housing industry and for the American consumer that would like to own a stick-built home.

Last week, Senator DOMENICI of New Mexico and I offered an amendment that we thought was a comprehensive effort to come to the middle ground, to a position that both sides could support. We took the advice of the western Governors who met with the Secretary of the Interior and the Secretary of Agriculture some months ago to express the very concern I and other Western colleagues have expressed about the state of at least the western forests and to try to arrive at a collaborative process that would allow both sides to come together.

In our amendment, what we have offered is basically allowing a collaborative process to go forward at the State levels to select those lands most critically in need of active management for the kind of thinning and cleaning that would be most desirable under these areas and, at the same time, to recognize the clear protection that would come as a result of existing forest plans, to not override forest plans that most of our States have on a forest-by-forest basis, but to recognize that those are appropriate planning processes, that the efforts we would recommend to improve forest health would be consistent with the resource management plans and other applicable agency plans.

We would establish a limited priority of action, and that limited priority would be in the wildland/urban interface areas. This year, we have lost over 2,100 human dwellings while we have lost 6.5 million acres of wildlife dwellings. So the human, in this instance, is experiencing phenomenal damage to his or her dwelling, just as is wildlife. As a result of that, we recognize the most critical need of trying to resolve the wildland/urban interface.

I see my colleague from West Virginia on the floor at the moment. He was very willing to put additional money into firefighting this year. It is part of this amendment on the floor now.

Why? Not only do we need it, but now the Forest Service spends most of its time protecting houses instead of protecting trees and wildlife habitat and watershed. Why? Because over the last 25 years in the West, every piece of non-Federal land that is in the timbered areas has found it to be a place where people like to live. They have built beautiful homes out there. As a result, we now have a conflict that we did not have 25 years or 30 years ago when fire became an issue on our public lands. So we are dealing with the wildland/urban interface areas.

The other area I mentioned, now very critical in the West, is the municipal watershed area. These are the watersheds that provide the water and the impoundment or where water is collected for our growing urban areas. Many of those were devastated this year. I was on one in Denver, Colorado; now devastated, water that will now flow into the reservoirs that will feed the city of Denver. Much of that water will have the result of an acid base produced by the ashes of the forest fires that destroyed the watersheds of that area.

We also recognize that forested or range land areas affected by disease, insect activity, and what we call wind throw or wind blowdown, those are the areas that are now dead or dying. As a result of that, those are most susceptible to fire. We have recognized the need to get into some of those areas. That would be important to do.

Lastly, areas susceptible to what we call reburn, where the fire flashes across it, largely kills the trees, and then causes those trees to die, making them more susceptible to fire.

We have also said that this approach, while extraordinary, will include only 10 million acres. When I say only 10 million, I am talking about over 300 million forested Federal acres in our Nation under the direction and management of the U.S. Forest Service. These forested public lands encompass a very small amount. This would be showcased over a limited period of time with substantial restrictions. So that would be very important, and the process would have some limitations as it relates to current law: That we would not allow appeals or injunctions, but that there would be a judicial review process on a project-by-project basis. It would allow the filing in a Federal district court for which the Federal lands are located within 7 days after legal notice when a decision to conduct a project under the section is made. In other words, we do provide a legal remedy for those who openly object to any of this activity.

As I and others have said, and the President said over a month ago, we will not lock the courthouse door. While we think it is tremendously important that we begin to deal with forest health, we should not deny the fundamental process in the end. And we would not deny locking the courthouse door so that there could be a review as these actions proceeded.

Those are the fundamentals of what we are proposing to do—a limited nature, 10 million acres, to allow the groups to come together on a State-by-State basis to meet with the Forest Service and examine those acres and the most critical need of action, and to recommend to the Forest Service those areas, to allow a limited environmental review to go forward and, through that recommendation, then move to expedite the process in a way that is commensurate with forest health.

(Mr. JOHNSON assumed the Chair.)

Mr. CRAIG. If we could treat 5, or 6, or 7 million acres a year, and by that, I mean thinning and cleaning, leaving the old growth; our legislation talks about leaving no less than 10 trees per acre of the oldest trees, and more if it fits the landscape, or the species, or the watershed in which this activity would be going on.

But even if we do all of that—if the public would allow us, and this Senate were to vote to become active managers of our lands once again—with all of that, the state of our forests is now in such disrepair from a health, fuel-loading, big-kill standpoint, that in the years to come we are still going to lose 4, 5, 6, 7 million acres a year to wildfire. It is simply a situation of human creation by public policy that has denied active and reasonable management on these lands for several decades now. As a result of that, we have a tragedy in the making.

But if we act, in the course of the next decade we can save 700, 800, or a million acres of old growth and watershed and wildlife habitat, by these actions, that might otherwise be burned by wildfire. That is the scenario and the issue as I see it. It is also the issue that some of our top forest scientists see.

Is it a political issue today? Tragically enough, it has been politicized. There seems to be a loud chorus of people out there who say: Do nothing. The tragedy today is that a do-nothing scenario is, without question, more destructive to the environment than a do-something scenario could ever be, because it would be total destruction instead of limited damage in some areas that we treat, as we move to protect the old trees and guard against entry into the roadless areas at this moment in time, but still allow the thinning, cleaning, and fuel removal to come out of these acreages, as proposed by the Craig-Domenici amendment that is now pending.

So I hope my colleagues will support us and join with us. While the fires have dominantly been in the West this year, this is not just a western issue. We are fortunate to have forested public lands all over our country. Here in the East, similar problems are now happening: Overpopulation of our forests, even in the hard woods, bug kill, fuel loading; and now we are beginning to see more of our forests in the East, along the Allegheny and the Blue Ridge and down into the South, become ripe for burn during certain seasons of the year.

So it is a situation that is now beginning to repeat itself in the East as much as it has since the late 1990s out in the West. So I believe it is a national issue of substantial importance and one that we ought to spend time debating and understanding.

I encourage my colleagues to visit with me, Senator DOMENICI, or others who have offered this amendment, trying to seek a balanced approach to allow the U.S. Forest Service to begin the program of selective, active management of thinning and cleaning, using a comprehensive, collaborative approach on a State-by-State basis, with interest groups from those areas, in a way that will begin to restore the forest health of this Nation.

We may have a cloture vote at about 5:15. I hope my colleagues will not vote for cloture but will give us an opportunity to vote up or down on this amendment, as I think we are entitled, because we believe it is not only good policy but it is a critical and necessary vote for our country.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. How much time does the Senator from New Mexico want for his speech?

Mr. DOMENICI. I didn't know whether we had any time left on our side.

Mr. BYRD. I believe we have until 12:30 overall.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I would ask for 5 minutes at this point.

Mr. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I ask unanimous consent that I may yield to the distinguished Senator from New Mexico, Mr. DOMENICI, for not to exceed 5 minutes, without losing my right to the floor.

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

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thank the distinguished Senator from West Virginia.

I have heard most of the statement on the floor by my distinguished friend and colleague, Senator CRAIG, with whom I am a cosponsor of a very important amendment. We have a number of Democrats and Republicans who have joined us on this amendment. All I want to do is suggest that if we are going to have cloture this afternoon, I hope that, with reference to a cloture that will take this amendment down, Senators will not do that.

We have not had very much time. It is a very important and easy-to-understand issue. It will be confronted with an opposition amendment, which we have not seen yet, that will be forthcoming by the majority leader and, perhaps, Senator BINGAMAN. Both of them are moving in a direction of modifying the existing environmental laws that don't let us remove certain kinds of trees from our forests that are, by most people, determined to be the kind of trees you should remove. They either result in a burndown, or have the result of what is called a blowdown where whole portions of a forest are blown over, or they have just accumulated and are not growing because there is so much rubbish left over that you cannot get the Sun to do any good. When the fires come, they go from one place to another, right over the top of trees.

We want to set the timeframe within which objection can be made to going in and cleaning up that kind of forest, that it be moved in a very short period of time and not be subject to lengthy court hearings but, rather, that it move expeditiously.

We got our idea from an amendment the distinguished majority leader attached to a previous appropriation bill. The majority leader did this modification of the environmental laws that restrained removal of certain kinds of forests that were no longer needed and that could be used if you took them out of there rather quickly. The majority leader did that in an amendment and made it apply to a certain forest in his State and, thus, in the State of the occupant of the chair.

I don't have any objection to that amendment today. If the majority leader and his fellow Senator who occupies the chair want to do that, that is their business. It is about their State. I didn't come down to talk about changing environmental laws. I waited a couple weeks and suggested that maybe we ought to do the same thing—that we ought to get some movement in our forests rather than leave these kinds of trees there.

There are many other things wrong with the forests that we are going to have to fix. Essentially, over 6 million acres of our forests have burned—more than twice the 10-year average—in the current fire season. Twenty-one people have been killed and 3,000 structures have burned.

It will be more like an experiment. We will take a piece of these forests, and we will go in and clear them out within a reasonable timeframe, rather than the unreasonable timeframe that has become the procedure heretofore which, by using the courts and various actions of the courts, imposing NEPA and all of its requirements, whenever groups do not want any of this clearance, they win, just by delay.

I thought there would be a unification of purpose and we might get all the Senators to understand this was not an effort to defeat the environmentalists. We did not think they ought to necessarily take sides in opposition to this issue. It is a very realistic, commonsense approach.

We will have more time to discuss it in more detail, and we will get to discuss it at our respective policy luncheons. I thank the Senator for yielding me the 5 minutes. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, what is the situation with respect to time?

The PRESIDING OFFICER. There are 10 minutes remaining prior to the recess.

Mr. BYRD. Mr. President, I ask unanimous consent that I may hold the floor beyond the 10 minutes for a reasonably short period of time. I would say perhaps another 10 minutes.

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

Mr. BYRD. Mr. President, I yield to the distinguished Senator. He wants 3 minutes for a statement. So I yield 3 minutes to him. I do not know why I am accommodating all these Senators like this, but I yield 3 minutes. I yield to him without losing my right to the floor for a statement only for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Idaho.

Mr. CRAPO. I thank the Chair.

(The remarks of Mr. CRAPO pertaining to the introduction of S. 2942 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, over the course of the last several months, the Senate Appropriations Committee has endeavored to craft 13—13—bipartisan, responsible pieces of legislation which fund every aspect of the Federal Government. The Appropriations Committee accomplished its goal. Each bill was adopted by the committee without a single dissenting vote—not one.

This is the largest committee of any committee in the Senate. It is made up of 29 members—15 Democrats and 14 Republicans. So each bill was adopted by the committee without a single dissenting vote: 13 bills, not a single nay vote. That is true bipartisan cooperation. In fact, if one adds up the rollcall votes for the 13 bills, one would have a tally of 377 aye votes to zero nay votes. That is a record for which committee members should be proud.

As all Senators are aware, the appropriations bills are stuck. They are stuck; the ox is in the ditch. The House Appropriations Committee has not acted on five appropriations bills, and the full House has yet to pass eight of the bills, leaving the next fiscal year in a dangerous position of starting without Congress having completed action on the funding legislation.

Why are we in this predicament? While it would be easy to point the finger at the House of Representatives, the blame basically, truly belongs down the avenue—the other end of the avenue.

The White House's Office of Management and Budget remains wedded to an arbitrary budget figure that undercuts the Congress' ability to complete its work in a responsible fashion. The Senate has passed appropriations bills that total $768 billion. Every Senator on the Appropriations Committee voted for that funding level. Every Senator on that committee voted for that funding level of $768 billion. Every Senator on the Appropriations Committee, Democrat and Republican, recognizes that level of $768 billion is a responsible level that provides for the largest Defense spending bill ever, that provides for a significant increase in homeland security funding, and that accommodates just enough to cover the cost of inflation for domestic priorities—priorities such as veterans health care, education. These are not boondoggle bills. These are responsible pieces of legislation.

The House appropriators would be able to complete work on their bills if

they were able to utilize the same overall figure. I want to say the fault is not with the House Appropriations Committee chairman. That committee would be able to finish its job. But the White House has insisted that the House allocate no more than $759 billion. So the House is stuck $9 billion below the Senate and weeks behind the calendar for completing its work.

The House needs to get its work done, but more importantly, the administration needs to provide some flexibility to help us to finish these bills. We do not need political games. We need to complete action on 13 individual appropriations bills.

I know; I worked closely with the chairman on the other side, Chairman YOUNG, and with the ranking member on the Democrat side, DAVE OBEY. I worked closely with them. Their heart is in the right place. They know the Senate and the House ought to go to the higher, top line figure, $768 billion. But it is the administration that has its feet in concrete and its head in the sand. No, it wants to stay right on the $759 billion. That is why these appropriations bills are stuck.

Just yesterday—listen to this—in an article in the Wall Street Journal, Mr. Lawrence Lindsey, head of the White House's National Economic Council, projected that the military costs for this so-called war in Iraq will be $100 billion to $200 billion. They were talking about billions of dollars this year alone. I will say that again: Just yesterday, in an article in the Wall Street Journal, Mr. Lawrence Lindsey, head of the White House National Economic Council, projected that the military costs for this so-called war in Iraq will be $100 billion to $200 billion this year alone.

Now, I would consider $100 billion to be quite substantial. That is a lot of money, $100 billion. But Mr. Lindsey says it may go from $100 billion to $200 billion this year alone. I consider $100 billion to be quite a substantial figure, and I would consider $200 billion to be doubly substantial.

Mr. Lindsey, when asked about that level, said: That's nothing. That's nothing—$100 billion to $200 billion, that's nothing? If $100 billion is nothing, Mr. Lindsey, what is $9 billion? How can $100 billion be nothing if the White House is willing to put the entire Government on autopilot over $9 billion? That is why we are not getting the appropriations bills done. The administration, through its Office of Management and Budget, says no more than $759 billion, because he has the authority of the President behind him.

I have heard some strange economic plans in my day, but this one takes the cake. How can $100 billion be nothing, as Mr. Lindsey is quoted as saying, if the White House is willing to put the entire Government on autopilot over $9 billion?

The growth of the fiscal year 2003 appropriations bills is not for the domestic program. The additional $9 billion in the Senate bills will fund the President's requested increases in the Department of Defense and homeland security. For the rest of the Government, that $9 billion is the difference between a hard freeze and a 3-percent adjustment for inflation. But those facts do not seem to matter. They do not seem to matter to this administration.

In times such as these, the administration should be working with Congress to complete action on these appropriations bills, not attempting to hamstring Congress at every turn.

Obviously, the Office of Management and Budget has adopted a strategy that places the administration's political goals and rhetoric above the needs of the Nation. The political goals come first, apparently, with this administration. What a shame. What a shame. The Office of Management and Budget has signaled that this year politics wins out over principle, rhetoric wins out over reality.

So much for the new tone the President was going to bring to Washington. All this administration wants to do, apparently, is to play the same old games. The administration seems to believe that the Federal Government is nothing more than a Monopoly board. The President is living on Park Place, but the rest of the country is relegated to Mediterranean Avenue. The administration has asserted that $768 billion is excessive spending for the coming fiscal year, and yet the significant increases within that total are to fund the President's proposal to significantly increase defense spending and homeland security funding.

I am not against doing whatever is needed to meet the Nation's requirements for defense, and the same is true with respect to homeland security. But the Nation should not be forced to cut budgets on health care, on education, on veterans programs, and other priorities here at home just to meet some political goal of the administration. The clock is ticking. We do not have time to play these political games. There is more at stake than a simple roll of the dice.

I ask unanimous consent to have printed in the RECORD the article from the Wall Street Journal published on Monday, September 16, 2002. The title of the article is: ''Bush Economic Aide Says Costs of Iraq War May Top $100 Billion.''

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

BUSH ECONOMIC AIDE SAYS COST OF IRAQ WAR MAY TOP $100 BILLION

(By Bob Davis)

WASHINGTON.—President Bush's chief economic advisor estimates that the U.S. may have to spend between $100 billion and $200 billion to wage a war in Iraq, but doubts that the hostilities would push the nation into recession or a sustained period of inflation.

Lawrence Lindsey, head of the White House's National Economic Council, projected the ''upper bound'' of war costs at between 1% and 2% of U.S. gross domestic product. With the U.S. GDP at about $10 trillion per year, that translates into a one-time cost of $100 billion to $200 billion. That is considerably higher than a preliminary, private Pentagon estimate of about $50 billion.

In an interview in his White House office, Mr. Lindsey dismissed the economic consequences of such spending, saying it wouldn't have an appreciable effect on interest rates or add much to the federal debt, which is already about $3.6 trillion. ''One year'' of additional spending? he said. ''That's nothing.''

At the same time, he doubted that the additional spending would give the economy much of a lift. ''Government spending tends not to be that stimulative,'' he said. ''Building weapons and expending them isn't the basis of sustained economic growth.''

Administration officials have been unwilling to talk about the specific costs of a war, preferring to discuss the removal of Mr. Hussein in foreign-policy or even moral terms. Discussing the economics of the war could make it seem as if the U.S. were going to war over oil. That could sap support domestically and abroad, especially in the Mideast where critics suspect the U.S. of wanting to seize Arab oil fields.

Mr. Lindsey, who didn't provide a detailed analysis of the costs, drew an analogy between the potential war expenditures with an investment in the removal of a threat to the economy. ''It's hard for me to see how we have sustained economic growth in a world where terrorists with weapons of mass destruction are running around,'' he said. If you weigh the cost of the war against the removal of a ''huge drag on global economic growth for a foreseeable time in the future, there's no comparison.''

Other administration economists say that their main fear is that an Iraq war could lead to a sustained spike in prices. The past four recessions have been preceded by the price of oil jumping to higher than $30 a barrel, according to BCA Research.com in Montreal. But the White House believes that removing Iraqi oil from production during a war—which would likely lead to a short-term rise in prices—would be insufficient to tip the economy into recession. What is worrisome, ecomists say, is if the war widens and another large Middle East supplier stops selling to the U.S., either because of an Iraqi attack or out of solidarity with Saddam Hussein's regime.

Mr. Lindsey said that Mr. Hussein's ouster could actually ease the oil problem by increasing supplies. Iraqi production has been constrained somewhat because of its limited investment and political factors. ''When there is a regime change in Iraq, you could add three million to five million barrels of production to world supply'' each day, Mr. Lindsey estimated. ''The successful prosecution of the war would be good for the economy.''

Currently, Iraq produces 1.7 million barrels of oil daily, according to OPEC figures. Before the Gulf War, Iraq produced around 3.5 million barrels a day.

Mr. Lindsey's cost estimate is higher than the $50 billion number offered privately by the Pentagon in its conversations with Congress. The difference shows the pitfalls of predicting the cost of a military conflict when nobody is sure how difficult or long it will be. Whatever the bottom line, the war's costs would be significant enough to make it harder for the Bush administration to climb out of the budget-deficit hole it faces because of the economic slowdown and expense of the war on terrorism.

Mr. Lindsey didn't spell out the specifics of the spending and didn't make clear whether he was including in his estimate the cost of rebuilding Iraq or installing a new regime. His estimate is roughly in line with the $58

billion cost of the Gulf War, which equaled about 1% of GDP in 1991. During that war, U.S. allies paid $48 billion of the cost, says William Hoagland, chief Republican staffer of the Senate Budget Committee.

This time it is far from clear how much of the cost—if any—America's allies would be willing to bear. Most European allies, apart from Britain, have been trying to dissuade Mr. Bush from launching an attack, at least without a United Nations resolution of approval. But if the U.S. decides to invade, it may be able to get the allies to pick up some of the tab if only to help their companies cash in on the bounty from a post-Saddam Iraq.

Toppling Mr. Hussein could be more expensive than the Persian Gulf War if the U.S. has to keep a large number of troops in the country to stabilize it once Mr. Hussein is removed from power. Despite the Bush administration's aversion to nation building, Gen. Tommy Franks, commander of U.S. troops in the Middle East and Central Asia, recently said that the U.S. troops in Afghanistan likely would remain for years to come. The same is almost certain to be true in Iraq. Keeping the peace among Iraq's fractious ethnic groups almost certainly will require a long-term commitment of U.S. troops.

During the Gulf War, the U.S. fielded 500,000 troops. A far smaller force is anticipated in a new attack on Iraq. But the GOP's Mr. Hoagland said the costs could be higher because of the expense of a new generation of smart missiles and bombs. In addition, the nature of the assault this time is expected to be different. During the Gulf War, U.S. troops bombed from above and sent tank-led troops in for a lightning sweep through the Iraqi desert. A new Iraq war could involve prolonged fighting in Baghdad and other Iraqi cities—even including house-to-house combat.

The Gulf War started with the Iraqi invasion of Kuwait in August 1990, which prompted a brief recession. The U.S. started bombing Iraq on Jan. 16, 1991, and called a halt to the ground offensive at the end of February.

With Iraq's invasion, oil prices spiked and consumer confidence in the U.S. plunged. But Mr. Lindsey said the chance of that happening again is ''small.'' U.S. diplomats have been trying to get assurances from Saudi Arabia, Russia and other oil-producing states that they would make up for any lost Iraqi oil production. In addition, Mr. Lindsey said that the pumping equipment at the nation's Strategic Petroleum Reserve has been improved so oil is easier to tap, if necessary. Both the Bush and Clinton administrations, he said, wanted to ''make sure you can pump oil out quickly.''

On Thursday, Federal Reserve Chairman Alan Greenspan said he doubted a war would lead to recession because of the reduced dependence of the U.S. economy on oil. ''I don't think that . . . the effect of oil as it stands at this particular stage, is large enough to impact the economy unless the hostilities are prolonged,'' Mr. Greenspan told the House Budget Committee. ''If we go through a time frame such as the Gulf War, it is unlikely to have a significant impact on us.''

The U.S. economy also has become less dependent on oil than it was in 1990, said Mark Zandi, chief economist at Economy.com, an economic consulting group in West Chester, Pa. A larger percentage of economic activity comes from services, as compared with energy-intensive manufacturers, he said. Many of those manufacturers also use more energy-efficient machinery.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:40 having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:37 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. EDWARDS).

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, the Senate will now resume consideration of H.R. 5005, which the clerk will report by title.

The assistant legislative clerk read as follows:

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

Pending:

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

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

Lieberman amendment No. 4534 (to amendment No. 4513), to provide for a National Office for Combating Terrorism, and a National Strategy for Combating Terrorism and the Homeland Security Response.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, under an order previously entered, it is my understanding the Senator from West Virginia has the floor; is that right?

The PRESIDING OFFICER. The Senator is correct. Under the previous order, the Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair and I thank the distinguished Democratic whip.

Mr. President, I want to be sure that Senators understand the parliamentary situation in the Senate at this point.

Last Thursday, the Senate voted on a motion to table the Thompson amendment to strike Titles II and III of the Lieberman substitute. Title II would establish a new National Office for Combating Terrorism within the Executive Office of the President whose Director would be confirmed by the Senate and made accountable to the Congress.

That is incredibly important. The National Office for Combating Terrorism was viewed by our good colleague, Senator LIEBERMAN as a central part of his homeland security bill. Title II was carried over from his original bill that was introduced last May, before the White House endorsed the idea of creating a new Department of Homeland Security.

But the motion to table the Thompson amendment to strike Title II failed by a vote of 41–55 last Thursday. Senator LIEBERMAN conceded the victory to Senator THOMPSON, and urged the Senate to accept the ''the next best idea.'' Senator LIEBERMAN offered a scaled down version of Titles II and III as a second degree amendment to the Thompson amendment.

It was at that point that I gained the floor and have held it until today.

So I find myself in a position that I had not intended—and not an easy position. I have often felt, in recent days, as if this 84-year-old man—soon to be 85; within a few days—is the only thing standing between a White House hungry for power and the safeguards in the Constitution. That is not bragging, that is lamenting.

This is not the way it ought to be. This will not go down as one of the Senate's shining moments. Historians will not look back at this debate and say that we fulfilled the role that was envisioned by the Framers.

This Senate should have the wisdom to stand for this institution and the Constitution. It is not our duty to protect the White House. It is our duty to protect the people—those people out there looking through their electronic lenses, the people who come here from day to day, these silent individuals who sit up here in the galleries. They do not have anything to say. They are not allowed to speak under the Senate rules, but they sit and watch us. They are looking over our shoulders, as it were, and they expect us to speak for them. They will help to ensure that the interests and the rights of the American people are protected. That is what these people want. They want us to assure that their interests—the people's interests—and the rights of the American people are protected.

I have been joined by a few voices on this floor in recent days, and I thank them. I feel that at least some Members are beginning to view this legislation as doing much more than merely setting up a new Department of Homeland Security.

I have also heard from citizens across the country who have urged me never to give up. Well, I can assure them that as long as I am privileged to serve in this body I will never give up defending the Constitution.

I heard Condoleezza Rice last Sunday, and I heard Dr. Rice the Sunday before.

I heard Secretary of State Powell last Sunday on television, and I heard him the Sunday before.

I have listened to Secretary Rumsfeld, and I have listened to Vice President CHENEY on television.

I have listened to various and sundry Senators on television. I have listened to various and sundry other spokespersons on television.

I read the op-ed piece of former Secretary of State Shultz in the newspaper Sunday a week ago.

I read the op-ed piece of former Secretary of State James Baker in the paper this past Sunday. And I hear many persons in the media—not everybody but some in the media—who seem to be intent upon galvanizing this and making this country ready for war. Not one of these people have I heard—maybe I missed it—refer to the Constitution. I take an oath, and so does every other Senator, to support and defend the Constitution of the United States against all enemies, foreign and domestic. Nobody says anything about the Constitution in this debate that is raging over the country.

There is a great fervor, and there is a great wave of opinion being created. And some in the media are doing it, or helping to create it. They have their minds made up. We are off to war.

I can hear the bugles, and I can see the flag. I can see the sunlight tinting on the bugles as they pass, and the flag I see going already. I can hear the guns. There is a great fervor here, and I hear the war drums being beaten. It is as though we have our minds made up. It is as though the President is already ready to go. And there is a developing hysteria in this country saying: Let us go to war. We have our minds made up.

Nobody stands up against that. But the Constitution is a barrier—this Constitution which I hold in my hand. This Constitution says Congress shall have the power to declare war. It doesn't say the President shall have power to declare war. It doesn't say the Secretary of State shall have power to declare war. Congress shall have power to declare war. But who is bothering to mention Congress? Who is bothering to mention the Constitution? It has become irrelevant, as far as some of the commentators and columnists and editorial writers are concerned, it seems to me. That is my impression. The Constitution has become just an old piece of paper. It was great 215 years ago but not now. Events have overtaken the Constitution. Nobody mentions it.

I haven't heard Dr. Condoleezza Rice mention it on her television appearances. I haven't heard the Secretary of State mention the Constitution. I haven't heard the Secretary of Defense mention the Constitution. I haven't heard the Vice President of the United States say a word about the Constitution when he discusses the business of going to war.

Has it become irrelevant? Are we to sit supinely by and be swept up in this national fervor that is being developed, that is being created to stampede this country into war? Are we to sit silently by?

Well, I want to assure the people that as long as I am privileged to serve in this body I will never give up defending the Constitution. And the Constitution is front and center to this business that we are discussing—the issue of war and peace. The Constitution is front and center.

Why, there are some who will get on the national television programs—they do not invite me; I don't expect them to mention the Constitution. Why is it? Why is that?

Here is the Vice President, the President of this body right here under the Constitution, who can't address the Senate except by unanimous consent, but when he is on national television on these programs, why doesn't he mention the Constitution? Is this Constitution irrelevant? They take for granted, I suppose, that the United Nations is the chief authorizer of America marching off to war.

I am for what the President did the other day. He went to the United Nations. He has pointed the finger, as it were, at the United Nations, and said the United Nations has been recreant in its duty and recreant in its responsibility to enforce its resolutions. I think he laid down an excellent case in making that point.

But we also have a duty here. We have a duty to uphold this Constitution and what it says about declaration of war and what it says about Congress.

Why, it is as though the Constitution is something that went away with the winds of yesterday—gone.

I can assure the people I will never give up defending this Constitution. It is my sworn duty. At some point, however, I will have to relinquish the floor. And when I do, the Lieberman amendment presumably will be withdrawn and the Senate will vote on the Thompson amendment. That amendment, I presume, would pass, and titles II and III of the Lieberman substitute will be stricken from the bill.

Senator LIEBERMAN may be right that we don't have the votes to defeat the Thompson amendment. But what disturbs me most of all is that such an important element of the Lieberman substitute could be stricken from the bill so easily.

I am talking about the need to confirm the Director of the National Office for Combating Terrorism. So I just refer to that title as the Director.

Now, I don't think we should accept that verdict so easily.

It is unbelievable to me that people are not fighting harder for these proposals, not only in title II and title III, but throughout the entire bill. The issues raised by this legislation are too important to languish without more debate in the Senate.

I know I am not the only Senator who is concerned about this bill, but I have not heard enough voices speaking out on these important matters. There are many, many unanswered questions which Senators need to focus on and explore.

Of course, I can't fight this battle alone.

Meanwhile, the President and the House Republican leadership are already turning up the heat on the Senate to pass this bill quickly. The President even suggests that delaying this bill will endanger the lives of the American people.

That is nice rhetoric, Mr. President, but I doubt whether anyone believes that argument. The people are not endangered by our thorough consideration of this legislation. The mistakes we avoid now are just as important as getting the Department in place quickly. What is not done well, generally, must be done over, and unintended consequences can take years to correct.

Nevertheless, pressures are building to expedite consideration of this bill. But in taking the floor, I hope to draw attention not only to the fallibility of passing this bill without a confirmable White House Homeland Security Director, but to other portions of this bill that should make Senators question the rush to enact this legislation so quickly.

My hope is that Senators will consider the gravity of this legislation before they simply jump on board somehow. This homeland security legislation will have important consequences not only for the lives of all Americans, but for the American way of life as well.

Mr. President, the security of the American people, on American soil, is, and has always been, our Government's most solemn responsibility. September 11 added a new dimension and urgency to that duty.

The bill before the Senate seeks to enhance our Government's ability to protect the American people from the devastation of another terrorist attack by creating a new Department of Homeland Security.

I have been for that. I was for that before President Bush was for it.

That is a very ambitious goal. It is a worthy and honorable goal born of commendable intentions. But if we do not move with great caution—if we do not slow down just a little bit—move with great caution—and deliberation in our work, we will risk undermining the very purpose to which we are dedicated.

My concerns about the proposed legislation are many. They are legion. While we can all embrace the concept of a new Department of Homeland Security, there are many, many pitfalls ahead for such an endeavor in the complicated new atmosphere of what has been called a ''war'' on terrorism.

I have made several comments about the threat that this new Department poses to the civil liberties—hear me now—to the civil liberties of the American people. And that is not just hyperbole.

Twenty-six leaders of conservative organizations across this country released a statement this month urging the Senate to exercise ''restraint, caution, and deeper scrutiny before hastily granting unnecessary powers to a homeland security bureaucracy.''

So, you see, that was not just ROBERT BYRD talking. That was not just an 84-year-old man, soon to be 85, talking.

Let me say that again. Twenty-six leaders of conservative—get that—conservative organizations across America released a statement this month urging the Senate to exercise—and I quote—

''restraint, caution, and deeper scrutiny before hastily granting unnecessary powers to a homeland security bureaucracy.''

They wrote that:

[T]he popular enthusiasm for such a centralization and bureaucratization in the name of homeland security may prove unwise. Proposed legislation not only increases the growth of the federal bureaucracy but establishes an infrastructure, legal and institutional, which, if abused, could lead to serious restrictions on the personal freedoms and civil liberties of all Americans.

In case there are any latecomers to hearing this Senate, just now, I am talking about 26 leaders of conservative organizations across America who released a statement this month urging the Senate to slow down. They wrote—and I quote again:

[T]he popular enthusiasm for such a centralization and bureaucratization in the name of homeland security may prove unwise. Proposed legislation not only increases the growth of the federal bureaucracy but establishes an infrastructure, legal and institutional, which, if abused, could lead to serious restrictions on the personal freedoms and civil liberties of all Americans.

''All Americans.''

September 11 was a shock to this Nation, and the fear, anger, and alarm it engendered have not, as yet, vanished. My concern is that in our zeal to see to it that terrorists never again defile our homeland, we will unwittingly cede some of our precious freedoms and blur the constitutional safeguards that have been the basis for our liberties and the check against an overreaching executive for 215 years, or thereabouts.

Let me make it clear that I am not accusing anyone of deliberately trying to exploit our national tragedy.

Rather, I believe that in our shock and revulsion, our collective determination to prevent further horrific attacks may change our Nation in fundamental ways that will eventually surprise and dismay all of us. How terribly ironic it would be if it were our response to the treachery of al-Qaida which dealt our constitutionally guaranteed freedoms the most devastating blow of them all.

I believe that all of those in Government, those of us in Government who are challenged with confronting the horrible reality of what happened on September 11, have not, even yet, come to grips with certain fundamental realities. We must all begin to face certain truths.

Terrorism is a worldwide force, and our ability to prevent it at home or contain it abroad is limited—is limited—at best.

An enemy in the shadows, living among us and using our own openness and freedoms to attack our infrastructure, and to cripple and kill our citizens, is unlike any enemy we have ever before known.

No Government Department can ever guarantee complete safety from this kind of threat in a world increasingly connected by trade, travel, electronic communication, migrating populations and open borders. But, we can do our best to anticipate vulnerabilities, protect critical infrastructure, and respond to possible devastation or deliberately spread disease.

Yet, we can never be perfectly safe from the scourge of a terrorist attack. That is reality. And handing over our precious liberties and hard-won principles on such topics as worker rights, openness in government, the right to privacy and civil liberties—that is what is involved here—will not change that unfortunate and troubling reality. Such a course, blindly followed in the name of fighting terrorism, would be disastrous. Hear me. It is understandable that this administration, or any administration so consumed with the need to prevent another such horrific attack, might become so zealous and so focused on that mission that important freedoms could be trampled or relegated to a secondary position in our national life. If we are not vigilant, our country could be fundamentally changed before we realize it, in ways which we would all come to deeply regret.

Let me illustrate what I mean. Recent headlines have provided examples of the administration's strong penchant for secrecy, and its refusal to be confined by the law and the Constitution in its attempts to shield its actions from public scrutiny.

Last month, a Federal appeals court in Cincinnati issued a direct rebuke of attempts by the Administration to circumvent the Constitution—there is that magic word—by conducting deportation hearings in secret, whenever the government asserts that the object of the hearings might be linked to terrorism. Writing for the three-judge panel of the 6th Circuit Court of Appeals, Judge Damon J. Keith wrote, ''A government operating in the shadow of secrecy stands in complete opposition to the society envisioned by the framers of our Constitution.''

The Justice Department has already conducted hundreds of these hearings out of sight of the press and the public. In doing so, the administration has been able to decide the fate of each of these individuals without recrimination.

It may be that all of these hearings were conducted properly and fairly, but there is just no way for us to know. Like so many other actions that this administration has taken on behalf of our safety, we have no way of knowing whether what they have done was the right thing to do. Nobody in this administration or anywhere else is all wise. We have no way of knowing whether the steps they have taken have really helped to secure our safety. And we have no way of knowing whether the actions they took may have threatened our own liberties.

The administration argued that secrecy is necessary for these hearings because subjecting them to public scrutiny would compromise its fight against terrorism.

The court's concurring opinion addressed the merits of the government's position, but it pointed out that a reasonable solution to the administration's concerns could be achieved by requiring the Government to demonstrate the need for secrecy in each hearing on a case-by-case basis.

Ultimately, the Court of Appeals saw the Government's argument for what it is; namely, a danger to our liberty. The court took the clear-headed, clear-eyed position that excessive secrecy in matters such as these compromises the very principles of free and open government that the fight against terror is meant to protect.

Even with the best of intentions to justify the Government's actions, our freedoms are easily trampled when officials are allowed to exercise the power of the Government without exposing their actions to the light of day.

As Judge Keith wrote, ''Democracies die behind closed doors.''

We have also seen evidence in the news of what the executive branch is capable of when it is allowed to operate behind closed doors. On August 23, just last month, the front page of the Washington Post brought news of serious abuses of the laws that allow the Justice Department to conduct certain law enforcement activities in secret. Thank providence, thank heaven for a free press. That is what we want to keep. That is what we want to maintain—a free press.

The Washington Post article revealed that on May 17, a secret court that was created to oversee the Government's foreign intelligence activities rejected new rules proposed by the Department of Justice that would have expanded the ability of Federal investigators and prosecutors to operate in secret.

There you have it again—secret.

The Attorney General, John Ashcroft, wanted to tear down the walls between intelligence officials and law enforcement officials in the Department of Justice, allowing broad sharing of secret intelligence information among offices throughout the Department.

Mr. Ashcroft wanted to tear down these walls for a reason. The walls make it harder for his Department to circumvent the constitutional obstacles faced by his investigators in trying to hunt down terrorists. And like others in this administration, Mr. Ashcroft has little patience or concern for the Constitution now that he is a general in the President's ''war on terror.''

I voted for Mr. Ashcroft. I am not one of those who opposed his nomination. I was one of the few on this side of the aisle who voted for Mr. Ashcroft's nomination. I have to say, I am disappointed. But Mr. Ashcroft is not alone. Take a look at this administration.

Haven't you heard of the shadow government? That came to light a while back. All of a sudden, like the prophet's gourd, it just grew up overnight.

Here is this shadow government. I had not been told about it. After all, I am chairman of the Appropriations Committee in the Senate. I am not the top Democrat in the Senate, but I am the senior Democrat in the Senate. I hadn't been told anything about it. I am the President pro tempore of the Senate; in other words, the President, for the time being. If the Vice President is not in the chair, I am the President of the Senate. I hadn't been told anything about a shadow government.

Of course, I said time and time again how this great idea about a Homeland Security Department, at least the administration's great plans, suddenly sprang into existence, like Aphrodite, who sprang from the ocean foam, or like Minerva, who sprang from the forehead of Jove fully armed and fully clothed.

All of this was a secret. We didn't know anything about this thing hatched out of the bosom of the White House—this great plan hatched out by four individuals in the bowels of the White House. So this White House, this administration, has a penchant for secrecy.

I am not going to point the finger just at Mr. Ashcroft. I voted for him. On this side of the aisle, I voted for him. He used to serve in this body. But Mr. Ashcroft wanted to tear down these walls for a reason. I say again, the walls make it harder, as all walls do, to get wherever you are going. The walls make it harder for his Department, Mr. Ashcroft's Department, to circumvent, get around, the constitutional obstacles faced by his investigators in trying to hunt down terrorists.

He and others in this administration apparently have little patience and concern for the Constitution—here it is—now that he is a general in the President's war on terror. Today is September 17, 2002, in the year of Our Lord; this is the day, 215 years ago, when our forefathers signed their names, the framers of the Constitution signed their names on the Constitution. They had completed their work, which had begun back in May 1787, and they signed their names on this Constitution. This is the day. I will have more to say about that shortly.

But this secret court, which was created by Congress under the Foreign Intelligence Surveillance Act, recognized the danger of tearing down these protective walls. The act made it easier for Federal investigators to obtain evidence through wiretaps or physical searches when the evidence will be used for foreign intelligence purposes. Traditional criminal investigations require a higher standard for search warrants and wiretaps, to protect the constitutional rights of American citizens. By trying to tear down the wall between the two, the Attorney General was hoping to lower the bar for obtaining evidence for criminal investigations by expanding access to secret procedures used in foreign intelligence.

The wall between law enforcement and intelligence has always allowed for cooperation in specific instances. In fact, this is the first time in the history of this secret court that an administration's request has been rejected. But this cooperation has previously been allowed to prosecute people such as CIA mole Aldrich Ames, whose crime was inextricably linked to foreign intelligence. If this wall had fallen, the Justice Department would be allowed to secretly investigate almost anyone who made an international phone call.

It is well to remember that the Patriot Act, passed in the aftermath of September 11, already lowered the bar for bypassing due process, privacy, and individual freedom. The Justice Department argues that the Patriot Act also authorizes the elimination of the wall between intelligence and law enforcement.

Couple this momentum with a new Department primed to root out terrorism at home and abroad and a powerful new Secretary of Homeland Security with intelligence powers that cut across traditional lines of authority, and one can easily see the possibility for abuse and for excess. That is why I am standing on the floor—trying to draw the attention of the public, trying to capture the attention of my colleagues, and trying to capture the media's attention. This is what I am talking about.

In reacting to the court's ruling, the Justice Department said:

> We believe that the court's action unnecessarily narrowed the Patriot Act and limited our ability to fully utilize the authority Congress gave us.

Get that. It is the phrase ''fully utilize'' that gives me some special pause. Powers granted to this administration must continue to be checked. Oh, I tell you, they need to be checked. The need for checks on administrative powers is not just hypothetical, it is not just constitutional; I wish more would pay attention to that aspect of it. It has been well documented by recent Executive actions.

The most disturbing part of the secret court opinion is the revelation that the Justice Department has already been abusing this secret process, including 75 specific instances cited by the court in which FBI, or Justice officials, provided false statements in their applications for wiretaps and search orders, including one application signed by then-FBI Director Louis B. Freeh.

The court cited these examples as evidence of the need to keep a close eye on the Department's activities in order to prevent an environment in which cooperation becomes subordinated to the law enforcement agenda of the Attorney General.

While some of the abuses identified by the court occurred during the administration of former President Clinton, rather than President Bush, the need for oversight applies to every administration.

My concerns are not just based on who may be in the White House at a particular moment. My concerns are based in the Constitution. These problems transcend administrations. Administrations may come and go, but the Constitution, like Tennyson's brook, goes on and on forever.

The war on terrorism must not be used by the executive branch—any executive branch. Mr. Bush certainly won't be in office forever. So one should look even beyond this administration, whatever the next administration will be. The war on terrorism must not be used by the executive branch as an excuse to ignore constitutional liberties behind closed doors and to destroy the delicate checks and balances that have made this Nation a great beacon for freedom to the world.

Congress is the leveler when it comes to precipitous actions. The Senate, in particular, is the place intended by the Framers for cooling off. A calm oasis where reason and cooler heads prevail against the heat of passion has always been found on the floor of the United States Senate, and I hope that we in this Chamber will again step up to that traditional calling as we consider this matter in these extraordinary times.

In an election year, all politicians like to claim we have an answer for even the Nation's most intractable problems, but in this case we underestimate the intelligence of the American people if we believe that merely offering them a new Department of Homeland Security will serve as currency to buy our way out of our continuing responsibilities under the Constitution.

The people know that such a Department is no panacea for protection of our homeland. They will never forgive us if we are lax in our duty to safeguard traditional freedoms and American values based on the Constitution as we rush to fashion a new Department, even though that Department is intended to protect the American people from the insidious danger of a virulent attack on our homeland.

In the name of homeland security, Congress must not be persuaded to grant broad authorities to the administration that, given more careful thought, we would not grant. The House has already passed legislation to grant the President the authority to waive worker protections for Federal employees, to place the new Department's inspector general under the thumb of the Homeland Security Secretary, to exempt the new Department from public disclosure laws, and to chip away at congressional control of the power of the purse.

Close examination of the President's plan shows that the administration is seeking more new powers which, unchecked, might be used to compromise the private lives of the American public.

Congress must never act so recklessly as to grant such broad statutory powers to any President, even in the quest for something so vital as protection of our own land. So vital, the war

on terror. We must exercise great caution. We must operate with the clear knowledge that once such powers are granted, they will reside in the White House with future Presidents—Republican and Democrat—and they will not be easily retrieved.

So once such powers are granted, they will not be easily retrieved. They will reside in the White House. And everyone who knows anything about the Constitution and about our experience in the political arena, anybody who knows anything about that, knows that no future President will likely return those powers, likely give up those powers, once they have been granted, and a Presidential veto in the future will be very difficult to overcome, as such a veto is usually difficult to overcome. Once the powers go down that avenue to the other end, they are gone for a long time, and the only way they can be retrieved is by overriding a Presidential veto. And, of course, the Senators and everyone know that will require a two-thirds vote. It will not make a difference whether the President is Democrat, Republican, or Independent; He will want to keep those powers. So be careful about granting them now.

Both the House-passed bill and the Lieberman bill substitute broad new authority to the administration to create this new Department, but neither bill ensures that Congress remain involved. Neither the House bill nor the Lieberman bill ensure that Congress remain involved throughout the implementation of the legislation.

Senator LIEBERMAN's bill takes steps to ensure that Congress is informed as the Department assumes its duties, but under his bill this information comes to us only after the fact. It is not enough just to be told how the administration intends to use these statutory powers. Congress needs to retain some prerogatives so Congress can temper and shape the administration's exercise of these new authorities and so Congress can temper and shape the new Department's exercise of the new authority.

So Congress has the responsibility to make sure we do not grant broad statutory powers to the President and then just simply walk away from the new Department, trusting that the administration will exercise restraint. Congress must remain involved to ensure that the orderly implementation of the Department does not flounder and that important worker rights and civil liberties do not fall into the breach.

Government reorganization is nothing novel. We have had Government reorganization before. And we have from time to time found new agencies created in the spotlight of political pressure and then left to languish and go awry in the twilight of mundane and practical purpose. This could be a mistake.

This administration, since the September 11 attacks, has announced at least three major governmental reorganizations prior to the President's proposal to create a new Homeland Security Department.

Last December, in response to numerous media reports criticizing the Nation's porous borders, the administration proposed the consolidation of the Customs Service and the Immigration and Naturalization Service within the Justice Department.

Last March, following the mailing of two student visas by the Immigration and Naturalization Service to two of the September 11 hijackers 6 months after they crashed planes into the World Trade Center Towers, the administration announced the INS would be reorganized, split into a services bureau on the one hand and a separate enforcement bureau on the other.

Last May, following reports about intelligence failures by the FBI, the administration announced a reorganization of the FBI. These reorganizations have either produced very little or they have been replaced by subsequent additional reorganization proposals. It is as if we are spinning around in circles with little left to show for all of the energy expended but dizziness.

To avoid a similar fate to this new Department, I have an amendment to the Lieberman substitute that would ensure that the Congress continues to play a role. The Byrd amendment would create the superstructure of the new Department as outlined in the Lieberman bill, but would require Congress to pass separate, more detailed legislation to transfer the agencies, functions, and employees to it.

The Byrd amendment would not change the intent of the Lieberman bill. Let me say this, Senator LIEBERMAN is near the floor. I don't necessarily have to keep the floor for the next hour. I can under the order that had been entered. I get first recognition. But there is still an hour in this 2-hour period before the Senate goes back to the Interior appropriations bill. I welcome Mr. LIEBERMAN's questions. I am happy to discuss my amendment with him if he so desires before I give up the floor.

My amendment would immediately create a new Homeland Security Department. There it is. My amendment would create immediately a new Homeland Security Department. My amendment would immediately establish the superstructure of the six directorates outlined by the Governmental Affairs Committee. The Byrd amendment is not designed as an alternative to the Lieberman bill. I refer to it as the Lieberman bill. It is a bill that has been reported by the committee which Senator LIEBERMAN so ably chairs. So I refer to the bill as ''the Lieberman bill.'' Its purpose is to strengthen. The purpose of my amendment is to strengthen the Lieberman bill. Its purpose is to ensure a strong Department capable of protecting our people. But its enactment would also ensure that the guiding hand of Congress would be there to help steer the course and stay the course.

What is more, any legislation submitted pursuant to this act would be referred to the Governmental Affairs Committee in the Senate so that my amendment, the Byrd amendment, would not deprive Senator LIEBERMAN or his committee of their jurisdiction or their expertise as we go about implementing this new Department which will have been created by the Lieberman bill. And, as I say, my amendment also creates that Department. My amendment allows the Department of Homeland Security to be established just as Senator LIEBERMAN envisioned. But the Byrd amendment would give Congress additional opportunities to sift through details concerning worker rights, civil liberties, secrecy, and various duties and functions. Equally important, it would ensure that the agencies and the offices to be transferred into the Department can continue to perform their important work of protecting the homeland while the groundwork is being laid for their move to the new Department.

Just recently we have all noted in the media that—I believe six persons were arrested in New York, in Buffalo, NY. Six persons were arrested. We didn't have any new Department of Homeland Security. There is no Department of Homeland Security that has been established. Yet the work of securing our homeland goes forward by the persons who man—man or woman, I use the word ''man'' to mean both women and men—the persons who are on the borders, who are guarding the ports of entry, who are looking at the huge containers that come into our ports, the persons who—right today and last night at midnight and all through the hours of this day, yesterday, the day before, and tomorrow—will continue to do their work even though there is no Department of Homeland Security. The FBI was on the job. The FBI has been on the job. And so the FBI brought about the arrest of these six persons, and they are being held.

So I say to the President and to anyone else: Nobody is holding up the work of proceeding with the security of our country. The people who will secure this Nation under a Homeland Security Department, if and when one is established, are the same people who are right now, right this day, securing the homeland. These people have been on the job last night, 6 months ago, and they continue to do this work. They have expertise. They have experience. They are trained, and so on. So nobody is holding up the security of the country. Nobody is holding that up. That is going forward, as was seen when the FBI arrested the six persons.

So this is vital. Ongoing reorganizations can foster chaos and destroy worker morale. Orderliness and careful thought while we transition can avoid overlooked vulnerabilities and missed nuances which could signal another disaster.

With the Byrd amendment, the Lieberman bill would transfer agencies

and functions to the Department, one and two directorates at a time, beginning on February 3 of next year. This would then give Congress the opportunity to gauge and to monitor how the new Department is dealing with transition and what additional changes might be necessary. It would provide a means to quickly address the problems that will undoubtedly arise in the early phases of the Department's implementation and to guard against mistakes and missteps.

The Byrd amendment would not delay the implementation of the new Department one whit. It would actually expedite the implementation of the new Department by providing Congress with additional means to solve the quandaries that traditionally plague and delay and disrupt massive reorganizations.

Here we are talking about 170,000 employees. We are talking about 28 agencies and offices—some have said 30. So this is no minor movement. This is a major reorganization.

Moreover, the Congress could act to transfer agencies before the end of next year, roughly the same time period outlined by the Lieberman plan. When I say the Lieberman plan, I am talking about the bill that was adopted by the committee, which Mr. LIEBERMAN ably chaired. And that is the same time period outlined by the House bill. So who is holding up anything? Why shouldn't we stop, look, and listen here and do this thing in an orderly way? Do it right. Not necessarily do it now, do it here, but do it right. The Lieberman plan provides the President with a 1-year transition period, beginning 30 days after the date of enactment, effectively allowing up to 13 months before any agencies are transferred.

By then forcing the administration to come back to us—which the Byrd amendment would do—we can insist on knowing more about the plans of the administration with its penchant for secrecy—plans which are now only hazy outlines. So if Congress passes the Lieberman proposal or if Congress passes the House proposal, Congress will just be turning the thing over to the administration, lock, stock and barrel, and saying: Here it is, Mr. President. You take it. You have 13 months in which to do this, but it is all yours. Congress will just go off to the sidelines. Congress will have muzzled itself.

Whereas in the Byrd plan, the Byrd plan would also transfer these agencies. It would create a Homeland Security Department, and it would provide for the transaction, the movement of these various agencies, their personnel and their assets, into the new Department over the same period, 13 months, but it would do it in an orderly process in an orderly way, phased in, with Congress staying front and center and continuing to conduct oversight in this massive reorganization.

We must insist on assurances that in granting more powers to this administration and to future administrations to investigate terrorism, we are not also granting powers to jeopardize the rights, privacy, or privileges of law-abiding citizens.

We must insist on assurances that the constitutional rights of Americans remain protected. We must insist that the constitutional control of the purse by the Congress is not compromised.

We must insist on assurances that Government reorganization will not be used as a convenient device to dismantle time-honored worker protections.

We must insist on the preservation of our Government's constitutional system of checks and balances and separation of powers. We have a responsibility to do our very best as a nation to get this thing right. If we are going to create a new Department, let's get it right.

We have a responsibility to ourselves and to future generations to ensure that, in our zeal to build a fortress against terrorism, we are not dismantling the fortress of our organic law—our Constitution—our liberties, and our American way of life.

ANNIVERSARY OF THE SIGNING OF THE CONSTITUTION

Madam President, as I stated earlier, today is September 17, the 215th anniversary of the signing of the Constitution in 1787. The Constitution is not noted for its soaring rhetoric or for the emotional power of its language, but it is nonetheless the most important document in our Nation's history.

Bar none, this Constitution that I hold in my hand is the most important document in our Nation's history. And it was meant, according to that eminent jurist John Marshall, to endure for ages—ages. It is not irrelevant. This is relevant. This Constitution is relevant. It is, front and center, relevant to today's issues.

The Declaration of Independence—which is also contained in this little book which I hold in my hand—with its ringing phrases, may have been a turning point in history, having laid out the case for breaking our ties with the Crown and setting us on the path to rebellion and liberty. There is no question in my mind but that it was a turning point.

But the Constitution is the foundation upon which our subsequent history was built. In its plain speech, it forms the blueprint for an entirely new form of government never before seen in history and, to my mind, not yet matched by any other.

I am happy to call attention to this day—to the anniversary of the signing of the Constitution.

As the Senate has been debating the homeland security bill, I have several times raised constitutional concerns about the way the homeland security bill is structured. In doing so, I have often felt like a voice crying out in the wilderness. Like a tree falling with no one to hear it, I have wondered if I was in fact making any progress and wondered if I was making any sound while I was talking. Was I making any sound?

I hope my colleagues and the American people will look at the Constitution, and I hope they will read it and they will study it. It is not long. It is not a huge volume. It doesn't contain many pages, and it isn't difficult to understand. But each time I read it, it seems I always find something new. It is like my reading of the Bible. It is like my reading of Shakespeare. I always find what seems to be something new.

The Constitution is not written in fancy, lawyerlike phrases, or flowery 18th century language. Every citizen was meant to understand it and to participate in the exercise of government—that being the surest defense against tyranny.

It is much like the Magna Carta, which indeed is a taproot, and beyond—a taproot from which liberty sprang and a taproot from which our Constitution sprang—the Magna Carta, a great charter, the charter of the English people, which was signed by King John on June 15, 1215. That was simple, but it was easily understood. It was written for ordinary people to understand, and it has been read and reread by millions through the centuries.

So read the Constitution. Look to history. I believe my concerns will be shared.

Article I of the Constitution outlines the powers of the legislature. It vests with the Congress the power to make laws. There it is. The first section of the first article says that all legislative powers herein are vested in the Congress of the United States, which shall consist of a Senate and a House of Representatives. There it is—the power to make laws, the powers of the legislature.

Also, article I of the Constitution sets forth the qualifications and means of selecting representatives and the basic requirements for congressional operations.

Therein one will find in section 2 where the Constitution sets forth the creation of the House of Representatives, and then section 3 of the Constitution lays down the precepts and terms and the basis for the creation of the Senate.

The Constitution is a user manual for Congress, the operating software of the legislative branch. Article I, section 8, is the critical list of congressional powers, including subsection 18 which grants to Congress the power:

> To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

You heard it here. Powers may be vested by the Constitution in the Government and its Departments or officers. But the Congress must pass the

necessary laws for those powers to be exercised. It is meant to be a cooperative affair, with Congress playing a critical role.

Further, in section 9, subsection 7, of article I, the Constitution states that:

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Congress again plays a critical role in providing funds for Government operations, and requires that the public be kept informed about how those funds are spent.

One can trace our Nation's history going back into the centuries and can trace these powers in the colonial governments, in the representative assemblies of the Colonies. The people in the Colonies had faith in their representative assemblies. Going back to the history of England, this has often been referred to as the ''motherland.''

Of course, we all know that the Spanish populated various areas in the South and Southwest, St. Augustine, and New Mexico, and other areas. But the individuals who wrote the Constitution, who met in Philadelphia, were British subjects. Some of them were born in the British Isles. They were English-speaking individuals. They knew about the history of Englishmen, how the English had struggled to secure the rights of the people, the power of the purse, to secure the control of the public purse for Parliament.

They knew that Parliament was created in the early 1300s during the reigns of Edward the First, Second, and Third. And they knew that the power of the purse had been lodged over a long period of centuries in Commons. That was made very clear by the English Bill of Rights which was enacted by Parliament in 1689.

So there it was, the power of the purse, lodged in the hands of the people's elected Representatives in Commons and now in Congress.

So Congress, as I say, plays a critical role in providing funds for Government operations, and the public must be kept informed about how those funds are spent.

Part of that process, as I have indicated, by long tradition, has occurred during the testimony of Government officials before the Congress regarding their budget requests and the manner in which previous appropriations have been spent. In the case of the proposed Department of Homeland Security, with its 170,000 employees and its enormous budget, such openness is equally to be expected, and should be demanded, by the taxpaying public.

Article II of the Constitution concerns the establishment of the Chief Executive, concerns the powers of the President, the qualifications and means of selecting the President, and his oath of office being required. Article II, section 2, subsection 2 notes that the President:

shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law . . .

Well, Madam President, that would seem clearly to include the proposed Director of Homeland Security will be certainly one to whom the provision in the Constitution is addressing, except that the subsection continues:

but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

If the Congress does not wish to provide for accountability or wish to have any voice in the selection of important Government officials, the Congress must take deliberate action to divest itself of its constitutional role in the operations of Government.

The authors of the Constitution clearly foresaw the growth of Government and recognized that the Congress could consume itself in processing the appointments of hundreds of minor officials. However, I sincerely doubt that these wise men would expect that a cabinet level official heading up an enormous department with a mission of grave importance to the Nation would receive less scrutiny and less oversight than so many officials whose positions do not involve the defense of our vital domestic security. That does not make sense. It is not logical. It is ludicrous. The Senate would not provide its advice and consent in the selection of the Director of Homeland Security, while Assistant Secretaries and Deputy Assistant Secretaries in other Departments are subject to confirmation? I cannot believe that the Senate cares less for the Department of Homeland Security and its Director than it does for so many other Government officials with smaller budgets and more narrow portfolios.

No, Madam President, I can only surmise that any willingness on the part of the Senate to abrogate its constitutional responsibilities and powers comes from a lack of attention to the deceptively plain language of the Constitution itself. Perhaps we should gussie it up, wrap it legalistic bells and whistles, enshroud it in ''wheras-es'' and ''let it therefore be resolved'' clauses, so that it receives the respect that it deserves. But, in fact, even Article III, concerning the judicial power of the United States, has no highfaluting lawyer words. Article IV, concerning the powers of the States; Article V, the process by which the Constitution may be amended; Article VI, making the Constitution the supreme law of the land, and Article VII, regarding ratification—none of these short Articles contains any obscure, opaque, misleading, or confusing language. Really, considering how many lawyers were involved in the drafting of the Constitution—a little more than half of the delegates to the Constitutional Convention were lawyers—it is a model of clarity and clean writing.

Indeed, the men who drafted the Constitution were as much heroes as those who signed the Declaration of Independence, making themselves known as traitors and wanted men in England, traitors to the Crown. They were treasonous. They committed treason. And they could have been hunted down and sent off to England and been executed. The Framers of the Constitution undertook a mighty task. They had to preserve the Nation's hard-won freedom by correcting the flaws in the Articles of Confederation that made the Nation weak and vulnerable to attack from without and rebellion from within. Drawing upon the lessons of history and the ideals of the Enlightenment, they set themselves the job of devising a novel form of government that could encompass the great diversity of the new Nation—from the mercantile North to the slaveholding South, from the settled East to the frontier West, with citizens from cultures around the globe.

In Philadelphia, in the hot summer of 1789, after lengthy and contentious debate, after considering and rejecting proposal after proposal, and after nearly 600 separate votes, they produced the miracle that is our Constitution. And so there you have it. In over 200 years, it has been amended 27 times, and 10 of the 27 amendments were ratified early on, by 1791.

In today's computer-minded lexicon, the Constitution is the mother board without which our thinking, evolving, machine of Government could not function. It is the enduring standard operating system, running the complex interactive software of national life. It is our embedded code, and when we overwrite it without careful consideration, we may well be planting the worms of our own destruction.

When the Executive acquires too much power and freedom of action unchecked by the balancing powers and oversight of the legislative branch, our careful system of checks and balances is in danger of being corrupted.

So on this anniversary of the signing of the Constitution, we would do well to revisit this miracle of compromise and foresight. We would do well to marvel at the abilities of the men who crafted this document. We would do well to rededicate ourselves to its careful preservation that it might see us through another two centuries and more.

Our fathers in a wondrous age,
Ere yet the Earth was small,
Ensured to us an heritage,
And doubted not at all

That we, the children of their heart,
Which then did beat so high,
In later time should play like part
For our posterity.

Then fretful murmur not they gave
So great a charge to keep,
Nor dream that awestruck time shall save
Their labour while we sleep.

Dear-bought and clear, a thousand year

Our fathers' title runs.
Make we likewise their sacrifice.
Defrauding not our sons.

I ask unanimous consent that the article from the Washington Post titled ''Secret Court Rebuffs Ashcroft,'' to which I have already referred, and the New York Times op-ed titled ''Secrecy Is Our Enemy,'' 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, Aug. 23, 2002]

SECRET COURT REBUFFS ASHCROFT

(By Dan Egen and Susan Schmidt)

The secretive federal court that approves spying on terror suspects in the United States has refused to give the Justice Department broad new powers, saying the government had misused the law and misled the court dozens of times, according to an extraordinary legal ruling released yesterday.

A May 17 opinion by the court that oversees the Foreign Intelligence Surveillance Act (FISA) alleges that Justice Department and FBI officials supplied erroneous information to the court in more than 75 applications for search warrants and wiretaps, including one signed by then-FBI Director Louis J. Freeh.

Authorities also improperly shared intelligence information with agents and prosecutors handling criminal cases in New York on at least four occasions, the judges said.

Given such problems, the court found that new procedures proposed by Attorney General John D. Ashcroft in March would have given prosecutors too much control over counterintelligence investigations and would have effectively allowed the government to misuse intelligence information for criminal cases, according to the ruling.

The dispute between the Justice Department and the FISA court, which has raged behind closed doors until yesterday, strikes at the heart of Ashcroft's attempts since Sept. 11 to allow investigators in terrorism and espionage to share more information with criminal investigators.

Generally, the Justice Department must seek the FISA court's permission to give prosecutors of criminal cases any information gathered by the FBI in an intelligence investigation. Ashcroft had proposed that criminal-case prosecutors be given routine access to such intelligence information, and that they be allowed to direct intelligence investigation as well as criminal investigation.

The FISA court agreed with other proposed rule changes. But Ashcroft filed an appeal yesterday over the rejected procedures that would constitute the first formal challenge to the FISA court in its 23-year history, officials, said.

''We believe the court's action unnecessarily narrowed the Patriot Act and limited our ability to fully utilize the authority Congress gave us,'' the Justice Department said in a statement.

The documents released yesterday also provide a rare glimpse into the workings of the almost entirely secret FISA court, composed of a rotating panel of federal judges from around the United States and, until yesterday, had never jointly approved the release of one of its opinions. Ironically, the Justice Department itself had opposed the release.

Stewart Baker, former general counsel of the National Security Agency, called the opinion a ''a public rebuke.

''The message is you need better quality control,'' Baker said. ''The judges want to ensure they have information they can rely on implicitly.''

A senior Justice Department official said that the FISA court has not curtailed any investigations that involved misrepresented or erroneous information, nor has any court suppressed evidence in any related criminal case. He said that many of the misrepresentations were simply repetitions of earlier errors, because wiretap warrants must be renewed every 90 days. The FISA court approves about 1,000 warrants a year.

The department discovered the misrepresentation and reported them to the FISA court beginning in 2000.

Enacted in the wake of the domestic spying scandals of the Nixon era, the FISA statute created a secret process and secret court to review requests to wiretap phones and conduct searches aimed at spies, terrorists and other U.S. enemies.

FISA warrants have been primarily aimed at intelligence-gathering rather than investigating crimes. But Bush administration officials and many leading lawmakers have complained since Sept. 11 that such limits hampered the ability of officials to investigate suspected terrorists, including alleged hijacking conspirator Zacaris Moussaoui.

The law requires agents to be able to show probable cause that the subject of the search is an agent of a foreign government or terrorist group, and authorizes strict limits on distribution of information because the standards for obtaining FISA warrants are much lower than for traditional criminal warrants.

In Moussaoui's case, the FBI did not seek an FISA warrant to search his laptop computer and other belongings in the weeks prior to the Sept. 11 attacks because some officials believed that they could not adequately show the court Moussaoui's connection to a foreign terrorist group.

The USA Patriot Act, a set of anti-terrorism measures passed last fall, softened the standards for obtaining intelligence warrants, requiring that foreign intelligence be a significant, rather than primary, purpose of the investigation. The FISA court said in its ruling that the new law was not relevant to its decision.

Despite its rebuke, the court left the door open for a possible solution, noting that its decision was based on the existing FISA statute and that lawmakers were free to update the law if they wished.

Members of the Senate Judiciary Committee have indicated their willingness to enact such reforms but have complained about resistance from Ashcroft. Chairman Patrick J. Leahy (D-Vt.) said yesterday's release was a ''ray of sunshine'' compared to a ''lack of cooperation'' from the Bush administration.

Sen. Charles E. Grassley (R-Iowa), another committee member, said the legal opinion will ''help us determine what's wrong with the FISA process, including what went wrong in the Zacarias Moussaoui case. The stakes couldn't be higher for our national security at home and abroad.''

The ruling, signed by the court's previous chief, U.S. District Judge Royce C. Lamberth, was released by the new presiding judge, U.S. District Judge Colleen Kollar-Kotelly.

FBI and Justice Department officials have said that the fear of being rejected by the FISA court, complicated by disputes such as those revealed yesterday, has at times caused both FBI and Justice officials to take a cautious approach to intelligence warrants.

Until the current dispute, the FISA court had approved all but one application sought by the government since the court's inception. Civil libertarians claim that record shows that the court is a rubber stamp for the government; proponents of stronger law enforcement say the record reveals a timid bureaucracy only willing to seek warrants on sure winners.

The opinion itself—and the court's unprecedented decision to release it—suggest that relations between the court and officials at the Justice Department and the FBI have frayed badly.

FISA applications are voluminous documents, containing boilerplate language as well as details specific to each circumstance. The judges did not say the misrepresentations were intended to mislead the court, but said that in addition to erroneous statements, important facts have been omitted from some FISA applications.

In one case, the FISA judges were so angered by inaccuracies in affidavits submitted by FBI agent Michael Resnick that they barred him from ever appearing before the court, according to the ruling and government sources.

Referring to the ''the troubling number of inaccurate FBI affidavits in so many FISA applications,'' the court said in its opinion: ''In virtually every instance, the government's misstatements and omissions in FISA applications and violations of the Court's orders involved information sharing and unauthorized disseminations to criminal investigators and prosecutors.''

The judges were also clearly perturbed at a lack of answers about the problems from the Justice Department, which is still conducting an internal investigation into the lapses.

''How these misrepresentations occurred remains unexplained to the court,'' the opinion said.

[From the New York Times, Sept. 2, 2002]

SECRECY IS OUR ENEMY

(By Bob Herbert)

You want an American hero? A real hero?

I nominate Judge Damon J. Keith of the United States Court of Appeals for the Sixth Circuit.

Judge Keith wrote an opinion, handed down last Monday by a three-judge panel in Cincinnati, that clarified and reaffirmed some crucially important democratic principles that have been in danger of being discarded since the terrorist attacks last Sept. 11.

The opinion was a reflection of true patriotism, a 21st-century echo of a pair of comments made by John Adams nearly two centuries ago. ''Liberty,'' said Adams, ''cannot be preserved without a general knowledge among the people.''

And in a letter to Thomas Jefferson in 1816, Adams said, ''Power must never be trusted without a check.''

Last Monday's opinion declared that it was unlawful for the Bush administration to conduct deportation hearings in secret whenever the government asserted that the people involved might be linked to terrorism.

The Justice Department has conducted hundreds of such hearings, out of sight of the press and the public. In some instances the fact that the hearings were held was kept secret.

The administration argued that opening up the hearings would compromise its fight against terrorism. Judge Keith, and the two concurring judges in the unanimous ruling, took the position that excessive secrecy compromised the very principles of free and open government that the fight against terror is meant to protect.

The opinion was forceful and frequently eloquent.

''Democracies die behind closed doors,'' wrote Judge Keith.

He said the First Amendment and a free press protect the ''people's right to know'' that their government is acting fairly and lawfully. ''When government begins closing doors,'' he said, ''it selectively controls information rightfully belonging to the people. Selective information is misinformation.''

He said, ''A government operating in the shadow of secrecy stands in complete opposition to the society envisioned by the framers of our Constitution.''

The concurring judges were Martha Craig Daughtrey and James G. Carr. The panel acknowledged—and said it even shared—''the government's fear that dangerous information might be disclosed in some of these hearings.'' But the judges said when that possibility arises, the proper procedure for the government would be to explain ''on a case-by-case basis'' why the hearing should be closed.

''Using this stricter standard,'' wrote Judge Keith, ''does not mean that information helpful to terrorists will be disclosed, only that the government must be more targeted and precise in its approach.''

A blanket policy of secrecy, the court said, is unconstitutional.

The case that led to the panel's ruling involved a Muslim clergyman in Ann Arbor, Mich., Rabih Haddad, who overstayed his tourist visa. The ruling is binding on courts in Kentucky, Michigan, Ohio and Tennessee and may serve as a precedent in other jurisdictions.

The attorneys who argued the case against the government represented four Michigan newspapers and Representative John Conyers Jr., a Michigan Democrat. They took no position on whether Mr. Haddad should be deported.

''Secrecy is the evil here,'' said Herschel P. Fink, a lawyer who represented The Detroit Free Press. He said the government ''absolutely'' had an obligation to ''vigorously'' fight terrorism. But excessive secrecy, he said, was intolerable.

''We just want to watch,'' said Mr. Fink.

Judge Keith specifically addressed that issue. The people, he said, had deputized the press ''as the guardians of their liberty.''

The essence of the ruling was the reaffirmation of the importance of our nation's system of checks and balances. While the executive branch has tremendous power and authority with regard to immigration issues and the national defense, it does not have carte blanche.

Lee Gelernt, a lawyer with the American Civil Liberties Union who represented some of the plaintiffs in the case, noted that the administration has been arguing since Sept. 11 that it needs much more authority to act unilaterally and without scrutiny by the public and the courts.

He said last week's ruling was the most recent and, thus far, the most important to assert, ''That's not the way it's done in our system.''

HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER (Mrs. CARNAHAN). The majority leader.

Mr. DASCHLE. Madam President, I will be brief. The President again today admonished the Senate for moving slowly on homeland security. He again told his audience that he was very concerned that we are moving slowly on an issue of great import in terms of his design on homeland security and the need for a recognition of national security through this legislation.

Let me simply say to the President and to anybody else who has question: There is no desire to slow down this legislation. There are Senators who have very significant concerns about various provisions, but there ought to be no question about our desire to continue to work to complete the deliberation of this legislation and send it to conference as quickly as possible.

We have only had an opportunity to debate one amendment and bring it to closure. It would be my hope we could take up Senator BYRD's amendment sometime very soon and we could take up other amendments to the legislation as soon as possible. We have now been on this bill for 3 weeks, and I understand why some would be concerned about the pace with which the Senate is dealing with this legislation.

I discussed the matter with Senator LOTT, and I think he shares my view that we have to move the bill along. I note that if the President had supported homeland security legislation when the Democrats first offered it last summer, we probably would have completed it by now. It took them about 2 months to respond to the actions taken by the Governmental Affairs Committee in the Senate. But that has been done. They have responded, and we have worked with them to come up with a plan of which we are very proud and a product that can be addressed.

Senator BYRD has a good amendment. There are others who have amendments as well, but the time has come to move on. I had originally hoped we could get an agreement that only relevant amendments would be offered. We have not had a case of nonrelevant amendments. We have had a case of no amendments in this process. It is very important for us to demonstrate to the American people, it is very important for us to make as clear as we can that we want to come to closure on this legislation—take up amendments and deal with them effectively, but the amendments ought to be germane and we ought to work within a timeframe.

CLOTURE MOTION

Mr. DASCHLE. Madam President, with respect to the Lieberman substitute amendment to the homeland security bill, I send a cloture motion to the desk.

Mr. BYRD. Madam President, I ask the leader if he will add my name to that cloture motion.

Mr. DASCHLE. I will be happy to add the Senator's name.

Mr. BYRD. Madam President, I give the distinguished majority leader my power of attorney to sign this for me. Everybody in the country knows about my trembling hands. So I hope the majority will sign this for me.

Mr. DASCHLE. Madam President, I ask unanimous consent that I have that right, and we will accommodate the Senator's request. I appreciate very much his support of the cloture motion.

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

The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

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

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

Mr. DASCHLE. Madam President, we now have two cloture motions before the Senate. The first one ripens this afternoon at 5:15. That is on the amendment offered by Senator BYRD to the Interior appropriations bill.

We cannot get to the rest of the business before us unless that cloture motion is agreed to. There can be no excuse, there can be no reason, after all this debate, after all the meetings, that we cannot at least bring closure to that amendment.

Senators still have a right to offer amendments to the bill, but we have to move on. I cannot imagine that there would be a Senator who would want to extend debate beyond the 3 weeks we have now debated Interior and the Byrd amendment. The same could be said of homeland security. If we want to respond to the President, who again today said the time for the Senate to act is now, let's respond on a bipartisan basis and let's vote for cloture on the Lieberman substitute and let's move this legislation along.

I yield the floor.

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

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

Mr. SPECTER. Madam President, I have sought recognition to comment briefly about the upcoming cloture vote and also about the status of our progress on the homeland security bill and the progress of the Senate on its fundamental responsibility to have a budget or make appropriations.

I would have thought that on September 17, the day the Constitution was ratified, there would be more regard for the constitutional responsibility of the Senate. We have the power of appropriation, but we are not handling our duties. Much as I dislike saying so, I believe the Senate is dysfunctional. Harsh, perhaps, but true, certainly. We are simply not getting the job done.

I am a little surprised to see a cloture motion filed on an amendment to an appropriations bill. If there were protracted debate, if there were an effort to stall, if there were some attempt made to delay the proceedings of

the Senate, perhaps so. But there are Senators who want to vote on an important issue relating to the forests, especially in the West, and the dangers of fire. They have been seeking a vote but have not been able to get one.

I intend to vote against cloture, to give Senators a chance to present their amendment. That is not to say I will support the amendment, but I believe the Senators ought to have an opportunity to present their amendment.

Cloture has now been filed on the homeland security bill. We are now in our third week after returning from the August recess, and the Senate has done virtually nothing during that period of time. We have had prolonged speeches on generalizations which have, in fact, impeded the progress of the homeland security bill. We were in a position to vote on the amendment by the distinguished Senator from Connecticut last Thursday, but it could not get a vote because the time was consumed with speechmaking. Now, I like speechmaking as much as the next Senator, but there has to be some balance as to what is being done. And again this afternoon—I had not known unanimous consent was granted—more lengthy speeches, without really getting to the substance of what the Senate ought to be doing.

We have not passed any appropriations bill among the 13 we are charged with passing. Now, this is September 17, 13 days away from the end of the fiscal year, with only a few working days left. The Department of Defense appropriations bill lies dormant. It has been passed by both bodies, but there hasn't been a conference. The military construction appropriations bill lies dormant. Again, it has been passed by both bodies but there hasn't been a conference.

We are fighting a war at the present time. We are cleaning up the remnants of other wars, in Kosovo and in Bosnia, and our troops are in Afghanistan. We will be called upon soon to vote on a resolution which may send us to war against Iraq.

Now, what are we doing for the Department of Defense? We have a very substantial increase in defense funding, but the way it looks now, we are going to be having a continuing resolution. What the House has said ought to be adopted and what the Senate has said ought to be adopted will be curtailed very drastically if we have a continuing resolution. So we are simply not doing our job.

Then we have 11 other appropriations bills. I have the responsibility, as ranking member of the Subcommittee on Labor, Health and Human Services, and Education, to prepare a very major bill which funds the Department of Education, the major capital investment of America, the Department of Health and Human Services, which is very important, and the Department of Labor on worker safety. But we are not moving to pass the bill.

The National Institutes of Health, probably the best investment this Congress makes, the crown jewel of the Federal Government—perhaps the only jewel of the Federal Government—has an increase of $3.5 billion in this year's appropriations bill. But as of this reading, it is unlikely to comment on its operation because we are not going to pass the bill.

We are told that the Department of Defense appropriations bill is being held up because we have not established the allocations. Why haven't we established allocations? We haven't established allocations because there is no budget. The Budget Act was passed in 1974, and this is the first year there hasn't been a budget passed.

As I am approaching the end of my 22nd year in this body, not an inconsiderable period of time, I have not seen the Senate in such disarray as we are at the present time.

We had a vote several weeks ago on what was the equivalent of deeming. That is legal jargon, Senate jargon, for making out as if we had passed a budget to establish a figure. It required 60 votes to have this amendment passed—I was sorely tempted to vote for it—which would have established the Senate budget $9 billion above the House budget. I do believe we need a budget, because if we do not, we are going to be passing appropriations bills which far exceed the purported allocations.

It is customary, on the attractive education proposals and the attractive health proposals, to get into the high fifties. With a 60-vote requirement, those amendments are not passed, but they are very tempting amendments. When I responded to the rollcall, with 59 Senators having voted aye on the deeming resolution, I just was not going to do it, notwithstanding my deep commitment to the appropriations process and notwithstanding my knowledge that it was fairly important to have a budget figure.

But if we are going to use a shortcut, if we are going to use a substitute, what is the point of having a budget resolution? If the Budget Committee knows it can be derelict in its duty and be bailed out by 60 Senators who will say, awe, shucks, let's go ahead and do it anyway, what is the point to have the Budget Committee do its job next year or any year?

The previous chairman of the Budget Committee told me—the distinguished senior Senator from New Mexico is sitting in front of me—that he will be chairman next year. If I was sure of that, I would have voted for deeming. But I am not sure of much of anything on the current posture.

So it is my hope that we will move ahead and have votes and let there be a vote on this issue on the course. But let us proceed to vote on the homeland security issues which are very important.

One of the critical issues on homeland security, in my judgment, is to have the analysis of all the agencies—FBI, CIA, NSA—under one umbrella.

Had that been done prior to September 11, 2001, I think that catastrophe might have been avoided. There were lots of danger signals. There were lots of dots on the board.

There was the July FBI Phoenix memorandum about a man taking flight training and two al-Qaida men in Kuala Lumpur, known to the CIA, who later turned out to be pilots on the hijacked planes. The CIA didn't bother to tell the FBI or INS.

You had the NSA warning on September 10 that something was going to happen the next day. But nobody bothered to translate it until September 12.

Then you had the matter of Zacarias Moussaoui, a much celebrated personality today with the litigation in the Federal court. But had the FBI obtained a warrant under the Foreign Intelligence Surveillance Act, there was a treasure trove of information linking Moussaoui to al-Qaida. And there was a virtual blueprint, had all the dots been put together.

After September 11, I opposed the creation of an independent commission because it seemed to me the Intelligence Committees could do the job. I understood that they couldn't move ahead immediately with hearings in closed session and then in open session in order to give the intelligence community an opportunity to regroup. But that time has long passed, and now we find the Intelligence Committees are embroiled in another investigation; that is, an investigation by the FBI against the Intelligence Committees.

It is very difficult to understand how the Intelligence Committees can be investigating the FBI and the CIA and other intelligence agencies, and then, having a leak of classified material, to have the FBI investigate the intelligence committees. I wrote to the chairmen and vice chairmen of both the House and Senate, strongly urging them not to do that—that you simply can't have investigators being investigated by those who are under investigation.

Then you have the issue of separation of powers. If the FBI is going to be able to investigate the Congress, what independence does the Congress have in our oversight function?

So the Intelligence Committees have not moved ahead for that job. The only alternative now is an independent commission. I worked as one of the younger lawyers on the Warren Commission staff many years ago. I say ''younger lawyer'' because I am still a young lawyer. And, while the Warren Commission has received a fair amount of critical analysis over the years, the essential conclusions have held up—that Oswald was the sole assassin, or the single bullet that went through both the President and Governor Connolly and the President was struck by a later bullet which killed him. So I have now come to conclude that we need an independent commission.

But most of all we need a Senate which will move ahead in its duties and obligations. This is a good day, September 17. September 17, 1787, was the

day the Constitution was signed. So, 215 years later, that ought to be a hallmark for us to move ahead and discharge our duties.

I yield the floor.

Mr. DOMENICI. Madam President, I was en route here and was watching and saw the Senator from Pennsylvania speaking. I got here as fast as I could because I was wondering when somebody would say what he has said. Frankly, I am sorry the distinguished President pro tempore is not here, or I would ask him the same question: When do we intend? When would he let us vote on this very important, new Cabinet position and the Cabinet organization that goes with it?

I heard much of what he wants to say. I know he wants to win. But I believe it is important that when we are at war, we proceed with some dispatch to give the President what he wants. If the distinguished Senator is going to lose, we all lose sometimes. If he is going to win, maybe he will win sooner than he thinks. But it is taking a long time and getting nowhere. And I think we know the issues on that new piece, that new Department of our Federal Government. I think he ought to let us proceed with it.

My further observation has to do with appropriations. You know, we are all tied in knots because we didn't get a budget resolution, and every time we say it, somebody should be here on our side of the aisle because it is not our fault. It is not me as ranking member. It is not my fault. And it is not my fault in any other capacity. I have been on that committee for 25 years, and never did I not get a budget resolution when I was chairman. One way or another, we got a budget resolution.

Now we don't know which appropriations numbers to follow, the bigger number in the House or the Senate or vice versa. At least that much would be resolved with a budget resolution. I hope we learn from it and we get on to our business today.

Mr. SARBANES. Madam, President, my amendment, No. 4554, would establish an Office of National Capital Region Coordination within a newly-created Department of Homeland Security. Joining me in offering this amendment are Senators WARNER, MIKULSKI, and ALLEN.

The September 11, 2001 terrorist attack on the Pentagon underscored the unique challenges the National Capital Region faces in emergency preparedness. A recent editorial in the Washington Post perhaps described the problem best:

> Sept. 11 laid bare the truth about the national capital region's preparedness for a major terrorist attack. That fateful day revealed that the area's 5 million residents, the federal government's far-flung operations and the varied state and local jurisdictions were ill-prepared for the kind of emergencies that could result from bioterrorism or other murderous terrorist strikes . . . . It will be no easy feat, converting a region containing three branches of the federal government, two states, and the District of Columbia, each with separate police forces and emergency plans—but all using the same roads and bridges—into a well-coordinated governmental operating complex . . .

In no other area of the country must vital decisionmaking and coordination occur between an independent city, two States, seventeen distinct local and regional authorities, including more than a dozen local police and Federal protective forces, and numerous Federal agencies.

In hearings before the Senate Appropriations Subcommittee on the District of Columbia, Senator MARY LANDRIEU, the Distinguished Chair of the Subcommittee, and virtually every witness highlighted the region's high risk for terrorism and the critical need for coordinated and timely communication between the Federal Government and the surrounding State and local jurisdictions. I want to commend Senator LANDRIEU for her leadership on this very important issue and for working to address the emergency preparedness funding needs of the District of Columbia and the Washington Metro system.

Over the past year significant progress has been made on the State and local levels in emergency response protocols. The Metropolitan Washington Council of Governments, COG, the association representing the 17 major cities and counties in the region, should be commended for the strong partnerships and initiatives they have nurtured over the past twelve months, including the creation of the COG Ad Hoc Task Force on Homeland Security and the development of a Regional Emergency Response Plan.

Similarly, at a summit meeting convened last month, the mayor of the District of Columbia and the Governors of Maryland and Virginia took a major step forward with the signing of an eight-point ''Commitments to Action'' to improve coordination. Unfortunately, the Office of Homeland Security, which helped convene the summit, is not a party to the agreement.

What is still lacking, however, is the integration of the Federal Government's many and diverse protocols in the region with those of State and local authorities. This past August, a plan known as the Federal Emergency Decision and Notification Protocol was announced by the Administration, giving the directors of the Office of Personnel Management, the Federal Emergency Management Agency, and the General Services Administration the authority to release Federal employees in the area and around the country. However, as an August 17, 2002 article in the Washington Post notes, ''[left unclear by the plan is how Federal agencies execute the evacuation. Congress and the courts are independent of the President. Even Cabinet secretaries and senior agency directors have autonomy over their employees and buildings . . . .''

I commend to my colleagues the September 10, 2002 edition of the Washington Post which featured a story detailing the status of emergency planning in the area, noting the work yet to be done by the Federal Government.

The unique and dominant Federal presence in this region obligates the Federal Government to become a fully cooperative partner in the region's efforts at emergency planning and preparedness.

One of the key goals of a new Department of Homeland Security is to consolidate the components of the Federal Government playing an integral role in the protection of the homeland, both existing and yet-to-be-created, into one single entity whose purpose is to coordinate these components and facilitate their individual missions.

In the National Capital Region, the many branches and agencies of the Federal Government similarly necessitate a single voice to aid and encourage the significant efforts already being undertaken by State, local, and regional authorities. It is with this goal in mind that my amendment proposes the creation of an office within a Department of Homeland Security that would provide such a voice.

The Office of National Capital Region Coordination would establish a single Federal point of contact within a new Department of Homeland Security. This office would not only coordinate the activities of the Department affecting the Nation's Capital, but also act as a one-stop shop through which State, local, and regional authorities can look for meaningful access to the plans and preparedness activities of the numerous other Federal agencies and entities in the region. Likewise, this new office would become the vehicle used by the multitude of Federal entities in the area to receive vital information and input from the state, local, and regional level in the development of the Federal Government's planning efforts.

In short, the Office of National Capital Region Coordination would ensure that the Federal Government takes a place at the table as this region makes unprecedented attempts to coordinate the work of its many State, local, and regional authorities.

The need for such an office has been expressed and supported by many of the most important participants and stakeholders in the area's terrorism preparedness activities, including COG, WMATA, the Greater Washington Board of Trade, and the Potomac Electric Power Company, PEPCO. I ask that letters of support from these groups be printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. SARBANES. A year has passed since the horrific attacks of September 11th, and as we debate the shape and form of a new Department of Homeland Security, the time has come for the Federal Government to fulfill its obligations to the National Capital Region

and those dedicated to preserving its safety. I would urge my colleagues to support this important amendment.

PEPCO HOLDINGS, INC.,
Washington, DC, September 10, 2002.

Hon. JOSEPH LIEBERMAN,
Chairman, Senate Committee on Government Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LIEBERMAN: As Chief Executive Officer of Pepco Holdings Inc., I am writing to express my strong and unequivocal support for Senator Paul Sarbanes' amendment to the National Homeland Security and Combating Terrorism Act of 2002.

The proposed amendment would create within the Department of Homeland Security a National Capital Region Coordination Office. This office would have the responsibility of coordinating the response activities of the Federal, State, and local governments with that of the general public and the private sector.

The District of Columbia is truly in a unique situation when it comes to Homeland Security. As our Nation's Capital, the District is home to more than 370,000 Federal workers and draws over 18 million visitors annually. At the same time, given the multi-jurisdictional nature of the Greater Washington Metropolitan area and the enormous Federal presence, there are distinct challenges facing this region's efforts to have a comprehensive and coordinated response to terrorism.

For example, there are over a dozen separate local police departments in the greater Washington area. Overlaying this, there are another dozen Federal law enforcement agencies, each with their own jurisdiction and mandate. These departments have their own procedures and are developing their own contingency plans. Coordinating these efforts will not be an easy task and will require a dedicated office within the Department of Homeland Security.

Unfortunately on September 11 we saw what can happen if the region fails to coordinate its response. On the afternoon of the attack the Federal government sent home its entire workforce early without notifying anyone on the local level. At the same time the Federal government was releasing hundreds of thousands of Federal employees and contractors to already grid-locked roads and packed Metro stations, Federal agencies were erecting security zones and blocking off streets around their facilities making the evacuation of the District even more difficult.

Thankfully, there was no secondary attack after the Pentagon. But had there been one, this lack of coordination could have had disastrous results and I believe illustrated the need for a dedicated office within the Department.

As the major provider of electricity to the District of Columbia as well as Prince George's and Montgomery counties in Maryland, Pepco has spent a significant amount of time and effort on security issues since September 11. The more I look at the unique challenges we face in this new environment, both as Chief Executive and a Washingtonian, the more I believe in the need for Senator Sarbanes' proposal.

Thank you for your leadership on homeland security issues, and I trust that you will give the National Capital Region Coordination Office provision every consideration.

Sincerely,

JOHN M. DERRICK,
Chairman, Chief Executive Officer.

WASHINGTON AREA TRANSIT AUTHORITY,
Washington, DC, September 5, 2002.

Hon. JOSEPH LIEBERMAN,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LIEBERMAN: On behalf of the Washington Metropolitan Area Transit Authority, I would like to express our great appreciation and strong support for your efforts to enhance security in the national capital region. We urge you to offer an amendment to S. 2452, the ''National Homeland Security and Combating Terrorism Act of 2002'' in order to address the specific needs of the National Capital Region, perhaps the area of greatest potential risk in the country.

Importantly, there is not central point of coordination for the many Federal entities in the region, including various executive branch agencies, the Office of Homeland Security, the Military District of Washington, the U.S. Congress, and the judicial branch. Effective coordination within the Federal government is absolutely critical in the National Capital Region in light of the fact that the Federal government is the region's largest employer. The recent Regional Summit on Security, convened by Governor Ridge, also pointed out the continuing need for effective coordination among all levels of government in the National Capital Region.

The other matter of concern is the enormous challenge this region faces in working constructively with the Administration as it formulates security budget proposals. While the Congress, through the appropriations process, has generally been quite receptive to funding requirements for security measures, it has been extremely difficult and cumbersome to present our case to the Administration for the resources needed to carry out the national strategy for combating terrorism and other homeland security activities, due to the highly decentralized nature of the Executive Branch budget development process. The proposed amendment provides a mechanism for a review of the funding resources required for the region to implement the national strategy for combating terrorism.

We greatly appreciate your attention and diligence in assisting the region in addressing these important issues. We are all facing challenges that previously seemed unthinkable. We owe you a great debt of gratitude for your leadership in assisting the National Capital Region in preparing to meet these challenges.

Sincerely,

CHRISTOPHER ZIMMERMAN,
Chairman, Board of Directors.

GREATER WASHINGTON BOARD OF TRADE,
Washington, DC, August 23, 2002.

Hon. JOSEPH LIEBERMAN,
Chairman, Senate Committee on Government Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LIEBERMAN: Thank you for your leadership on building a strong and thoughtful Department of Homeland Security. As you prepare your final mark on S. 2452 we urge you to include an amendment that calls for a separate office for the National Capital Region within the Department. The proposal is supported by many of your colleagues including Senators Warner, Allen, Sarbanes and Mikulski, as well as Senator Landrieu, ranking member of the District of Columbia Appropriations Subcommittee and Mayor Anthony Williams.

The National Capital Region is perhaps the area of greatest potential risk in the country to future terrorist attack. It is the seat of government, the location of many symbolic and historic structures, the venue for many high profile public events attended by large numbers of people, a key tourism destination that draws 18 million visitors annually and home to 370,000 federal workers and hundreds of lawmakers.

The area is unique in that it has dozens of federal agencies that have been mandated to have their own emergency preparedness plans. Most of these agencies have not coordinated their plans with local governments or private sector concerns that own and operate critical infrastructure like power, telecommunications and transportation, which the agencies are dependent. The region also has more than a dozen separate and distinct police forces representing seventeen jurisdictions and more than a dozen federal protective forces that need better coordination.

S. 2452 does not currently require the federal government to coordinate with the region or intradepartmentally, leaving the region and the nation's capital vulnerable. While coordination efforts are improving, there clearly needs to be an institutional structure in place to bring coordination to the level necessary in this complex environment.

We urge you to support the amendment to S. 2452 that will create a single point of contract within the Department of Homeland Security for coordination in the National Capital Region. The purpose is not to supercede any planning or action currently being undertaken, but only to serve as a coordinator of information, a point of contact for planning with the regional public and private sectors.

Sincerely,

ROBERT A. PECK,
President.

METROPOLITAN WASHINGTON
COUNCIL OF GOVERNMENTS,
Washington, DC, August 22, 2002.

Hon. JOSEPH LIEBERMAN,
Chairman, Senate Committee on Government Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LIEBERMAN: The Metropolitan Washington Council of Governments (COG) is appreciative of your efforts in strengthening the provisions of S. 2452, the National Homeland Security and Combating Terrorism Act of 2002, as it impacts the National Capital Region. In particular we endorse your efforts in insuring that federal terrorism preparedness and emergency response activities in the Washington, DC area are coordinated in consultation with those of the Region's sub-federal governments, private and non-profit entities, and the public generally.

As you are aware, COG is completing a year-long effort involving hundreds of public officials and public and private experts in the development of coordination and communications protocols for use by state and local governments, private and non-profit agencies, and other ''stakeholders'' concerned about preparation for and management of terrorist and other emergencies in the National Capital Region. Having a single contact point for coordinating these efforts with existing and proposed Federal response capacities is necessary for the effective and timely protection of life and property in the region.

The proposed amendment creates a function within the Department of Homeland Security which will be such a contact point, allowing full communication among the Federal and sub-federal entities dedicated to protection of this region and its citizens and coordination of their potentially supportive but disparate functions without impeding the planning or actions of either group.

Additionally, the creation of such a function recognizes the unique status of this region, with its strong presence of the Federal government as employer, policy-initiator, and potential target, as worthy of specific future Federal support.

The COG Ad Hoc Task Force on Homeland Security has considered the concepts and purposes contained in this proposed amendment and supports its enactment.

On behalf of my colleagues on the Task Force, I am pleased to endorse this proposed

amendment and urge you to support its passage.

Sincerely,

CAROL SCHWARTZ,
Chairman.

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

The PRESIDING OFFICER. Under the previous order, the Senate will now continue with the consideration of H.R. 5093, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5093) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the time until 5:15 will be equally divided between the chairman and the ranking member of the subcommittee or their designees prior to a vote on the cloture motion on the Byrd amendment No. 4480.

The Senator from Nevada.

Mr. REID. Madam President, Senator BYRD and Senator BURNS are not here. The Chair has already decreed that we will divide the time. But there have been a number of people waiting: Senator CRAPO, Senator DOMENICI, Senator CRAIG. Just for expedition purposes, if they would like to speak now, that is fine. We would wait until they finish. I do not know in what order they wish to go, so why don't we announce that so people aren't waiting around.

Mr. DOMENICI. How much time are we going to have?

Mr. REID. Half of 40 minutes, 20 minutes.

The PRESIDING OFFICER. Twenty minutes.

Mr. DOMENICI. If you want to let Senator CRAPO go first?

Mr. CRAIG. That will be fine.

Mr. REID. May we have an order?

You are going to use your time probably, now, and then a little over here or what do you want to do?

Mr. CRAIG. Madam President, Senator REID, I assume we would retain the last 5 minutes for closing purposes.

Mr. REID. Because it is your amendment.

Mr. CRAIG. Yes, because it is our amendment. We would want that.

Mr. REID. That is really no problem. It is our cloture motion, but if you want the last 5 minutes, that is fine. So we ask that consent. In the meantime, you use whatever time you need. So you have 15 minutes now.

Mr. CRAIG. I yield the Senator from Idaho 5 minutes.

Mr. CRAPO. Madam President, I rise in support of the efforts to address the serious and devastating impacts of fires that are currently raging throughout the West and to impress upon my colleagues the need for immediate action to reduce this threat in the future.

I thank my colleague from Idaho, Senator CRAIG, for his tireless efforts to try to find a path forward on a collaborative basis and to build the consensus necessary to address this difficult issue. The Senator from New Mexico as well has been very closely involved in developing these proposals. I commend him for his efforts.

As I begin, I offer my gratitude to the brave men and women who are fighting these fires. Wildland firefighting is a dangerous and exhausting job, and I can't thank them enough for their efforts. Already this year, 6.3 million acres have been burned, and this level of destruction puts us on pace to meet the catastrophic fire season of 2000, when 8.4 million acres burned, with more than a million of those acres in Idaho.

Idaho has been relatively lucky this year. However, with outbreaks of Douglas fir beetles and mountain pine beetles throughout Idaho, it is clear we are poised for another dangerous fire season.

Not all fire is bad. In fact, fire can be beneficial. However, many of the fires we face today are fueled by unnatural fuels and burn with an intensity and size that makes them undesirable in our natural ecology. Additionally, insect and disease outbreaks are often naturally occurring agents of change, yet some outbreaks are enhanced by our past actions and inactions and occur in scopes that are damaging and unnatural.

As a result of the previous fire seasons, Congress acted with an immediate and bipartisan response.

We came forward with funding and direction for a national fire plan. Yet, to date, this plan has not been implemented effectively enough to address the risks facing our communities.

I do not think we should be pointing fingers or making excuses about why or how these fires occurred. We need to look forward and address the problem. We need to do so quickly. I do not want to see another million acres burning in Idaho next year.

In his Healthy Forests Initiative, the President outlined actions that will effectively address the risk of catastrophic wildfires. In the Fiscal Year 2002 supplemental appropriations bill, our majority leader identified a way to effectively reduce the risks in the Black Hills National Forest. Clearly, we all want to protect our forests.

Our forests are an important part of our heritage and have great impacts on local economies and recreational opportunities for local residents and visitors alike. They provide our drinking water and wildlife habitat. In short, healthy forests are vital to all Americans.

The Forest Service has identified 70 million acres of Condition Class III lands. These lands are at catastrophic risk of wildfire and subject to insect and disease infestations, windthrow, and other health risks. It is important to address risks on these lands, but it must be noted that today we are not debating action in all of these areas.

As I said, many of these threats are natural and we may choose to let them occur naturally. However, we must act—and act quickly—to protect our high value forest areas. We must act to protect homes, property, and livelihood, maintain the quality of our watersheds, and take steps to ensure that burned areas are quickly rehabilitated rather than face the dangerous risks of reburn.

Again, the amendments we are discussing do not include the entire 196 million acre National Forest System or 74.5 million acres of condition class III areas, but instead address areas where we cannot allow endless delays. We do so without eliminating public recourse. There has also been speculation the language will do what Senator DASCHLE did and limit all appeals and judicial review. This is not true.

Critics also contend the amendment suspends environmental laws. That is also false. The amendment requires that projects be consistent with the applicable forest plans or resource management plans. I can tell you from experience that these site-specific plans take years of work with widespread public involvement and compliance with all of our environmental laws.

Protecting our environment and the opportunity for public involvement is a vital part of any actions on our public lands. Reducing the risk of fire is no exception. However, the imminent threat demands we act quickly and move past stalling tactics and countless delays.

Damage to our environment from these fires is acute. The harm to local economies is felt in many ways. It is clear our forests have deteriorated to the point were active management is a necessity. I hope my colleagues recognize that and will support the efforts of member's whose goal is to protect their communities and environment.

I encourage all of the Senators to vote against the cloture motion.

Mr. CRAIG. Madam President, I thank my colleague from Idaho for his very thoughtful presentation and his true expression of the real conditions on our forest lands.

I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Madam President, I thank my colleague, Senator CRAIG, who has spoken to the broader issue of the problem we face, and the firefighters. And Senator CRAPO elaborated on that some.

Let me speak for a moment about why I support the Craig-Domenici amendment from a local standpoint. It certainly provides a critical tool in doing the job that we know needs to be done. We know there are counterproposals floating around. From my perspective, that does not accomplish what we need to have done.

Let me speak a couple of minutes about what happened near the town of Durango, CO. I live about 18 miles from

there. In fact, during the Missionary Ridge fire, we watched it with great anticipation from our porch at our ranch.

Durango is a very scenic town in Colorado, home of one of only 13 gold medal trout streams in the whole country, and has some of the finest mountain biking areas in the West.

Two months ago, there was a fire called the Missionary Ridge fire, declared under control on July 28, but only after we had lost over 70,000 acres of forest, 56 homes, 27 adjoining buildings, and the collective cost of $40.6 million to fight that fire. More importantly, large areas around the Lemon and Vallecito Reservoirs burned so intensely that the soil had become hydrophobic and unable to keep water back. Downstream, the La Plata, Aimas, Los Pinos, and Florida Rivers were now all at risk.

When I was home this past weekend, I was reading in the local newspaper about several homes that were washed off their foundations by the mud slides as a result of that loose soil caused by the fire and the burning of all of the underbrush and trees.

That $40.6 million lost, to put it in context, is more than double the amount of funding allocated for recreation for all of the 11 forests in Region II, which is Colorado, Wyoming, South Dakota, and Nebraska. It is four times the amount of funding for wildlife for all 11 forests in Region II for fiscal year 2002. It is nearly double the amount of money allocated to the region for hazardous fuels reduction work for fiscal year 2002. So in a little over 1½ months, we spent more allowing that area to be destroyed by fire than we would have spent on wildlife habitat management on all 11 forests over 4 years.

Speaking of wildlife, when the Missionary Ridge fire was at its highest level of intensity, I happened to have a chance to talk to one of the firefighters who had been on the front line. He told me he estimated the fire to be moving at about 50 miles an hour—literally out of control—and actually saw birds being burned out of the sky because they were unable to outfly that fire, and that a number of small animals literally burned alive because they could not outrun that fire. There are just terrible stories about what happened.

I ask unanimous consent to have printed in the RECORD some excerpts of stories in the local newspapers in Durango of September 8, 10, 13, and 14.

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

SEPTEMBER 8, 2002

The Valley Fire began on June 25th and quickly consumed 10 homes and 378 acres, about 160 acres were burned on private land.

Fall Creek Ranch residents hired a logging company to help remove logs and place other logs around areas where waters tend to flow heavily. The residents have poured $26,000 into mitigation so far.

Just under an inch of rain in less than an hour created mud and water flows that cover Florida Road, County Road 501, and County Road 245. About 700 customers at the Bar D Chuckwagon restaurant were trapped until about 10 p.m.

SEPTEMBER 10, 2002

The City of Durango's turbidity went from 2 NTU's (a measure of the number of small particles that are suspended in a water sample) or practically colorless, on Friday, to 440 NTU's, a chocolate brown by Monday.

A waive of ash, mud and debris cascaded down from Missionary Ridge burn area late Wednesday, flooding fields and roads and temporarily stranded some residents north and east of Durango.

SEPTEMBER 13, 2002

Only about a quarter-inch of rain fell, but it was enough to close roads, flood houses and clog culverts.

LaPine County has spend about $100,000 keeping roads and drainage structures clear of mudslides.

''There are homes out there that never expected to be influenced by flooding that are getting a hell of a surprise,'' said Doyle Viller La Plata County director of road maintenance.

Dead fish are littering the banks of the Animas River after recent mudslides in the Animas Valley, and there could be hundreds more beneath the murky water.

The mud is so thick that they (the fish) can't breath in the water said Mike Japhet, State of Colorado Division of Wildlife.

He received one report that the fish were ''gasping for air and trying to swim out of the water onto the bank'' near 32nd Street in Durango on Sunday.

All the fish around the 32nd Street Bridge, appear to be dead, Japhet said, and the death zone could extend north for several miles to where the mud entered the water.

SEPTEMBER 14, 2002

The county estimates that more than $100,000 has been spent on clearing roads and ditches near Lemon and Vallecito Reservoirs, and there has been more than $1 million in personal property damage from flash flooding.

OCTOBER 2002 BICYCLING MAGAZINE ARTICLE—RUSSELL ZIMMERMAN, DURANGO BICYCLE SHOP OWNER

''The last time I rode here, the forest was so dense you could see no more than 100 feet ahead. There is nothing left today, no living thing within a mile to interrupt the barren landscape. No fallen trees, no bushes, no grass.

''The bottom of my wheels disappear into the three-inch-deep layer of ash. The route is the same, but the trail is different. Roots are gone, burned away. Some of the rocks have even been vaporized.''

''My tires kick up a fine dust that covers the bike, and me. No one could follow me; they'd choke.'' Before the fire, I'd spot a porcupine every ride. Or a deer, or elk or bear. Not this time.''

Mr. CAMPBELL. Madam President, the result now, of course, is that on the Animas River, which goes through the town of Durango, dead fish are littering the banks because so much mud has come into the water.

Mike Japhet of the Colorado Division of Wildlife said that in some places fish are actually trying to get out of the water because they cannot breath. He received one report that fish were actually ''gasping for air'' as they tried to stay alive.

The local county has spent over $100,000 just clearing mud from roads and ditches near the Lemon and Vallecito Reservoirs that were affected by this fire.

I want to add my voice to the Craig-Domenici amendment. I just want to point out from a local point of view the catastrophic results.

Our little town of Durango in fact relies heavily on tourism. An old train takes tourists through the mountains. They had 28,000 cancellations in just 2 weeks because of that fire. Those cancellations, of course, result in money lost to the local community. The estimated loss of revenue during the month after that fire in the town of Durango was estimated to be about 40 percent from the normal resources they would have been able to rely on from tourists who stay in motels and who eat in the restaurants.

The facts are clear: unnaturally dense forests result in unnaturally hot burning and fast moving fires, like we experienced in Colorado.

Our proposal would address the problem in a balanced way—even providing greater review of projects than the majority leader's plan that takes care of his own state that he managed to attach to the emergency supplemental bill.

We know what needs to be done, but now opponents are opposing our bill and offering counterproposals that will do absolutely nothing to help forest managers thin these forests to reduce the risk of these catastrophic fires, nor allow for any salvage operations to help pay for the rehabilitation of these areas.

What does the counterproposal do? Their proposal does nothing more than sell the public a false bag of goods—it does nothing but create false expectations in the public.

My state of Colorado has experienced enough from prior bad policies. I am offended that some would now suggest new ones.

Since my friends on the other side know what needs to be done, why are they proposing such ineffective policy?

Because we are in an election year and some politically-active environmental groups are drafting the policy. It is not a secret. They say there is a lot of campaign money at stake—television and radio ads that could be poured into your State if you oppose doing the right thing.

It is time to do the right thing. It is time for these environmental groups to start looking at policies that benefit the environment rather than maintaining the political hammerlock they have on the Forest Service and BLM.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged equally to both sides.

The Senator from New Mexico.

Mr. DOMENICI. Madam President, how much time do we have?

The PRESIDING OFFICER. Seven minutes.

Mr. DOMENICI. Madam President, I yield 3 minutes to the distinguished

Senator on our side, and then I will be glad to offer the remainder to Senator BYRD.

Mr. REID. Madam President, that wouldn't give the Senator the last 5 minutes.

Mr. DOMENICI. Madam President, fellow Senators, I come today to the floor because there is a very important amendment that is attached to the Interior appropriations bill, and it is a second-degree amendment attached to the Byrd amendment.

The only thing I would like to say today, since cloture has been called for on the Byrd amendment, is that if in fact cloture is invoked, our amendment will disappear. We believe our amendment is a good amendment and it deserves an up-or-down vote.

We have not been delaying things. We have been waiting for an opportunity to have a vote. We would like an up-or-down vote on our amendment, which is an effort by a number of Senators on both sides of the aisle to permit the Forest Service and the BLM of the United States to go into our forest lands that desperately need cleanup and to look at just four types of properties that belong to our Federal Government: those that have blown over and are there, and where they are unable to do anything—the trees are, in fact, dormant—forests that have been bitten and eaten so that the bugs have infested them, so they are useless, but we leave them there instead of removing them, and removing all of the substance that is there with them. And there are two other kinds similar to that, and we address them.

All we try to do is say: Can't we expedite the removal of that substance I have just described which causes fires? Because once any of that starts, you cannot stop it, and it goes like wildfire. And since our forests are not maintained properly, it burns thousands and, in some instances—like this year—millions of acres.

As I see it, it is time we do something practical. Our amendment is commonsense cleanup for the forests that are being destroyed. I do not believe the amendment—that will be offered later on, if we lose—does that in a proper manner. I believe it makes it just as difficult, if not more difficult, to remove this kindling, this buildup that is permitting our forests to burn.

We are not delaying any bill. We are asking for a chance to vote. Whenever it is possible in the Senate, we want a vote. That is all we ask. We will have more time then to explain it in detail.

It is common sense. It is not anti-environment. It is a rational, reasonable way to clean four kinds of forests that none of us would like to leave in their current situation so that they will become the essence of the next firestorms of the West.

If I have not used all my time, I yield the remainder of it to Senator CRAIG for his allocation or use. I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Madam President, how much time remains?

The PRESIDING OFFICER. Nineteen minutes.

Mr. BYRD. How much of that time—

The PRESIDING OFFICER. I am sorry, 19 minutes remain for the Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Madam President, the underlying first-degree amendment, which is the subject of the cloture vote this afternoon, provides $825 million in emergency funds to the Forest Service and the Bureau of Land Management. That money will be used to repay the extraordinary fire suppression costs incurred by those agencies over the past several months.

As many of our colleagues know, particularly those who represent Western States, 2002 is turning out to be one of the most devastating fire seasons on record. Over the past 10 years, the average number of acres burned by fire between January 1 and September 16 has been 3.4 million acres. This year, however, the comparable number of acres burned is 6.4 million; almost twice the 10-year average.

But this problem is much more than just the numbers of acres burned. The devastation and destruction resulting from these fires is almost too much to comprehend. Fire suppression costs will exceed $1.5 billion. Nearly 3,000 structures have been destroyed, including 1,313 homes. And, most tragic of all, 21 citizens have lost their lives fighting these treacherous fires.

Clearly, Madam President, this situation amounts to a domestic emergency of historic proportions.

That is why Senator BURNS and I proposed this amendment and why so many of our colleagues have joined us in this endeavor. Indeed, even the President has come to appreciate the need for this assistance, as evidenced by his August 28 funding request to Congress.

Madam President, it is of the utmost importance that we move forward on this matter, and that we do so in a timely manner. In fact, I would remind my colleagues that the authority to designate such funds as an emergency expires on September 30. Consequently, if this bill is not signed into law by the end of the month, there is a very real possibility that these funds will not be made available. I urge my colleagues to support the cloture motion, and help us in our effort to help our firefighters.

Madam President, I yield the floor.

How much time does the distinguished Senator from North Dakota wish?

Mr. CONRAD. Five minutes.

Mr. BYRD. I yield 5 minutes to the distinguished Senator from North Dakota, Mr. CONRAD.

The PRESIDING OFFICER (Mr. MILLER). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I understand certain comments were made about the slowness of the appropriations process and the assertion that not having a budget resolution pass the floor is the reason for that.

I do not think that is supported by the facts. The appropriations process is moving slowly for reasons that have no relationship to a budget resolution or having one or not having one.

The fact is, the appropriators agreed to an amount for a budget that was what was recommended in the resolution that went through the Budget Committee. The appropriators agreed unanimously—Democrats and Republicans—to adopt the budget amount for this year that the committee recommended.

So there is nothing to prevent appropriations bills from coming to the floor in an orderly process. The appropriators gave to each of the committees an allocation that added up to the amount of money that was provided for in the recommendation by the Budget Committee. So that is not the problem here.

No. 2, I think it should be pointed out that we had an opportunity on the floor to pass a budget for this year and got 59 votes. We got 59 votes. Now, it required 60 votes. But we had a bipartisan supermajority in the Senate for a budget amount for this year—not a budget resolution but a budget amount for this year. We fell one vote short of getting that amount approved.

Frankly, all of this misses the larger point. The reason we are in deep financial trouble now has nothing to do with the budget resolution for this year at all. The real problem is the budget resolution that passed last year. The budget resolution that passed last year put us on the course of a 10-year plan that has contributed to the most dramatic reversal in our fiscal fortunes in our Nation's history.

It was the budget resolution that passed last year that contained a massive and unaffordable tax cut that has undermined the fiscal strength of this country for years to come.

Last year, we were told we would have $5.6 trillion of budget surplus over the next decade—$5.6 trillion. Now, if we look at the Congressional Budget Office's new report, what we see is no surpluses; the money is all gone.

If we just adopt the President's recommendation on spending and taxes for the next 10 years—no additional spending by Congress, not a dime—if we just adopt his proposals, we will be $400 billion in the red. That is after being told last year we had $5.6 trillion of surpluses over the next decade. Now we are $400 billion in the hole. That is a $6 trillion turn.

And what are the reasons for it? The No. 1 reason is the tax cuts that were in last year's budget, pushed by the President, passed by the Congress. That accounts for over a third of the disappearance of the surplus.

The next biggest reason: technical considerations that apply to revenue not meeting the estimates. That is the second biggest reason—not related to

the tax cut, but it is the second biggest reason.

The third biggest reason is the increased costs because of the attack on the United States.

I am talking now about, over the 10 years of the President's budget plan, what are the contributing factors to the disappearance of the surplus. The biggest reason—over a third—is the tax cut, 34 percent. The second biggest reason: revenue not meeting expectations, apart from the tax cut; that is 29 percent. Twenty-two percent is increased costs associated with the attack on the country. And the last, and smallest, part of the problem is the economic slowdown, representing 14 or 15 percent of the disappearance of the surplus.

That is the reality. The appropriations process not moving forward has nothing to do with the budget resolution being passed or not passed. The simple fact is, the appropriators agreed to the amount that was in the budget proposal that passed the Budget Committee. They did so on a unanimous basis, and they proceeded to stay within that amount. That is the reality.

The bigger truth, the larger reality is that we have fiscal problems because of the budget that passed last year. That put us on a course that does not add up, never has added up, and will require serious work in the future, if we are going to get back on track.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, I have the 5 remaining minutes prior to the vote reserved. We have no more time to allocate on our side. The assistant leader said we could use time if there were no speakers from the other side. Senator BYRD is here.

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

The PRESIDING OFFICER. Ten minutes.

Mr. BYRD. Mr. President, does the Senator want more than 5 minutes? Do you need more?

Mr. CRAIG. I think our colleague from Oklahoma would like to speak for 5, and then if I could use 5 to close it out, then we could advance the vote.

Mr. BYRD. It is fine with me if the Senator closes. The Senator wants 5 minutes over there. How much time does the Senator need?

Mr. BURNS. Two. That is all I need.

Mr. BYRD. I yield 2 minutes to the ranking member and I will yield 5 minutes to the distinguished Senator. I am always very accommodating, most always, to Senators from the other side of the aisle. Then will I have any more time left?

The PRESIDING OFFICER. If the Senator yields 10 minutes, that would exhaust his time.

Mr. BYRD. I thank the Chair. I won't need it.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague and friend from West Virginia for his yielding a couple minutes. I will be brief.

I urge my colleagues to vote no on cloture. I say that knowing my friend and colleague from West Virginia, I guess, is going to support it. But he is chairman of the Appropriations Committee. I have been on the committee. I have been in the Senate for a long time. It is a very bad idea to start filing cloture on any amendment that you don't like on appropriations bills. It is a bad idea for a couple reasons. One, it won't work. You are not going to be able to take a cloture vote and say, ''We will have a fire amendment and it is going to spend several hundred million dollars on fire, but we will not have any other amendment dealing with this issue,'' because it won't work.

The Senator from Idaho is entitled to his amendment. Even if cloture is invoked, we can still get a vote on the Senator's amendment, or some other Senator can offer a similar amendment.

I will, first, tell my colleague from West Virginia, I don't like cloture. To me, it should be used very sparingly. It is becoming far too prevalent in the Senate where somebody says: We will just file cloture.

Someone told me: We will file cloture on homeland security. We will wrap that up.

Of course, that would deny us the opportunity to offer the President's bill on homeland security. They may file it, but they will not get cloture. The President is entitled to have a vote on his homeland security proposal, and we are going to get it, just as the Senator from Idaho is entitled to have his vote on fire control. Other Senators have ideas.

My point is, you can waste days on cloture. We wasted 3 days. No one on this side of the aisle was filibustering the Interior bill or filibustering homeland security, nor should they, in my opinion. I hope we don't have filibusters ever, frankly, on appropriations bills. We need to decide how much we are going to spend and how we will do it.

Maybe if somebody came up with an amendment that is so offensive, so intrusive, so anti an individual State that they would filibuster, that might be unique, but I haven't found that yet in my Senate career on an appropriations bill. I can't remember filibusters on appropriations bills. I have only been here 22 years—not nearly as long as my friend from West Virginia. It is a terrible idea if somebody says: I don't like that amendment so we will file cloture on it and hope it goes away. If cloture is adopted, the Craig-Domenici amendment will disappear.

I am telling my colleagues, it will not disappear, even if cloture is invoked. And if it is, I might tell my friends, we could spread out, we could waste another couple days. I don't think anybody wants to do that because we have no interest in filibustering anything.

My colleague from New Mexico is a very good legislator, and he has a couple ideas on fire management, and so does my colleague from Idaho. I know the other Senator from Idaho and other Senators have ideas, and they are entitled to have their amendments considered. And they will be considered at some point.

I urge my colleagues, let's not get in the habit of going the route of cloture if an amendment appears and we say we don't really like it. That process will not work. We only have a week from Monday to complete action on the appropriations bills, if we are going to have them done by the end of the fiscal year. That is only 13 days. We have already spent a week and a half on the Interior bill and we are not even getting close.

We have basically had an amendment on drought, and we were precluded from offering another drought amendment. And now we have a fire amendment, appropriating money for fire, and my colleague is trying to be denied a vote.

This side is going to find a way to get some votes on this bill. We can spend weeks doing it or we can spend days. We can spend an hour. I heard my colleague from Idaho said he is willing to have a time limit. He is willing to have a side by side. I know the Senator from New Mexico has a fire amendment. Great. Senator BINGAMAN, I think, that is a different fire amendment, and I think that is fine. Let's vote on those amendments.

I appreciate my colleague from West Virginia yielding. I urge my colleagues to vote no on cloture.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair. I thank my chairman of the Appropriations Committee.

Mr. REID. Mr. President, how much time does he have? How much time is left on the other side?

The PRESIDING OFFICER. The Senator from Montana has 4 minutes 20 seconds; the Senator from Idaho, 4 minutes 10 seconds.

Mr. BURNS. I will take the first 4 minutes. I thank my good friend from West Virginia also for allocating the time.

As he believes very much in the Constitution of the United States, I also believe in some of the rulings of the Senate. And I think I would be remiss as ranking member on this committee and a comanager on this bill if I did not fight for the rights of the rest of the Members in this body to have a vote. I think it is what it is all about. That is for debate.

I haven't heard anybody come down here and talk against the merits of this second-degree amendment. It will not go away. And silence tells me that maybe the case has already been made and hard to defend of what we are trying to do as far as forest health is concerned. Twenty years, 25 years is a track record, a known track record.

And now we see the culmination of those management practices over that many years in the growth of the forest and what it can lead to if we allow folks who probably don't have all the experience in the world, on the ground management of a renewable resource, what that brings us to.

So I would hope that we would support cloture or deny cloture so this issue can be talked out because it will not go away. I am not real sure it is not the shortest way to arrive at a vote and settlement of the issue.

I thank my good friend from West Virginia.

Mr. BYRD. Mr. President, why do we want to vote down cloture? There are other appropriations bills coming to the floor. I am supporting the Senator's amendment. I never said a word against his amendment. I would be very supportive of it. I am not filibustering it, and I haven't filibustered anything else. I haven't filibustered the homeland security bill, either. I have heard some intimations this afternoon that I have filibustered. My Lord, some people around here wouldn't recognize a filibuster if they met it on the way home. I know what a filibuster is. But I am not against this amendment. Why would we want to vote against this cloture?

Mr. NICKLES. Will the Senator yield?

Mr. BYRD. Yes.

Mr. NICKLES. Correct me if I am wrong. If cloture is invoked, the amendment of our friend from Idaho would no longer be germane and it would fall. We would like our colleague to have the right to offer his amendment.

Mr. BYRD. Mr. President, there are other appropriations bills coming. Why not vote for this bill and do some of the good things that are being done with this bill, and the Senator can come back another day with his amendment? I am not opposed to his amendment. Why do we want to penalize other parts of the country and other Senators for good things that are in the bill because some Senators don't want to vote for cloture on this?

This is an appropriations bill. Those advocating voting against cloture, in many instances, are Senators who are on the Appropriations Committee. Why? We need to get on with this. Let's vote cloture on this and the Senator will have another day, another opportunity on another appropriations bill.

I am for his amendment. I think he has made a good statement in support of it. I cannot understand why we want to cut off our nose to spite our face on this bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time to make a couple final remarks before I leave the floor for another event I need to attend.

The Senator from West Virginia just now said it so well. There is an ongoing filibuster on this amendment, but not on this side. It is not on this side. There is no question that, on controversial issues, this Senate must acquire 60 votes to pass an amendment. The Senator from Idaho has offered an amendment that does not have the requisite 60 votes. The Senator from New Mexico and others on our side have offered an alternative that we acknowledge does not have 60 votes. Over the course of the last several weeks, we have attempted to find common ground and, at least to date, have failed. In fact, I recall vividly last week on the floor the Senator from Idaho indicated they were going to make another effort yesterday to attempt to reach that common ground. That has not happened.

So it is fair to say that both sides have failed to reach the Senate requisite for controversial amendments, which is 60 votes. We had offered a procedural compromise since we could not find a substantive one. That compromise would be to have side-by-side votes, to indicate that there is support, but not the level of support required under Senate rules. That, too, failed.

So the bottom line is that we have an amendment pending that 1 week ago today generated 79 votes; 79 people went on record—Republican and Democrat—supporting drought assistance on an amendment that supports firefighting assistance. The President and others have said the firefighting money is urgent. I would like to reread the speeches made last week about the urgency of getting something done on drought assistance, about how important it is to get out there and provide this help now.

Well, in the next 5 minutes we will have a chance to provide this help now. The Senator from Idaho is not precluded from reoffering this amendment to the Interior appropriations bill. He can do that. So to say it is now or never for them is just not correct. There is nothing to preclude them from going back and offering this amendment to the underlying bill—nothing. So if they vote against cloture, they are voting against firefighting assistance, against drought assistance, and there can be no other conclusion.

Don't tell me you have to do it on this amendment or you cannot do it at all. That is not right. So let's get real and be honest here. There is a game being played here that I think ought to be shown for what it is—a game that, for whatever reason, is denying this amendment passage today, even though the debate and consultation and the continued cooperative effort to see if common ground can be achieved. I just talked, moments ago, to Senator BINGAMAN. He said he has another meeting scheduled—I think it is this afternoon—with Senators on both sides of the aisle to see if they can reach common ground. If they can, it can be offered to the bill.

For the life of me, I don't understand why anybody can say, on one hand, how urgent it is to get firefighter assistance, drought assistance—by the way, I ask unanimous consent that the votes of those Senators who supported that amendment a week ago be printed in the RECORD at this time.

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

U.S. SENATE ROLLCALL VOTES, 107TH CONGRESS—2ND SESSION (2002)

(As compiled through Senate LIS by the Senate Bill Clerk under the direction of the Secretary of the Senate)

VOTE SUMMARY

Vote Number: 212.

Vote Date: September 10, 2002, 10:45 a.m.

Question: On the Motion (Motion to Wave CBA RE: Daschle Amdt. No. 4481).

Required for Majority: ⅗.

Vote Result: Motion Agreed to.

Amendment Number: S. Amdt. 4481.

Statement of Purpose: To provide emergency disaster assistance to agricultural producers.

Vote Counts: Yeas 79; Nays 16; Not Voting 5.

ALPHABETICAL BY SENATOR NAME

Akaka (D–HI), Not Voting
Allard (R–CO), Yea
Allen (R–VA), Yea
Baucus (D–MT), Yea
Bayh (D–IN), Yea
Bennett (R–UT), Yea
Biden (D–DE), Yea
Bingaman (D–NM), Yea
Bond (R–MO), Yea
Boxer (D–CA), Yea
Breaux (D–LA), Yea
Brownback (R–KS), Yea
Bunning (R–KY), Yea
Burns (R–MT), Yea
Byrd (D–WV), Yea
Campbell (R–CO), Yea
Cantwell (D–WA), Yea
Carnahan (D–MO), Yea
Carper (D–DE), Yea
Chafee (R–RI), Nay
Cleland (D–GA), Yea
Clinton (D–NY), Yea
Cochran (R–MS), Yea
Collins (R–ME), Yea
Conrad (D–ND), Yea
Corzine (D–NJ), Yea
Craig (R–ID), Yea
Crapo (R–ID), Yea
Daschle (D–SD), Yea
Dayton (D–MN), Yea
DeWine (R–OH), Yea
Dodd (D–CT), Yea
Domenici (R–NM), Yea
Dorgan (D–ND), Yea
Durbin (D–IL), Yea
Edwards (D–NC), Yea
Ensign (R–NV), Nay
Enzi (R–WY), Yea
Feingold (D–WI), Nay
Feinstein (D–CA), Yea
Fitzgerald (R–IL), Nay
Frist (R–TN), Nay
Graham (D–FL), Yea
Gramm (R–TX), Nay
Grassley (R–IA), Yea
Gregg (R–NH), Not Voting
Hagel (R–NE), Yea
Harkin (D–IA), Yea
Hatch (R–UT), Yea
Helms (R–NC), Not Voting
Hollings (D–SC), Yea
Hutchinson (R–AR), Yea
Hutchison (R–TX), Nay
Inhofe (R–OK), Yea
Inouye (D–HI), Yea
Jeffords (I–VT), Yea
Johnson (D–SD), Yea
Kennedy (D–MA), Yea

Kerry (D–MA), Yea
Kohl (D–WI), Yea
Kyl (R–AZ), Nay
Landrieu (D–LA), Yea
Leahy (D–VT), Yea
Levin (D–MI), Yea
Lieberman (D–CT), Yea
Lincoln (D–AR), Yea
Lott (R–MS), Nay
Lugar (R–IN), Nay
McCain (R–AZ), Yea
McConnell (R–KY), Yea
Mikulski (D–MD), Yea
Miller (D–GA), Yea
Murkowski (R–AK), Yea
Murray (D–WA), Yea
Nelson (D–FL), Yea
Nelson (D–NE), Yea
Nickles (R–OK), Nay
Reed (D–RI), Yea
Reid (D–NV), Yea
Roberts (R–KS), Yea
Rockefeller (D–WV), Yea
Santorum (R–PA), Nay
Sarbanes (D–MD), Yea
Schumer (D–NY), Yea
Sessions (R–AL), Nay
Shelby (R–AL), Nay
Smith (R–NH), Not Voting
Smith (R–OR), Yea
Snowe (R–ME), Nay
Specter (R–PA), Yea
Stabenow (D–MI), Yea
Stevens (R–AK), Yea
Thomas (R–WY), Yea
Thompson (R–TN), Nay
Thurmond (R–SC), Yea
Torricelli (D–NJ), Not Voting
Voinovich (R–OH), Yea
Warner (R–VA), Yea
Wellstone (D–MN), Yea
Wyden (D–OR), Yea

Mr. DASCHLE. Mr. President, there can be no doubt. If we are serious about moving this legislation forward and providing this assistance, we take care of this amendment and move on to other issues. We have been on this bill now for 3 weeks. We will be on it for another couple weeks, the way it looks. There comes a time when we just have to move on and when we have to recognize that, under Senate rules, we either have to accommodate the rules, or reach some compromise, or drop the amendment. We have those three options.

We cannot accommodate the rules today because neither side has 60 votes. Let's recognize it for what it is. This is a delay. Until we get over this delay, we cannot provide the kind of assistance to firefighters and farmers and ranchers that is absolutely critical across the country. And the very speeches we made last week are just as real and important and urgent today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, for the life of me, I must tell the majority leader, I cannot understand what you speak of. There has been no filibuster on this bill, and a second-degree amendment is not extraordinary nor does it require 60 votes. You know the rules as well as I do. The chairman of the Appropriations Committee just came to the floor and made the right speech, talking about the urgency of his amendment and firefighting money. I support it totally.

If we don't deal with his amendment and deal with my amendment in concept as a new public policy for this country, he as chairman, or another chairman, will be coming to the floor every year and asking for $1.5 billion to $2 billion of taxpayer money to fight the wildfires of the West, across the Alleghenies, and down to the Blue Ridge. That is the reality of a misguided public policy that has put our national treasures at risk, the U.S. forestlands.

This year, we burned over 6.5 million acres; the chairman spoke to that. We lost 2,100 homes; the chairman spoke to that. We lost 21 lives; the chairman spoke to that, too. This is a tactic to stall? Not at all. No, the majority leader, in my opinion, misspoke. There has been no filibuster. I have kept him and the assistant leader in full consultation as we have tried to resolve and bring, in a bipartisan way, a clear new adjustment in public policy. We cannot arrive at that. It is my amendment that is now up as a second degree, and appropriately so.

I ask for a vote on it, an up-or-down vote, as it is entitled to. I would accept a side-by-side debate with Senator BINGAMAN's alternative but not a 60-vote, no—51 or 50. Majority rules here, except under the rules that require a 60 vote. In this instance, it is not required.

I hope my colleagues will join with us this afternoon and say no to cloture, and maybe then we can move expeditiously because we have lost days when this could have been resolved very quickly.

I don't blame the Senator from West Virginia for being frustrated. He is chairman of the Interior Subcommittee. He brought a bill to the floor that most of us want. The majority leader knows I supported the aid to farmers and ranchers that have experienced catastrophic drought. It is not my intention, nor anyone else's, to hold up that money. But it is our intention, it is our purpose, and we will have a vote, to deal with national forest policy that will slightly adjust our ability to get active on the land, to remove the fuel, to improve the forest health, to save the watershed, to save the wildlife habitat, and, also, to save homes and people's lives and the beautiful landscapes of the public forests of these United States.

Shame on us for failing to address a policy that, this year, has allowed the burning of 6.5 million acres of public land, and the fires will continue year after year into the future until the public stands up and says: Congress, United States Senate, change your ways. Your policy isn't working. Your policy is not working, and our forests are burning and our forests are being lost because of public policy.

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

Mr. CRAIG. I will be happy to respond to a question.

Mr. DOMENICI. Mr. President, I say to the Senator, did I hear the majority leader say that if we lose and we are knocked down by cloture, we can offer this legislation later?

Mr. CRAIG. The Senator did hear that.

Mr. DOMENICI. I wonder how we could be delaying the bill then.

Mr. CRAIG. We are not.

Mr. DOMENICI. How could we be delaying it? If we have a chance to do it later, wouldn't we be delaying it then, too?

Mr. CRAIG. It is not our intention to delay. We have never intended to delay the bill.

Mr. BYRD. Will the Senator yield?

Mr. CRAIG. I will be happy to yield if I have time remaining.

Mr. BYRD. Why won't Senators vote for cloture? There are many other needs being addressed by this bill. I have said I will support the Senator on another bill later.

The PRESIDING OFFICER. The time required for the cloture vote—

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

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

Mr. BYRD. I am trying to salvage a bill.

Mr. DOMENICI. Which bill is the Senator referring to, our amendment or the big bill?

Mr. BYRD. Why vote down cloture on this amendment? What is wrong with it?

Mr. DOMENICI. It is an amendment properly to the Interior bill. Why would we knock it down? It is germane. It is relevant. And put it where? Where would we put it? The Senator said put it on another bill. Where? It is a very important subject matter. It is just as important as the burning amendment.

Mr. BYRD. If they intend to bring it up later, why not vote for cloture here? Senators can always bring up something later.

Mr. DOMENICI. I say to the Senator from West Virginia, this is the most appropriate bill for it to be on.

Mr. BYRD. Of course it is, but if you cannot get it on one bill, you try on another.

Mr. DOMENICI. Why does the Senator want us to vote to take it off the bill? Those who have worked hard on this issue want it on the bill.

Mr. BYRD. I have not opposed that. I tried to be very understanding with the Senator. We cannot have everything the way we want it. I have lost a few amendments in my time that were of interest to my part of the country, too.

Mr. DOMENICI. The majority leader is even wrong in saying this amendment needs 60 votes. It does not need 60 votes, even with a budget resolution. It is just an authorization bill. It is implementing what you put in the bill, the $825 million. It is not subject to 60 votes, which means—why not have cloture; they both need 60 votes anyway. That is not so. Our bill does not need 60 votes, nor does Senator BINGAMAN's amendment need 60 votes. Pure and

simple: 51 votes on a bill on which they belong. So why would we, who have struggled with it, vote to kill it? We want it alive. We want it to go to conference with the Senator when we all go to conference.

Mr. BYRD. Why don't Senators help me get this bill to conference? That is what I am asking. Why don't Senators help me get this bill to conference?

Mr. DOMENICI. We are going to help with the Interior bill—both bills.

Mr. BYRD. I hope so.

Mr. DOMENICI. This is the only measure in which we are interested. We have gotten together for hours in the offices of five different Senators because it is important. And then somebody comes along and says: Let's have a cloture vote and kill the bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

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, hereby move to bring to a close the debate on Senator BYRD's amendment No. 4480.

Joseph Lieberman, Harry Reid, Jean Carnahan, Daniel K. Inouye, Christopher Dodd, Herb Kohl, Jack Reed, Richard J. Durbin, Kent Conrad, Paul Wellstone, Patrick Leahy, Jeff Bingaman, Barbara Boxer, Byron L. Dorgan, Mark Dayton, Debbie Stabenow, Jim Jeffords, Robert Torricelli.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the Byrd amendment No. 4480 to H.R. 5093, the Department of Interior and Related Agencies Appropriations Act, 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 New York (Mr. SCHUMER) is absent because of a death in the family.

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

[Rollcall Vote No. 217 Leg.]

YEAS—50

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

NAYS—49

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

NOT VOTING—1

Schumer

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

The majority leader is recognized.

Mr. DASCHLE. I enter a motion to reconsider the vote by which cloture was not invoked on amendment No. 4480.

The PRESIDING OFFICER. The motion is entered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, shortly we will dispose of the Lieberman and Thompson amendments.

Mr. STEVENS. May we have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DASCHLE. If I could just restate: We will dispose of the Lieberman and Thompson amendments. It is my understanding, once that has occurred, Senator BYRD will offer his amendment. It is my understanding that debate will take place tonight, and of course tomorrow.

With that understanding, there will be no more rollcall votes this evening.

I yield the floor.

Mr. SPECTER. Mr. President, I seek recognition first to thank Senator BYRD, the Chairman of the Senate Appropriations Committee and its Interior Subcommittee and the Subcommittee Ranking Republican, Senator BURNS, for their efforts in drafting the fiscal year 2003 spending plan for the agencies under their jurisdiction. Also, I want to call attention in particular to two competitively awarded initiatives that, unfortunately, the annual Department of Energy, DOE, budget submission routinely underfunds and expects Congress to correct.

First, Air Products and Chemicals, Inc. and its partners, DOE, Ceramatec, ChevronTexaco, Eltron Research, McDermott Technology and Concepts NREC, are developing a unique, oxygen-producing technology based on high-temperature, ion transport membranes, ITM. The technology, ITM Oxygen, would be combined with an Integrated Gasification Combined Cycle, IGCC, system to produce oxygen and electric power for the iron/steel, nonferrous metals, glass, pulp and paper, cogeneration, and chemicals and refining industries. The ITM Oxygen project is a cornerstone project in DOE's Vision 21 efforts and has the potential to significantly reduce the cost of tonnage oxygen plants for IGCC systems.

The DOE fiscal year 2003 cost-share requirement is $6.5 million from the Fossil Energy Research and Development, Coal and other Power Systems, President's Coal Research Initiative, Advanced Systems budget under IGCC, Vision 21. Unfortunately, DOE requested only $3.5 million for the ITM Oxygen project. Underfunding ITM Oxygen in fiscal year 2003 by $3 million would result in a delay of the program, by at least one year and I am advised it would add approximately $10 million to the program's costs.

Second, DOE's ITM Syngas program is developing a ceramic membrane reactor able to separate oxygen from air and partially oxidize methane to produce synthesis gas in a single step. Development of this technology will lead to numerous applications including clean transportation fuels, hydrogen for fuel cell applications, and chemical feedstocks. A critical application is gas-to-liquids, GTL, conversion where ITM Syngas technology will significantly improve the overall economics of GTL and permit the economical recovery of more than 37 trillion cubic feet of stranded Alaska North Slope gas.

Air Products and Chemicals, Inc. is leading a research team comprising Pacific Northwest National Laboratories, McDermott Technology, Ceramatec, ChevronTexaco, Eltron Research, Norsk Hydro, the University of Alaska-Fairbanks, the University of Pennsylvania, and Pennsylvania State University.

The DOE fiscal year 2003 cost share requirement is $5.5 million from the Fossil Energy Research and Development, Coal and Other Power Systems, President's Coal Research Initiative, Fuels, Transportation Fuels and Chemicals program. DOE's fiscal year 2003 budget request of $5.0 million for the Fossil Energy Research and Development, Coal and Other Power Systems, President's Coal Research Initiative, Fuels, Transportation Fuels and Chemicals program budget includes just $2.4 million to continue the ITM Syngas/Hydrogen project. Underfunding ITM Syngas in fiscal year 2003 would result in stretching out the program and increasing overall program costs.

I want to thank the Senators from West Virginia and Montana for having supported in the past both the ITM Oxygen and Syngas programs. Because of their attention, both development efforts have remained on cost, on schedule and promise to be true success stories. Now I want to thank them again,

for adding $6 million to the DOE's request for IGCC programs and $15 million for transportation fuels and chemicals programs. This additional funding will ensure that ongoing programs like the ITM Oxygen and ITM Syngas are fully funded in fiscal year 2003. I look forward to working with both the Senator from West Virginia and the Senator from Montana as they conference with our colleagues in the House of Representative to ensure that $6.5 million is provided for ITM Oxygen and ITM Syngas is funded at $5.5 million.

HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

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

AMENDMENT NO. 4534 WITHDRAWN

Mr. LIEBERMAN. Mr. President, on behalf of the Senator from Florida and myself, I withdraw the pending amendment to the Thompson amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The Senator from Tennessee is recognized.

AMENDMENT NO. 4513

Mr. THOMPSON. I urge the adoption of the pending Thompson amendment, No. 4513.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4513) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. It is my understanding, under the order previously entered, the Senator from West Virginia is now in order to offer an amendment; is that the order?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, I ask the Senator from West Virginia if he intends to do that tonight or tomorrow.

Mr. BYRD. Mr. President, I would rather not do it tonight.

Mr. REID. I say to the two managers of the bill, Senator BYRD, who has been involved in the Interior bill all day, indicated he would rather that he lay it down in the morning, when we get back on the bill tomorrow.

I ask the two managers, is that appropriate?

Mr. LIEBERMAN. Mr. President, I have no objection whatsoever. We will look forward to a good, hearty debate on Senator BYRD's amendment tomorrow.

Mr. THOMPSON. I have no objection, Mr. President.

Mr. REID. Mr. President, I suggest the absence of a quorum—I withhold that request.

Mr. BYRD. Mr. President, I thank both Senators.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I also need to get home. My wife is recuperating from an appendectomy and doing very well. I think I need to go home. I thank both Senators for their understanding and consideration.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business until 7 o'clock with Senators allowed to speak therein for up to 5 minutes each.

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

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

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

Mr. REID. Mr. President, we are in morning business until 7 o'clock; is that right?

The PRESIDING OFFICER. The Senator is correct.

TRIBUTE TO VICE ADMIRAL NORBERT ROBERT RYAN, JR.

Mr. LOTT. Mr. President, I rise today to honor Vice Admiral Norbert Robert Ryan, Jr., United States Navy, who will retire on Sunday, December 1, 2002, after 35-years of faithful service to our Nation.

Hailing from Mountainhome, PA, Vice Admiral Ryan graduated from the U.S. Naval Academy in 1967. Following graduation he attended flight training and was designated a Naval Aviator in 1968. After completing additional technical training, he spent three years with Patrol Squadron EIGHT conducting antisubmarine warfare patrols during the height of the Cold War.

Returning to the Naval Academy from 1972 to 1975, Vice Admiral Ryan helped shape future Navy leaders while serving as a Company Officer and Midshipman Personnel Officer. While at the Academy he concurrently attended graduate school, earning a Master of Science degree in Personnel Administration from George Washington University.

In 1975, Vice Admiral Ryan returned to the fleet, commencing a period of nine straight years of sea-duty assignments in which he served on a Carrier Group Commander's staff and flew P–3 Orion aircraft in three different Patrol Squadrons, including service as the Commanding Officer of Patrol Squadron FIVE. From 1984 to 1986, he was assigned as the Operations Officer on the staff of Commander, Patrol Wing ELEVEN and then as Force Operations Officer for Commander, Patrol Wings, Atlantic.

After serving two years as the Administrative Assistant to the Chief of Naval Operations, Vice Admiral Ryan completed studies at the John F. Kennedy School of Government, Senior Officer National Security Program, enroute to command of Patrol Wing TWO.

From 1991 to 1993, Vice Admiral Ryan served as Executive Assistant to the Vice Chairman, Joint Chiefs of Staff. During the period of 1993–1995, he was assigned to the Bureau of Naval Personnel, first as Director for Total Force Programming and then as Director for Distribution.

Vice Admiral Ryan returned to the fleet as Commander Patrol Wings Pacific/Commander Task Force 12 and then to the Pentagon where he performed superbly as the Navy's Chief of Legislative Affairs, serving in that important post from 1996 to 1999.

In November 1999, Vice Admiral Ryan assumed duties as Chief of Naval Personnel/Deputy Chief of Naval Operations, Manpower and Personnel. In this position, he distinguished himself through exceptionally meritorious service as he expertly developed and executed a visionary Navy personnel strategy, dynamic assignment system placement improvements, intelligent manpower allocations and many carefully crafted quality of life initiatives. His relentless efforts directly provided an unprecedented level of personnel readiness throughout the Navy.

A leader by example, Vice Admiral Ryan fostered creative concepts for taking care of people by applying focused mentoring and one-on-one leadership with the individual Sailor foremost in mind. He was the driving force that positioned the Navy's human resource organization for optimum support of the Service's needs. A true visionary, he supported manpower reform, new Fleet personnel requirements, and innovation in personnel management and manpower preparation for new operational platforms and weapons systems.

During his tenure as Chief of Naval Personnel, Vice Admiral Ryan oversaw unprecedented success in quality of life enhancements for all Navy men and

women and their families. These enhancements included the establishment and improvement of cost-efficient and extremely effective recruiting and reenlistment incentives, implementation of the Thrift Savings Plan, expansion of life insurance benefits to active duty family members and improvements to the process by which Sailors receive housing allowances. His actions maintained sensitivity to Fleet requirements while being ever mindful of our most vital asset - the Sailor.

Vice Admiral Ryan's leadership, intelligent stewardship and exceptional commitment to all naval personnel stand to ensure the success of our Navy well into the 21st Century. He is an individual of uncommon character and his professionalism will be sincerely missed. I ask my colleagues on both side of the aisle to rise with me to thank Vice Admiral Norb Ryan for his honorable service in the United States Navy, and to wish him and his family fair winds and following seas as he closes his distinguished military career. We also wish Norb Ryan and his wife, Judy, success, happiness, and good health as he takes the helm as President of The Retired Officer's Association.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, last week, the Senate confirmed the 74th, 75th, 76th, and 77th judicial nominations from President George W. Bush. We have confirmed more of President Bush's nominees in less than 15 months than were confirmed in the last 30 months that a Republican majority controlled the Senate and the pace of judicial confirmations. We have done more in half the time. We have also already confirmed more of President George W. Bush's judicial nominations since July 2001, than were confirmed in the first two full years of the term of his father President George H.W. Bush.

We are recognizing Hispanic Heritage Month and this week I understand that the Congressional Hispanic Caucus has a number of meetings and events planned. It seems a good time to take stock of where we are with regard to judicial nominees who are Hispanic.

I am informed that out of all of President George W. Bush's judicial nominations less than 10 are Hispanic or Latino; indeed, the percentage of nominees who are Hispanic is approximately 6 percent, which is, or course, less than half of the percentage of Hispanics in the population of the United States. Earlier this year the Puerto Rican Legal Defense and Education Fund issued a report ''Opening the Courthouse Doors: The Need for More Hispanic-American Judges.'' The report urged the President to take action to address the persistent problem of Hispanic under-representation in Federal judgeships by nominating ''qualified Hispanic candidates who have also had a demonstrated interest and a meaningful involvement in the work and activities of the Hispanic community.'' I regret that the President has not heeded this recommendation.

President Clinton nominated more than 30 Hispanic candidates for judicial vacancies. Unfortunately, some of them were denied hearings and votes during the years in which a Republican majority controlled the Senate process. Qualified, mainstream Hispanic nominees such as Christine Arguello of Colorado, Enrique Moreno of Texas, and Jorge Rangel also of Texas, who were nominated to circuit courts and Anabelle Rodriquez of Puerto Rico and Ricardo Morado of Texas, who were nominated to district courts, were defeated without a hearing or a vote. Others, such as Judges Rosemary Barkett of Florida, Sonia Sotomayor of New York, Carlos Lucero of Colorado, Jose Cabranes of Connecticut, Kim Wardlaw of California, Fortunado Benavides of Texas, and Richard Paez of California who were nominated to the circuit courts were eventually confirmed, many after lengthy delays by Republicans and Republicans' efforts to vote down their nominations.

For example, three of President Clinton's first 14 judicial nominees were Hispanic. One of them, Judge Barkett of Florida, who was nominated to the Eleventh Circuit, was targeted by Republicans for defeat based on their claims about her judicial philosophy or ideology. Despite numerous procedural efforts by Republicans, then in the minority, to delay and defeat her nomination, Judge Barkett was eventually confirmed. Although she had received a unanimous ''Well Qualified'' rating from the ABA, 36 Republicans voted against her confirmation.

Once Republicans took over the Senate in 1995, they slowed down the confirmation process dramatically, especially for circuit court nominees. They delayed the confirmation of Judge Sotomayor to the Second Circuit and tried to defeat her nomination because the Republican leadership feared she could be elevated to the Supreme Court. Even though Judge Sotomayor, like Judge Barkett, received a unanimous ''Well Qualified'' rating from the ABA, 29 Republicans voted against her confirmation on grounds of judicial philosophy or ideology. Republicans also delayed the confirmation of Judge Richard Paez for over 1,500 days, and after numerous procedural efforts to defeat his nomination through delay, Republicans mustered 39 votes against his confirmation.

Others Hispanic nominees, like Judge Fuentes who was nominated to the Third Circuit, had to wait a year to be confirmed. This was not because Republicans were busy confirming other circuit court nominees. In the 15 months after he was nominated, Republicans allowed only seven circuit court nominees to be confirmed. In contrast, the Democratic-led Senate has confirmed 13 of this President's circuit court nominees in less than 15 months, and two others are awaiting a vote on the floor.

President Clinton also appointed Judge Ricardo Urbino to the District Court in D.C., Judges Daniel Dominguez, Salvador Casellas, and Jay Garcia Gregory to the District Court in Puerto Rico, Judge Victor Marrero to the District Court in the Southern District of New York, Judges David Briones, Orlando Garcia, and Hilda Tagle to the District Courts in Texas, Judges Mary Murguia and Frank Zapata to the District Courts in Arizona, Judge Carlos Murguia to the District Court in Kansas, and Judge Adalberto Jordan to the District Court in Miami. Republicans delayed on a number of Hispanic nominees to the District Courts, including Judge Tagle who waited more than 30 months to be confirmed while Ms. Rodriguez waited more than 30 months to never be confirmed during the period of Republican control of the Senate.

In contrast, rather than reflecting the growing Hispanic population and increasing numbers of qualified Hispanic lawyers who are potentially judicial nominees, the Bush Administration's nominations have resulted in very few Hispanic judicial nominees compared to the Clinton Administration. President Bush has chosen only 8 Hispanics out of the 128 judicial nominations he has made. That is most regrettable.

Since the change in majority, we have moved quickly on the few Hispanic nominees who have been forwarded by this White House. Judge Christina Armijo was confirmed in May, 2001. Judge Phillip Martinez was confirmed last September. Judge Randy Crane was confirmed in March. Judge Jose Martinez was confirmed last week. Magistrate Judge Alia Ludlum, who was nominated in July and whose ABA peer review was recently received, is participating in a confirmation hearing this week. Unfortunately, because the White House nominated Judge James Otero and Jose Linares in July and August and has changed the 50-year tradition regarding ABA peer reviews, the ABA peer reviews on these recent nominees have not been received or they, too, would have had hearings. Each of the other Hispanic nominees to federal trial courts participated in a confirmation hearing within 60 days of having a completed file. In addition, I am planning another confirmation hearing to include Miguel Estrada.

Thus, Democrats will have held hearings on every Hispanic judicial nominee submitted by the President who has a completed file. The Democratic majority has proceeded to vote to confirm every Hispanic district court nominee who has had a hearing. Moreover, we have proceeded without the years of delay that used to accompany consideration of minority judicial nominees.

In ''Justice Held Hostage,'' the bipartisan Task Force of Federal Judicial Selection of the Citizens for Independent Courts, co-chaired by Mickey

Edwards and Lloyd Cutler, reported that during the period of Republican control of the Senate judicial nominees who were ethnic minorities or women took longer to get considered by the Senate, were less likely to be voted on and less likely to be confirmed—if they were considered at all by the Republican-controlled Senate Judiciary Committee.

I recall all too well the months and years it took for the Republican-controlled Senate to confirm Hispanic judicial nominees like Judge Sotomayor, Judge Paez, and Judge Tagle, in addition to other women or minorities like Judge Margaret Morrow, Judge Marsha Berzon, Judge Ann Aiken, Judge Margaret McKeown, and Judge Susan Oki Mollway. I also recall the numerous women and people of color who were nominated to the federal bench by President Clinton but who were never given hearings by the Republicans, like Judge Roger Gregory, Judge Helene White, Jorge Rangel, Enrique Moreno, and Kathleen McCree Lewis. Judge White of the Michigan Court of Appeals waited over 1,500 days but was never given a hearing or a vote. Still others, like Bonnie Campbell, were given a hearing but never given a vote on their nominations. These are just a few of the women and minorities whose confirmations were delayed or defeated through delay.

President Clinton worked hard to increase the diversity of the federal bench and 12 percent of his appointments to the circuit courts were Latino. It would have been closer to 16 percent if all of his Hispanic nominees to the circuit courts had been accorded hearings and votes. By contrast, President Bush has nominated only one Hispanic to the dozens of circuit court vacancies that have existed during his term. Thus, as of today, 3 percent of this President's circuit court nominees are Hispanic. Between the circuit vacancies that were blocked by Republicans and the new ones that have arisen during the past 15 months, President Bush has had the opportunity to choose nominees for 41 vacancies on the circuit courts—13 of these have already been confirmed. This President has chosen only one Hispanic to fill any of these 41 vacancies, and none to any of the following vacancies: the four vacancies in the Tenth Circuit, which includes Colorado and New Mexico, among other States; the three vacancies on the Fifth Circuit, which includes Texas; the six vacancies on the Ninth Circuit, which includes California and Arizona, among other States; none to the three vacancies in the Second Circuit, which includes New York; and none to the three vacancies on the Third Circuit, which includes New Jersey and Pennsylvania.

If this White House had looked a little harder and were not so focused on packing the circuit court bench with a narrow ideology, it could have found many qualified nominees, like Enrique Moreno, Jorge Rangel, Christina Arguello and others to fill these vacancies. Instead, President Bush did not choose to re-nominate these individuals who had been unfairly blocked by members of his party, and he also withdrew the nomination of Enrique Moreno to the Fifth Circuit, a nomination that the ABA had rated ''Well Qualified.''

So when Republicans try to take credit for President Clinton's Hispanic nominees and try to blame Democrats for the lack of Hispanic nominees by President Bush, they should be confronted with the facts and asked why they opposed so many of President Clinton's qualified Hispanic nominees and why so many of them voted against Judge Paez and Judge Sotomayor and Judge Barkett, and why so many Hispanic nominees were delayed for years and why so many were never given hearings or votes. Of course the facts have not prevented unfounded accusations by critics of the Democratic majority. The Republican press conference accusing Senate Democrats of being anti-Hispanic was an example of such inflammatory and baseless accusations.

As the Congressional Hispanic Caucus meets this week with Hispanic leaders from across the country, I welcome their views on the few Hispanic judicial nominees sent to the Senate by the President and their help in encouraging this White House to work more closely with Senators from both political parties to nominate qualified, mainstream Hispanic nominees to the federal bench.

Our diversity is one of the great strengths of our Nation, and that diversity of background should be reflected in our federal courts. Race or ethnicity and gender are, of course, not substitutes for the wisdom, experience, fairness and impartiality that qualify someone to be a federal judge entrusted with lifetime appointments to the federal bench. White men should get no presumption of competence or entitlement. Hispanic and African American men and women should not be presumed to be incompetent. All nominees should be treated fairly, but no one is entitled to a lifetime appointment to preside over the claims of American citizens and immigrants in our federal courts. We must, of course, carefully examine the records of all nominees to such high offices, but we know well the benefits of diversity and how it contributes to achieving and improving justice in America.

VOTE EXPLANATION

Mr. BUNNING. Mr. President I was necessarily absent for the vote in executive session on September 9, 2002. Therefore, I did not formally vote on the nomination of Kenneth A. Marra, of Florida, to be United States District Judge for the Southern District of Florida. Had I been present for that vote, I would have voted ''yea'' to confirm Mr. Marra for this position.

CBO COST ESTIMATE—S. 1971

Mr. BAUCUS. Mr. President, the Committee on Finance filed a report on S. 1971 without the Congressional Budget Office cost estimate. I ask unanimous consent that the CBO cost estimate be printed in the RECORD.

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

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1971—National Employee Savings and Trust Equity Guarantee Act

Summary: S. 1971 would make several changes to both the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 (ERISA) that would affect the operations and taxation of private pension plans. These include changing the requirements for diversification options, providing information to assist participants in making investment decisions, and changing the premiums paid to the Pension Benefit Guaranty Corporation (PBGC). In addition, S. 1971 would modify the tax treatment of certain executive compensation and make other changes.

The Joint Committee on Taxation (JCT) estimates that the bill would increase governmental receipts by $437 million over the 2003–2007 period, and by $221 million over the 2003–2012 period. Most of the revenue increase would occur in 2003 ($578 million), and the bill would result in a loss of revenue from 2005 through 2010.

CBO estimates that the bill would increase direct spending by $36 million over the 2003–2007 period and by $89 million over the 2003–2012 period. Discretionary spending would also increase by $4 million over the 2003–2007 period, assuming appropriation of the necessary amounts. Because S. 1971 would affect revenues and direct spending, pay-as-you-go procedures would apply.

JCT has determined that the revenue provisions of the bill do not contain any mandates. CBO has determined that the other provisions contain no intergovernmental mandates, but they do contain several mandates on sponsors, administrators, and fiduciaries of private pension plans. CBO estimates that the direct cost of those new requirements on private-sector entities would exceed the annual threshold specified in the Unfunded Mandates Reform Act ($115 million in 2002, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of the bill is shown in the following table.

	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
CHANGES IN REVENUES					
Executive compensation provisions	182	95	68	40	19
Change in interest rate for calculating plans' funding requirement	397	−54	−119	−97	−65
Voluntary early retirement incentive plans	−1	−4	−7	−10	−10

	By fiscal year, in millions of dollars—				
	2003	2004	2005	2006	2007
Total revenues	578	37	−57	−66	−55
CHANGES IN DIRECT SPENDING					
Flat-rate PBGC premiums	(1)	(1)	1	1	1
Variable-rate PBGC premiums	0	3	4	5	6
Interest rate range for funding overpayment	9	−3	−3	−2	−1
Payment of interest on overpayments of PBGC premiums	3	3	3	3	3
Total direct spending	12	3	5	7	9
TOTAL CHANGES IN DIRECT SPENDING AND REVENUES					
Net increase or decrease (−) in the budget deficit	−566	−34	62	73	64
SPENDING SUBJECT TO APPROPRIATIONS					
Studies by PBGC, Treasury, and Labor:					
Estimated authorization level	4	0	0	0	0
Estimated outlays	3	1	0	0	0

[1] less than $500,000.

Notes.—Components may not sum to totals because of rounding.

Sources: CBO and the Joint Committee on Taxation.

Basis of estimate

This estimate assumes that S. 1971 will be enacted around October 1, 2002.

Revenues

All estimates of the revenue proposals of the bill were provided by JCT. The provisions relating to executive compensation would tax without deferral certain compensation provided through offshore trusts, and require wage withholding at the top marginal tax rate for certain supplemental wage payments in excess of $1 million. Those provisions would increase revenues by $182 million in 2003, by $402 million over the 2003–2007 period, and by $496 million over the 2003–2012 period. The pension-related provision with the largest revenue effect would alter the allowable interest rates used to calculate pension funding requirements (see discussion below). That provision would increase revenues by $62 million over the 2003–2007 period and reduce revenues by $199 million over the 2003–2012 period. Other pension provisions would reduce revenues by $1 million in 2003, by $32 million over the 2003–2007 period, and by $82 million over the 2003–2012 period.

Direct spending

Reduced Flat-Rate Premiums Paid to PBGC—Under current law, defined benefit pension plans operated by a single employer pay two types of annual premiums to the Pension Benefit Guaranty Corporation. All covered plans are subject to a flat-rate premium of $19 per participant. In addition, underfunded plans must also pay a variable-rate premium that depends on the amount by which the plan's liabilities exceed its assets.

The bill would reduce the flat-rate premium from $19 to $5 per participant for plans established by employers with 100 or fewer employees during the first five years of the plans' operations. According to information obtained from the PBGC, approximately 7,500 plans would eventually qualify for this reduction. Those plans cover an average of 10 participants each. CBO estimates that the change would reduce the PBGC's premium income by less than $500,000 in 2003 and by $8 million over the 2003–2012 period. Since PBGC premiums are offsetting collections to a mandatory spending account, reductions in premium receipts are reflected as increases in direct spending.

Changes in Variable Premiums Paid to the PBGC.—S. 1971 would make several changes affecting the variable-rate premium paid by underfunded plans. CBO estimates, in total, this section will decrease receipts from those premiums by $9 million in 2003 and $51 million over the 2003–2012 period.

First, for all new plans that are underfunded, the bill would phase in the variable-rate premium. In the first year, the plans would pay nothing. In the succeeding four years, they would pay 20 percent, 40 percent, 60 percent, and 80 percent, respectively, of the full amount. In the sixth and later years, they would pay the full variable-rate premium determined by their funding status. On the basis of information from the PBGC, CBO estimates that this change would affect the premiums of approximately 250 plans each year. It would reduce the PBGC's total premium receipts by about $2 million in 2004 and by $41 million from 2004 through 2012.

Second, the bill would reduce the variable-rate premium paid by all underfunded plans (not just new plans) established by employers with 25 or fewer employees. Under the bill, the variable-rate premium per participant paid by those plans would not exceed $5 multiplied by the number of participants in the plan. CBO estimates that approximately 2,500 plans would have their premium payments to the PBGC reduced by this provision beginning in 2004. As a result, premium receipts would decline by $1 million in 2004 and by $10 million over the 2004–2012 period.

Finally, the bill would alter the allowable interest rates used to calculate pension funding requirements contained in ERISA and the Internal Revenue Code, which would allow plans to become more underfunded in plan year 2001 without subjecting them to tax and other penalties. Even though most plan-year 2001 accounts will be finalized in September 2002, the new interest rate requirement would give some plans credits that may be used in plan-year 2002, which would affect premiums paid in fiscal year 2003. JCT estimates that this provision initially would cause employers to reduce pension plan contributions, but later increase these contributions until fund returns to baseline levels. Some plans subsequently would have to pay higher premiums because their reduced contributions would further increase their level of underfunding. Other plans, however, would qualify for a special exemption and not be required to pay the variable premium for plan-year 2001. Based on information from the PBGC, CBO estimates the net effect would be a decrease of $9 million in premium receipts in 2003. From 2004 through 2007, premium income would then increase, resulting in a net change in receipts of less than $500,000 over the 2003–2007 period.

Authorization for the PBGC to Pay Interest on Refunds of Premium Overpayments.—The legislation would authorize the PBGC to pay interest to plan sponsors on premium overpayments. Interest paid on overpayments would be calculated at the same rate as interest charged on premium underpayments. On average, the PBGC receives $19 million per year in premium overpayments, charges an interest rate of 8 percent on underpayments, and experiences a two-year lag between the receipt of payments and the issuance of refunds. Based on this information, CBO estimates that direct spending would increase by $3 million annually.

Substantial Owner Benefits in Terminated Plans.—S. 1971 would simplify the rules by which the PBGC pays benefits to substantial owners (those with an ownership interest of at least 10 percent) of terminated pensions plans. Only about one-third of the plans taken over by the PBGC involve substantial owners, and the change in benefits paid to owners-employees under this provision would be less than $500,000 annually.

Discretionary spending

Studies. S. 1971 would direct the PBGC, the Department of Labor, and the Department of the Treasury to undertake four studies: one regarding establishing an insurance system for individual retirement plans, one on the fees charged by individual retirement plans, one on ways to revitalize defined benefits pension plans, and one on floor-offset employee stock ownership plans. Based on the costs of studies with comparable requirements, CBO estimates these studies would cost about $4 million over the 2003–2012 period, assuming the availability of appropriated funds.

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 governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purpose of enforcing pay-as-you-go procedures, only the effects through 2006 are counted.

	By fiscal year, in millions of dollars—									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in receipts	578	37	−57	−66	−55	−97	−94	−50	4	21
Changes in outlays	12	3	5	7	9	10	10	11	11	11

Estimated impact on state, local, and tribal governments: JCT has determined that the revenue provisions of S. 1971 contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

CBO reviewed the non-revenue provisions of S. 1971 and has determined that they contain no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: With only limited exceptions, private employers who provide pension plans for their workers must follow rules specified in ERISA. Therefore, CBO considers changes in ERISA that expand those rules to be private-sector mandates under UMRA. The nonrevenue provisions of S. 1971 would make several such changes to ERISA that would affect sponsors, administrators, and fiduciaries of pension plans. CBO estimates that the direct cost to affected entities of the new requirements in the bill would exceed the annual threshold specified in UMRA ($115 million in 2002, adjusted annually for inflation). JCT has determined that the revenue provisions of S. 1971 do not contain any private-sector mandates.

Title I of the bill would impose restrictions on individual-account (that is, defined contribution) plans regarding assets held in the plans in the form of securities issued by the plan's sponsor. The bill would require affected plans to allow participants to immediately sell those securities that have been acquired through the employee's contributions, and to allow participants to sell certain securities acquired through the employer's contributions after three years of service with the firm. The latter requirement would be phased in over three years. CBO estimates that the added administrative and recordkeeping costs of this provision would be approximately $20 million annually, with larger amounts in the first year.

Title I also would require plans to offer a range of investment options. This requirements would add little to plans' costs because many plans now abide by a safe harbor provision in ERISA that has similar requirements.

Title II of the bill would impose restrictions on plan administrators during transaction suspension periods. (Transaction suspension periods are periods of time when participants are unable to direct the investment of assets in their accounts—for example, when a plan is changing recordkeepers.) To avoid financial liability during those time periods, fiduciaries would be required to abide by certain conditions. The bill also would increase the maximum bond required to be held by fiduciaries from $500,000 to $1 million. CBO estimates that the direct cost of these provisions to plan sponsors and fiduciaries would be small.

Title III of the bill would impose a number of requirements on plans regarding information they must provide to their participants. Administrators of defined contribution plans would be required to provide quarterly statements to participants. Those statements would have to contain several items, including the amount of accrued benefits and bested accrued benefits, the value of investments held in the form of securities of the employing firm, and an explanation of any limitations or restrictions on the right of the individual to direct the investments. Currently, plans must provide more limited statements to participants upon request. CBO estimates that, while many plans now provide pension statements on a quarterly basis, about 30 million participants would begin to receive quarterly statements as a result of this bill. The added cost of this requirement would be about $100 million annually.

Title III also would require administrators of private defined-benefit pension plans to provide vested participants currently employed by the sponsor with a benefit statement at least once every three years, or to provide notice to participants of the availability of benefit statements on an annual basis. CBO estimates that the cost of this provision would be less than $5 million annually.

In addition, Title III would require plans to provide participants with basic investment guidelines and information on option forms of benefits, as well as information that plan sponsors must provide to other investors under securities laws. Plans also would have to make available on a web site any disclosures required of officers and directors of the plan's sponsor by the Securities and Exchange Commission. CBO estimates that the cost of these provisions would exceed $25 million annually.

Previous CBO estimates: CBO has prepared cost estimates for three other bills that contain provisions similar to those in S. 1971. These are:

H.R. 3669, the Employee Retirement Savings Bill of Rights, as reported by the House Committee on Ways and Means on March 14, 2002 (CBO estimate dated March 20, 2002),

H.R. 3762, the Pension Security Act of 2002, as ordered reported by the House Committee on Education and the Workforce on March 20, 2002 (CBO estimate dated April 4, 2002), and

S. 1992, the Protecting America's Pensions Act of 2002, as ordered reported by the Senate Committee on Health, Education, Labor, and Pensions on March 21, 2002 (CBO estimate dated May 7, 2002).

The major budgetary effects of H.R. 3669, like S. 1971, pertain to revenue provisions that relate to pension plan funding. (H.R. 3669 also included a provision excluding certain stock options from wages.) H.R. 3669's provisions affecting pension would produce an estimated revenue loss of $1.2 billion over the 2002–2012 period, compared with the $277 million revenue loss projected for the pension provisions of S. 1971 over the 2003–2012 period.

Like S. 1971, both H.R. 3669 and H.R. 3762 would make several changes to ERISA affecting premiums collected by the PBGC. CBO estimated that H.R. 3669 would increase direct spending by $104 million over from 2003–2012 and H.R. 3762 would increase direct spending by $185 million over the same period. Unlike S. 1971, H.R. 3762 included a provision amending the underlying formula used to determine variable rate-premiums for plan-year 2003. Also, one of the changes made by H.R. 3762 would first apply to plan-year 2002, while that provision in S. 1971 would start with plan-year 2003. Both bills also contained somewhat different language than S. 1971 affecting the interest rates used to calculate variable-rate premiums in the plan-year 2001.

S. 1992 did not have any estimated impact on either revenues or direct spending.

Estimate prepared by: Federal revenues: Annie Bartsch; Federal spending: Geoff Gerhardt; impact on state, local and tribal governments: Leo Lex; impact on the private sector: Bruce Vavrichek.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis; G. Thomas Woodward, Assistant Director for Tax Analysis.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 26, 2002 in Denver, CO. A lesbian, April Mora, 17, was brutally attacked by three men. The attackers punched and kicked her in the stomach, then held her down and carved the words ''dyke'' and ''RIP'' into her flesh with a razor.

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.

CHALLENGES IN RURAL HEALTH CARE

• Mr. DORGAN. Mr. President, I wanted to take a few minutes to describe some of the challenges facing rural health care systems and why I feel it is critical for the Senate to act now to reduce the inequities in Medicare funding between rural and urban providers.

Rural America depends on its small town hospitals, physicians and nurses, nursing homes, those who provide emergency ambulance services, and other members of our rural health care system. And because of past and proposed cuts in Medicare reimbursement, plus historical unfairness in Medicare payments, these vital services are in jeopardy.

Like most of my Senate colleagues, I supported the Balanced Budget Act, BBA, of 1997 when it was enacted by Congress with strong bipartisan support. Prior to the passage of this law, Medicare was projected to be insolvent by 2001, so it was imperative that we took action to extend Medicare's financial health and to constrain its rate of growth to a more sustainable level.

We later found that the Balanced Budget Act worked to reduce Medicare program costs, but many health care providers were adversely affected by payment reductions that were larger than intended. To address these concerns, Congress in 1999 made adjustments in the Balanced Budget Refinement Act, BBRA, followed in 2000 by the Medicare Beneficiary Improvement and Protection Act, BIPA. Without these needed changes, frankly, as many as a dozen of North Dakota's hospitals might be closed today.

But, additional legislation is still needed to improve Medicare reimbursement for health care providers in order to stabilize the Medicare program and ensure that beneficiaries, especially in rural areas, will continue to have access to their local hospitals, physicians, nursing homes, home health, and other services. Many small rural hospitals in particular serve as the anchor

for the full range of health care services in their communities, from ambulatory to long-term care. Medicare is the single most significant payer for services at these hospitals, and as such, it has an impact on the whole community.

Part of the problem in North Dakota is simply demographics: North Dakota's population is the second oldest in the Nation, and our population is shrinking daily. In fact, in 13 of North Dakota's counties, there were 20 or fewer births for the entire county last year. Admissions to rural hospitals have dropped by a drastic 60 percent in the last two decades, and those patients who do remain tend to be older, poorer, and sicker. This means that rural hospitals tend to be disproportionately dependent upon Medicare reimbursement, to the extent that Medicare accounts for 85 percent of their revenue. Obviously, given this reality, changes in Medicare reimbursement have a major impact on the financial health of rural hospitals.

Another part of the problem is that Medicare has historically reimbursed urban health care providers at a much higher rate than their rural counterparts. Of course, some of this difference can be explained by regional differences in the cost of health care and variations in the health status of older Americans. But this is not the whole explanation. Even after adjusting for these factors, a recent report by health care economists found that, for example, Medicare's per beneficiary spending was about $8,000 in Miami, but only $3,500 in Minneapolis. When average Medicare payments for the same procedure are compared, the disparities in payment in different areas of the country are dramatic. The table below compares payments for two of the most common procedures in North Dakota: hospitalization for heart failure and shock, and hospitalization for treatment of pneumonia.

Location in U.S.	Heart Failure and Shock	Simple pneumonia
North Dakota	$3,079	$3,383
California	4,774	5,153
New York	4,471	5,237
District of Columbia	6,168	6,588

As you can see, the average payment for these same hospital procedures, in larger and more urbanized States like New York and California, is 150 percent of the Medicare payment for the same procedure in North Dakota. The average Medicare payment for these same procedures is twice as high in the District of Columbia. In my opinion, the difference is largely explained by a Medicare reimbursement system that is skewed in favor of urban area, and past legislation has done little to address that concern, despite efforts by some of us to do so.

I have cosponsored legislation in the Senate, the Area Wage and Base Payment Improvement Act, S. 885, that would address the rural inequity in Medicare reimbursement in two ways. First, this bill would equalize the ''standardized payment'' which forms the basis for Medicare's reimbursement to hospitals. You would think something called the ''standardized payment'' would already be standard, but the fact is that hospitals in rural and small urban areas, including all of North Dakota, receive a smaller standardized payment than large urban hospitals. This bill would raise all hospitals up to the same standardized payment.

Second, S. 885 would increase the wage index for most of North Dakota's hospitals. This is a major area of concern that I hear about from North Dakota hospital administrators. The current wage index, which is an important factor in a hospital's total Medicare reimbursement, is based on an antiquated theory that it costs more to hire hospital staff in urban areas than it does in rural areas. That may have been true once, but it is no longer true today. Today, hospitals in North Dakota are competing with hospitals in Minnesota, Chicago and elsewhere for the same doctors and nurses, and they have to pay competitive wages in order to recruit staff.

I am also a cosponsor of the Rural Health Care Improvement Act of 2001, S. 1030. This legislation introduced by Senator Conrad would, among other things, provide for a new ''low volume'' adjustment payment for hospitals with a smaller number of patients and establish a revolving loan fund to help rural health care facilities make much-needed capital improvements.

I also want to mention a positive impact of the Balanced Budget Act of 1997. That legislation created the Critical Access Hospital program, which has proven to be critically important to the survival of North Dakota's smallest and most rural hospitals. Twenty-eight of North Dakota's rural hospitals, serving about 181,000 North Dakotans, have now converted to Critical Access Hospital status, which allows them to receive cost-based reimbursement from Medicare. I strongly support continuing this program and making some modest changes to strengthen the program. We also need to reauthorize the Rural Hospital Flexibility program, which provides grants to states to assist small rural hospitals in making the switch to Critical Access Hospitals.

In addition, Congress also must make some other changes to Medicare reimbursement to head off some upcoming reductions in payments. For instance, Medicare reimbursement to physicians and allied health providers is scheduled to be reduced by 12 percent over the next three years because of problems with the payment formula. In addition, reimbursement to home health agencies is scheduled to be cut by 15 percent on October 1, and a 10 percent payment boost for rural home health agencies expires at the end of this year. And skilled nursing homes will be facing a 10 percent reduction in their Medicare payment rates in 2003 and a 19 percent cut in 2004 unless Congress acts to avert this ''cliff'' in funding. I support making changes in all of these areas to help address these concerns.

In closing, I think we as a Nation need to acknowledge that a strong health care system is an important part of our rural infrastructure. Over the years, we have determined that rural electric service, rural telephone service, an interstate highway system through rural areas, and rural mail delivery, to name a few services, make us a better, more unified Nation. We need to make the same determination in support of our rural health care system, and I will be fighting for policies that reflect rural health care as a strong national priority.●

ON CONSTITUTION DAY, THE WORK OF THE SENATE, AND BALANCING THE BUDGET

Mr. CRAIG. Mr. President, I rise to note an interesting coincidence of things that are happening, and not happening, today.

Many Americans are celebrating today as Constitution Day. At 4 p.m. eastern time, on September 17, 1787, the Framers of the U.S. Constitution adjourned the Constitutional Convention in Philadelphia. The Constitution they proposed, after deep debates and tortured compromise, was then submitted to the several States for ratification, and for the judgment of history.

According to the nonpartisan, nonprofit organization, Constitution Day, Inc., at 4 p.m. today, ''schools across America will be led in the recitation of the Preamble to the US Constitution on a national teleconferencing call conducted by Sprint . . . churches across America will be led in the ringing of their bells to honor the First Amendment, Freedom of Religion . . .'' and there will be commemorations from Valley Forge, PA, to a replica of Independence Hall at Knott's Berry Farm, CA.

Little can be said, that has not been said before, about the profound wisdom, foresight, and faith that the Framers of our Constitution brought to constructing the foundational document of our Nation's system of government and laws.

President Coolidge said of the Constitution, in 1929, ''The more I study it, the more I have come to admire it, realizing that no other document devised by the hand of man ever brought so much progress and happiness to humanity.''

I rise to acknowledge this special day of celebrating our Constitution and I join all Americans in paying tribute to the patriots who produced it.

For many Americans, one of the signs of our deep respect for the Constitution is our acknowledgment that, in exceptional cases, a problem rises to such a level that it can be adequately addressed only in the Constitution, by way of a Constitutional amendment.

Yesterday, President Bush spoke forcefully about the Senate's failure to pass a budget resolution for the fiscal year that starts in just 14 days. He called upon us to do what was needed, urgent, and responsible, and to do it promptly, by sending him this year's defense appropriation and the homeland security bill. And in all this, the need to maintain fiscal discipline becomes evident, as we see a return to deficit spending.

For 4 years in a row, a modern record, the first time since the 1920s, Republican Congresses balanced the Federal Budget. The first Republican Congresses in 40 years made balancing the budget their top priority, and did what was necessary to run the kind of surpluses we need to pay down the national debt and safeguard the future of Social Security.

Today, the Federal budget is again written in red ink. The Congressional Budget Office's recently released budget update projects a $157 billion deficit for fiscal year 2002, the year about to end. If you don't count the Social Security surplus, the rest of the government will run a $317 billion deficit.

Under current policies, CBO says the deficit will be about the same next year, in fiscal year 2003. But we don't know today what war against terrorism will demand next year. And, unfortunately, we do know that too many in Congress and too many interest groups are demanding large increases in spending for other purposes.

This year's budget deficit was caused by an economic recession and a war begun by a terrorist attack. Even before taking office, President Bush correctly foresaw the coming recession and prescribed the right medicine, the bipartisan Tax Relief Act of 2001, that has bolstered the economy and prevented a far worse recession.

We will rebound from the recent economic slowdown. And we must do whatever it takes to win the war, that's a matter of survival and of protecting the safety and security of the American people. Beyond that, we must keep all other federal spending under control, so that we return, as soon as possible, to balancing the budget.

Even in the heady days of budget surpluses, I always maintained the only way to guarantee that the Federal Government would stay fiscally responsible was to add a Balanced Budget Amendment to the Constitution. Before we balanced the budget in 1998, the government was deficit spending for 28 years in a row and for 59 out of 67 years. The basic law of politics, to just say ''yes'' was not repealed in 1998, but only restrained some, when we came together and briefly faced up to the grave threat to the future posed by decades of debt.

The Government is back to borrowing. And for some, a return to deficit spending seems to have been liberating, as the demands for new spending only seem to be multiplying again.

That is why, on Constitution Day, it is important to me to be a cosponsor of S.J. Res. 2, and to call again for Congress to adopt a Balanced Budget Amendment to the Constitution and send it to the states for ratification. I also stress that this amendment would not count the Social Security surplus in its calculation of a balanced budget. Those annual surpluses would be set aside exclusively to meet the future needs of Social Security beneficiaries.

On Constitution Day, I call on the Senate to do today's work: Send the President a Defense appropriations bill, send the President a homeland security bill, and pass a budget that holds the line on new spending. And, on Constitution Day, I call on the Senate to safeguard the future, by again taking up a balanced budget amendment to the Constitution.

ADDITIONAL STATEMENTS

HONORING FREEDOM SERVICE DOGS

• Mr. ALLARD. Mr. President, I wish to honor the Freedom Service Dogs on the occasion of its 15th anniversary of serving people with mobility impairments by providing them with service dogs.

Freedom Service Dogs was founded by Mike Roche, a Colorado paramedic, and P.J. Roche, a dog trainer. They started the service to help Colorado citizens be more mobile by training dogs to open doors, turn on lights, pull wheelchairs, pick up dropped items, tug clothing on and off, and alert for help when needed.

Not only does Freedom Service Dogs provide people with increased confidence and social acceptance, it also saves the lives of hundreds of good dogs abandoned in animal shelters by training them to help those impaired.

Freedom Service Dogs is a charitable organization that relies on the support of the community to provide free services to those in need.

I congratulate Freedom Service Dogs for 15 years of service and commend this group and the communities that support them for creating a model organization that serves the needs of mobility impaired Coloradans.•

TRIBUTE TO TIM MONTGOMERY

• Mr. HOLLINGS. Mr. President, the people of South Carolina could not have been more proud of Gaffney, SC, native Tim Montgomery this past week. He set a world record in the 100 meters at the IAAF Grand Prix Final in Paris with a time of 9.78 seconds, one-hundredth of a second faster than the old record.

It may surprise some of my colleagues in this body that South Carolina could produce the fastest runner in the world. They look at the races for Senate that Senator THURMOND and I have been involved with, and have probably concluded our state produces only marathoners.

But the new generation of South Carolinians excel in speed. Mr. Montgomery has demonstrated great talent as a sprinter, as the 2001 USA Outdoor champion and a gold medalist in the 2000 Olympic 4x100 relay. No question, his hard work culminated in his perfect run this past week, making him the best of the world's best.

I know every track fan in our nation joins those of us in South Carolina in congratulating Mr. Montgomery and wishing him continued success in the future.•

IN REMEMBRANCE OF THE VICTIMS OF THE KATYN FOREST MASSACRE

• Mr. TORRICELLI. Mr. President, I rise today to honor the memory of the victims of the Katyn Forest Massacre in 1940.

On September 17, 1939, Soviet troops invaded Poland in accordance with the German-Soviet agreement. While Polish troops fought bravely, they ultimately were overwhelmed by the Soviet forces.

In an effort to eliminate potential threats to Soviet control of Poland, Soviet troops, under Stalin's orders, committed what some have called one of the most heinous war crimes in history. Over 15,000 Polish soldiers, officers, intellectual leaders, prisoners of war and other Polish citizens were executed. Between four and five thousand Polish bodies were buried in a mass grave in the Katyn Forest. There were no trials, no justice for these innocent victims.

While the Soviet government denied complicity, on February 19, 1989 it finally released documents confirming their role in this massacre. However, an admission of complicity does not ease the pain of a nation whose entire population was affected by this horrible event.

I am hopeful that as more people learn of the Katyn Forest Massacre, we will be able to come to terms with this tragedy and the pain that it has caused so many. We must continue to honor the memories of those who were lost that day, so that we will not be destined to repeat this century the horrors which so often affected the last.•

TRIBUTE TO STORAGETEK

• Mr. ALLARD. Mr. President, I wish to recognize the outstanding achievements of StorageTek, A Colorado technology firm recently named ''Company of the Year'' by ColoradoBiz Magazine.

StorageTek, headquartered in Louisville, CO, is an innovator and frontrunner in virtual storage solutions for tape automation, disk storage systems, and storage networking. With 22,000 customer locations in forty countries, StorageTek employs more than 7800 people worldwide. Their customers include finance, insurance, and telecommunications leaders, as well as

government agencies such as the Department of Defense, Central Intelligence Agency, and Congress.

ColoradoBiz magazine rewards companies demonstrating exceptional achievement in financial performance, community involvement, marketing innovation, operational efficiency and research and development. StorageTek is specifically cited for its reduction of customer order processing time by twenty five percent, reducing inventory by $100 million, and reducing facility space by fifty percent.

Additionally, the company is lauded for contributing more than nine million dollars to charitable causes, with emphasis on education, arts, health, and human services. Through a program called Volunteers in Partnership with the Community, VIP.COM, StorageTek also rewards and encourages employee volunteers with a monetary gift to an employee's chosen organization when that employee volunteers 100 hours or more.

I congratulate StorageTek for receiving ''Company of the Year,'' and commend them for setting the standard in business and the community.●

HONORING RICHARD H. JETT

● Mr. BUNNING. Mr. President, today I wish to recognize Mr. Richard H. Jett of Campton, KY. This weekend, Mr. Jett will be honored as Kentucky's Outstanding Older Worker for 2002 at an awards ceremony hosted by Experience Works.

Mr. Jett's life is an example of selfless devotion to community improvement. He was an educator, high school principal and superintendent of schools in Kentucky until his retirement in 1982. However, Mr. Jett's idea of retirement is certainly not traditional.

Currently, the city of Campton, KY, has the privilege of calling Mr. Jett its mayor. Along with community development, the improvement and beautification of Campton is always in the forefront of his mind. One will often find Mr. Jett sweeping sidewalks or tending to the landscape, showing his pride for Campton and Kentucky. As in all areas of his life, Mr. Jett leads by example, never resting on his laurels.

Aside from his service in the public sector, Mr. Jett operates a tour company, he organized the East Kentucky Talent Project to help young musicians, and he has taught square dancing, western dancing and clogging for the past 40 years at the Natural Bridge State Park. His active lifestyle does not show signs of slowing, even after being diagnosed with cancer in 1998, and undergoing knee replacement surgery.

At a time when civic pride is not only desirable, but essential, Mr. Jett's life is an example of how we should treat our city, state, nation and fellow citizens: with upmost respect, compassion and dedication. He is truly an American Hero to the lives he touches daily. Please join me in honoring the distinguished career of Mr. Richard H. Jett.●

TRIBUTE TO JOHNNY UNITAS

● Mr. MCCONNELL. Mr. President, today I pay tribute to a legend in the world of professional football, the late Johnny ''Golden Arm'' Unitas. I would also like to extend my most heartfelt condolences to his wife Sandy, his daughters Paige and Janice Ann, and his sons John, Kenneth, Robert, Christopher, Joe and Chad. I know my colleagues join me in expressing our gratitude for Johnny's many contributions.

Revered as the greatest quarterback of all time, Johnny was a man of incredible integrity and was a hero to many, both on and off the field. After graduating from St. Justin's High School in Pittsburgh, PA, where he got his start playing football as a sophomore, Johnny began to set his sights on college football. He found his niche at the University of Louisville. As quarterback for the university's football team, Johnny's skills and leadership demanded the attention of national recruiters. He was signed by the Baltimore Colts in 1956, and proved to be one of the team's greatest assets for 17 seasons.

His impressive accomplishments include throwing touchdown passes in a record 47 consecutive games and being the first quarterback in the NFL to pass a total of 40,000 yards. During his celebrated career in the NFL, Johnny received many of the game's highest awards. He was named Player of the Year in 1959, 1964 and 1967, was named Player of the Decade for the 1960s. On July 28, 1979, Johnny was enshrined into the Pro Football Hall of Fame. He was also named the Greatest Player in the First 50 years of Pro Football, was named to the NFLs 75th Anniversary Team, and had his number, 19, retired by the Baltimore Colts.

Indeed, Johnny Unitas will forever be considered one of the greatest football players in history. But his legacy doesn't end there. He was a down-to-earth role model who cherished interaction with teammates and younger players. In 1987, the Johnny Unitas Golden Arm Award was established in his name to honor the top senior quarterback in college football each year. Additionally, after completing his reign in the NFL, Unitas continued to visit Louisville to help his alma mater with anything he could.

I am certain that the legacy of excellence that Johnny Unitas has left will continue on, and will inspire others. On behalf of myself and my colleagues in the Senate, I offer my deepest condolences to Johnny's friends and loved ones, and express my gratitude for all he contributed to the University of Louisville, the National Football League and to our great Nation.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PERIODIC REPORT ON TELECOMMUNICATIONS PAYMENTS MADE TO CUBA PURSUANT TO TREASURY DEPARTMENT SPECIFIC LICENSES—PM 108

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 Foreign Relations:

To the Congress of the United States:

As required by section 1705(e)(6) of the Cuban Democracy Act of 1992, as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, 22 U.S.C. 6004(e)(6), I transmit herewith a semiannual report prepared by my Administration detailing payments made to Cuba by United States persons as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 17, 2002*.

MESSAGE FROM THE HOUSE

At 11:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170), the Minority Leader reappoints the following individual to the Ticket to Work and Incentives Advisory Panel: Ms. Frances Gracechild of California to a 4-year term.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two houses; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on International Relations, for consideration of the House bill and the Senate amendment, and modifications committed to Conference: Mr. HYDE, Mr. SMITH of New Jersey, Ms. ROS-LEHTINEN, Mr. LANTOS, and Mr. BERMAN.

From the Committee on the Judiciary, for consideration of sections 234,

236, 709, 710, and 844 and section 404 of the Senate amendment, and modification committed to conference: Mr. SENSENBRENNER, Mr. SMITH of Texas, and Mr. CONYERS.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on September 12, 2002, by the President pro tempore (Mr. BYRD).

H.R. 3287. An act to redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., as the ''Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center''.

H.R. 3917. An act to authorize a national memorial to commemorate the passengers and crew of Flight 93 who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes.

H.R. 5207. An act to designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the ''Thomas E. Burnett, Jr. Post Office Building''.

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–9008. A communication from the Congressional Liaison Officer, United States Trade and Development Agency, transmitting, pursuant to law, a special notification under Section 520 of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002; to the Committee on Appropriations.

EC–9009. A communication from the Assistant Secretary, Land and Minerals Management, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Outer Continental Shelf Oil and Gas Leasing—Clarifying Amendments'' (RIN1010–AC94) received on September 10, 2002; to the Committee on Energy and Natural Resources.

EC–9010. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting , pursuant to law, the report of a nomination for the position of Controller, Office of Federal Financial Management, received on September 10, 2002; to the Committee on Governmental Affairs.

EC–9011. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to International Waters, Pacific Ocean or French Guiana; to the Committee on Foreign Relations.

EC–9012. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the monthly status on the status of its licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–9013. A communication from the Administrator, Office of Workforce Security, Employment and Training Administration, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Training and Employment Guidance Letter 18–01—Reed Act Distribution'' received on July 23, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–9014. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual reports for Fiscal Year 1998 and 1999 describing the activities and accomplishments of the state programs operated under the authority of the Act; to the Committee on Health, Education, Labor, and Pensions.

EC–9015. 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 ''Notice Permitting Earlier Use of Rev. Proc. 2002–41'' (Notice 2002–55) received on September 10, 2002; to the Committee on Finance.

EC–9016. 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 ''2002 National Pool'' (Rev. Proc. 2002–56) received on September 10, 2002; to the Committee on Finance.

EC–9017. 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 ''Designated IRS Officer or Employee Under Section 7602(a)(2) of the Internal Revenue Code'' (RIN1545–BA98) received on September 10, 2002; to the Committee on Finance.

EC–9018. A communication from the Assistant Secretary of the Navy, Installations and Environment, transmitting, pursuant to law, a notification to study certain functions performed by military and civilian personnel in the Department of the Navy for possible performance by private contractors; to the Committee on Armed Services.

EC–9019. A communication from the Assistant Secretary of Defense, International Security Policy, transmitting, pursuant to law, the report on options for assisting Russia in the development of alternative energy sources for Seversk and Zheleznogorsk to facilitate cessation of weapons-grade plutonium production; to the Committee on Armed Services.

EC–9020. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Performance of Security Functions'' (DFARS Case 2001–D018) received on September 10, 2002; to the Committee on Armed Services.

EC–9021. A communication from the Deputy Secretary, Division of Market Regulation, United States Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Applicability of CFTC and SEC Customer Protection, Recordkeeping, Reporting, and Bankruptcy Rules and the Securities Investor Protection Act of 1970 to Accounts Holding Security Futures Products'' (RIN3235–AI32) received on September 10, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9022. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Confirmation Requirements for Transactions of Security Futures Products Effected in Futures Accounts'' (RIN3235–AI50) received on September 10, 2002; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 198: A bill 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. (Rept. No. 107–281).

S. 1846: A bill to prohibit oil and gas drilling in Finger Lakes National Forest in the State of New York. (Rept. No. 107–282).

By Mr. BAUCUS, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 5063: A bill to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services. (Rept. No. 107–283).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 1883: A bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes. (Rept. No. 107–284).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2018: A bill to establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, and for other purposes. (Rept. No. 107–285).

H.R. 695: A bill to establish the Oil Region National Heritage Area. (Rept. No. 107–286).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 706: A bill to direct the Secretary of the Interior to convey certain properties in the vicinity of the Elephant Butte Reservoir and the Caballo Reservoir, New Mexico. (Rept. No. 107–287).

H.R. 2115: A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington. (Rept. No. 107–288).

H.R. 2828: To authorize payments to certain Klamath Project water distribution entities for amounts assessed by the entities for operation and maintenance of the Project's transferred works for 2001, to authorize refunds to such entities of amounts collected by the Bureau of Reclamation for reserved works for 2001, and for other purposes. (Rept. No. 107–289).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute and an amendment to the title:

S. 2328: A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of

pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality.

Under the authority of the order of the Senate of July 29, 2002, the following reports of committees were submitted on September 17, 2002:

By Mr. SARBANES, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1210: A bill to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SARBANES for the Committee on Banking, Housing, and Urban Affairs.

*Wayne Abernathy, of Virginia, to be an Assistant Secretary of the Treasury.

By Mr. LEVIN for the Committee on Armed Services.

Air Force nomination of Maj. Gen. George P. Taylor, Jr.

Air Force nomination of Col. Mark R. Zamzow.

Air Force nomination of Brig. Gen. Peter U. Sutton.

Air Force nomination of Lt. Gen. Norton A. Schwartz.

Air Force nomination of Lt. Gen. Ronald E. Keys.

Air Force nomination of Maj. Gen. Carrol H. Chandler.

Army nomination of Colonel James A. Hasbargen.

Army nomination of Brig. Gen. Timothy M. Haake.

Marine Corps nominations beginning Col. George J. Flynn and ending Col. Richard T. Tryon, which nominations were received by the Senate and appeared in the Congressional Record on December 18, 2001.

Marine Corps nominations beginning Brig. Gen. Emerson N. Gardner, Jr. and ending Brig. Gen. Joseph F. Weber, which nominations were received by the Senate and appeared in the Congressional Record on December 18, 2001.

Navy nominations beginning Rear Adm. (lh) Duret S. Smith and ending Rear Adm. (lh) Jerry D. West, which nominations were received by the Senate and appeared in the Congressional Record on January 29, 2002.

Navy nominations beginning Rear Adm. (lh) Robert M. Clark and ending Rear Adm. (lh) Noel G. Preston, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2002.

Navy nomination of Rear Adm. (lh) Linda J. Bird.

Navy nominations beginning Rear Adm. (lh) Richard E. Brooks and ending Rear Adm. (lh) James M. Zortman, which nominations were received by the Senate and appeared in the Congressional Record on February 26, 2002.

Navy nomination of Capt. William D. Masters, Jr.

Navy nomination of Capt. David L. Maserang.

Navy nominations beginning Capt. Mark D. Harnitchek and ending Capt. Michael S. Roesner, which nominations were received by the Senate and appeared in the Congressional Record on April 9, 2002.

Navy nominations beginning Captain Robert J. Cox and ending Captain James A. Winnefeld, Jr., which nominations were received by the Senate and appeared in the Congressional Record on April 29, 2002.

Navy nomination of Rear Adm. Kevin P. Green.

Navy nomination of Capt. James E. McPherson.

Army nomination of Maj. Gen. Charles C. Campbell.

Army nominations beginning Colonel Clinton T. Anderson and ending Colonel Scott G. West, which nominations were received by the Senate and appeared in the Congressional Record on June 11, 2002.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nominations beginning Joseph J. Balas and ending Mark C. Wrobel, which nominations were received by the Senate and appeared in the Congressional Record on February 27, 2002.

Air Force nominations beginning Mary S. Armour and ending Sharon B. Wright, which nominations were received by the Senate and appeared in the Congressional Record on March 6, 2002.

Air Force nominations beginning Kevin D. Baron and ending Brian J. Welsh, which nominations were received by the Senate and appeared in the Congressional Record on March 6, 2002.

Marine Corps nominations beginning A. D. King, Jr. and ending Richard A. Ratliff, which nominations were received by the Senate and appeared in the Congressional Record on April 16, 2002.

Marine Corps nomination of Mark A. Knowles.

Marine Corps nomination of Gerald M. Foreman II.

Air Force nominations beginning Susan S. Baker and ending Gilmer G. Weston III, which nominations were received by the Senate and appeared in the Congressional Record on July 25, 2002.

Army nominations beginning Ralf C Beilhardt and ending Richard L. Williams, which nominations were received by the Senate and appeared in the Congressional Record on July 25, 2002.

Army nominations beginning Michael P Abel and ending Wesley G Zeger, which nominations were received by the Senate and appeared in the Congressional Record on July 25, 2002.

Navy nominations beginning Vanessa P Ambers and ending Douglas M Zander, which nominations were received by the Senate and appeared in the Congressional Record on July 25, 2002.

Navy nominations beginning Amado F Abaya and ending Mark T Zwolski, which nominations were received by the Senate and appeared in the Congressional Record on July 25, 2002.

Air Force nominations beginning Debra A. * Adams and ending Julie F. * Zwies, which nominations were received by the Senate and appeared in the Congressional Record on July 31, 2002.

Air Force nominations beginning Nicola S. * Adams and ending Tambra L. * Yates, which nominations were received by the Senate and appeared in the Congressional Record on July 31, 2002.

Army nomination of Kenneth S. Azarow.

Army nominations beginning Oscar T * Arauco and ending John C * Wheatley, which nominations were received by the Senate and appeared in the Congressional Record on July 31, 2002.

Navy nomination of Paul T. Camardella.

Army nomination of Richard A. Redd.

Army nomination of Mary C. Casey.

Army nominations beginning David P Acevedo and ending Edward W Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 2002.

Army nominations beginning Joseph M Adams and ending James A Worm, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 2002.

Army nominations beginning Kim J Anglesey and ending Robert J Zoppa, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 2002.

Army nominations beginning Anthony J Abati and ending X167, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 2002.

Marine Corps nomination of Leon M. Dudenhefer.

Navy nomination of Bradley J. Smith.

Navy nomination of Theresa M. Everette.

Navy nomination of Anthony D. Weber.

Air Force nominations beginning Donald C. Alfano and ending Daniel M. Fleming, which nominations were received by the Senate and appeared in the Congressional Record on September 3, 2002.

Air Force nominations beginning Robert W. Bishop and ending Steven K. Young, which nominations were received by the Senate and appeared in the Congressional Record on September 3, 2002.

Air Force nominations beginning Mathew J. Brakora and ending Stephen D. Winegardner, which nominations were received by the Senate and appeared in the Congressional Record on September 3, 2002.

Air Force nominations beginning Timothy P. Destigter and ending Sheldon R. Omi, which nominations were received by the Senate and appeared in the Congressional Record on September 3, 2002.

Air Force nomination of William R. Charbonneau.

Air Force nominations beginning Margaret H. Bair and ending Paul E. Maguire, which nominations were received by the Senate and appeared in the Congressional Record on September 3, 2002.

Army nominations beginning William C. Devires and ending Peter P. Mckeown, which nominations were received by the Senate and appeared in the Congressional Record on September 3, 2002.

Marine Corps nomination of Samuel B. Grove.

Air Force nominations beginning James P. Acly and ending James R. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on September 4, 2002.

Navy nominations beginning Guerry H Hagins and ending Matthew A Wright, which nominations were received by the Senate and appeared in the Congressional Record on September 4, 2002.

Navy nominations beginning Scott A Anderson and ending Gwendolyn Willis, which nominations were received by the Senate and appeared in the Congressional Record on September 4, 2002.

Navy nominations beginning Douglas P Barber, Jr. and ending Douglas R Velvel, which nominations were received by the Senate and appeared in the Congressional Record on September 4, 2002.

Navy nominations beginning Phillip M Adriano and ending Neil A Zlatniski, which nominations were received by the Senate and appeared in the Congressional Record on September 4, 2002.

Navy nominations beginning Kristin Acquavella and ending William B Zabicki, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 4, 2002.

Navy nominations beginning Sue A Adamson and ending George A Zangaro, which nominations were received by the Senate and appeared in the Congressional Record on September 4, 2002.

Navy nominations beginning Christopher G Adams and ending Ra Yoeun, which nominations were received by the Senate and appeared in the Congressional Record on September 4, 2002.

Navy nominations beginning Rufus S Abernethy III and ending Joan M Zitterkopf, which nominations were received by the Senate and appeared in the Congressional Record on June 26, 2002.

Navy nominations beginning Michael L Blount and ending Robert P Walden, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2002.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE:

S. 2938. A bill to require the entry of information on visa denials into the electronic data system, to require a study on use of foreign national personnel in visa processing, and for other purposes; to the Committee on the Judiciary.

By Mr. BREAUX (for himself and Mr. ROBERTS):

S. 2939. A bill to amend title 5, United States Code, to provide for appropriate overtime pay for National Weather Service forecasters performing essential services during severe weather events, and to limit Sunday premium pay for employees of the National Weather Service to hours of service actually performed on Sunday; to the Committee on Governmental Affairs.

By Ms. SNOWE:

S. 2940. A bill to establish a system of Interagency Homeland Security Fusion Centers, to require that budget requests for the Coast Guard for non-homeland security missions are not reduced, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CAMPBELL:

S. 2941. A bill to authorize grants for the establishment of quasi-judicial campus drug courts at colleges and universities modeled after State drug courts programs; to the Committee on the Judiciary.

By Mr. CRAPO (for himself, Mr. BAYH, Mr. SPECTER, Mr. MILLER, Mr. MCCAIN, and Mr. BUNNING):

S. 2942. A bill to amend title II of the Social Security Act to eliminate the five-month waiting period in the disability insurance program, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. LEAHY, and Mr. ENZI):

S. 2943. A bill to amend title 9, United States Code, to provide for greater fairness in the arbitration process relating to livestock and poultry contracts; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 2944. A bill to amend the Internal Revenue Code of 1986 to extend Superfund, oil spill liability, and leaking underground storage tank taxes; to the Committee on Finance.

By Mr. WYDEN (for himself, Mr. LIEBERMAN, Mr. ALLEN, Ms. LANDRIEU, and Mrs. CLINTON):

S. 2945. To authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DORGAN (for himself and Mr. HOLLINGS):

S. 2946. A bill to reauthorize the Federal Trade Commission for fiscal years 2003, 2004, and 2005, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU (for herself, Mrs. HUTCHISON, Mr. MILLER, Mr. BUNNING, Mr. CLELAND, Mr. BREAUX, Mr. SHELBY, Mrs. LINCOLN, and Mr. CONRAD):

S. 2947. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. HUTCHISON:

S. 2948. A bill to authorize the President to agree to certain amendments to the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank; to the Committee on Foreign Relations.

By Mr. HOLLINGS (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, and Mrs. BOXER):

S. 2949. A bill to provide for enhanced aviation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. MCCAIN, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. BREAUX, and Mr. SMITH of Oregon):

S. 2950. A bill to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2003, 2004, and 2005, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. HOLLINGS, and Mr. MCCAIN):

S. 2951. A bill to authorize appropriations for the Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S.J. Res. 44. A joint resolution to consent to amendments to the Hawaii Homes Commission Act, 1920; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. TORRICELLI:

S. Con. Res. 139. A concurrent resolution expressing the sense of Congress that there should be established a National Minority Health and Health Disparities Month, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 155

At the request of Mr. BINGAMAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 155, a bill to amend title 5, United States Code, to eliminate an inequity in the applicability of early retirement eligibility requirements to military reserve technicians.

S. 1022

At the request of Mr. WARNER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1112

At the request of Mr. DURBIN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1112, a bill to provide Federal Perkins Loan cancellation for public defenders.

S. 1278

At the request of Mrs. LINCOLN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1278, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

S. 1291

At the request of Mr. HATCH, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 1291, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien college-bound students who are long term United States residents.

S. 1523

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1523, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a

member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1712

At the request of Mr. GRASSLEY, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1712, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 2084

At the request of Mr. BOND, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2084, a bill to amend the Internal Revenue Code of 1986 to clarify the exemption from tax for small property and casualty insurance companies.

S. 2122

At the request of Mrs. CARNAHAN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2122, a bill to provide for an increase in funding for research on uterine fibroids through the National Institutes of Health, and to provide for a program to provide information and education to the public on such fibroids.

S. 2181

At the request of Mr. MCCAIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2181, a bill to review, reform, and terminate unnecessary and inequitable Federal subsidies.

S. 2268

At the request of Mr. MILLER, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor 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. 2513

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2513, a bill to asses the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 2569

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2569, a bill to award a congressional gold medal to Dr. Dorothy Height, in recognition of her many contributions to the Nation.

S. 2663

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 2663, a bill to permit the designation of Israeli-Turkish qualifying industrial zones.

S. 2663

At the request of Mr. BREAUX, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2663, supra.

S. 2683

At the request of Mr. HUTCHINSON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2683, a bill to amend the Internal Revenue Code of 1986 to clarify that church employees are eligible for the exclusion for qualified tuition reduction programs of charitable educational organizations.

S. 2718

At the request of Mr. BURNS, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 2718, a bill to redesignate the position of the Secretary of the Navy as Secretary of the Navy and Marine Corps, and for other purposes.

S. 2770

At the request of Mr. DODD, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2770, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas.

S. 2790

At the request of Ms. CANTWELL, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2790, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. REID), the Senator from Louisiana (Ms. LANDRIEU), the Senator from California (Mrs. BOXER) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2892

At the request of Mr. KENNEDY, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 2892, a bill to provide economic security for America's workers.

S. 2903

At the request of Mr. JOHNSON, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 2906

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2906, a bill to amend title 23, United States Code, to establish a program to make allocations to States for projects to expand 2-lane highways in rural areas to 4-lane highways.

S. 2908

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2908, a bill to require the Secretary of Defense to establish at least one Weapons of Mass Destruction Civil Support Team in each States, and for other purposes.

S. 2926

At the request of Mr. SANTORUM, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2926, a bill to name the Department of Veterans Affairs outpatient clinic in Horhsam, Pennsylvania, as the ''Victor J. Saracini Department of Veterans Affairs Outpatient Clinic''.

S. 2935

At the request of Ms. LANDRIEU, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from New Hampshire (Mr. GREGG) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 2935, a bill to amend the Public Health Service Act to provide grants for the operation of mosquito control programs to prevent and control mosquito-borne diseases.

S.J.RES. 2

At the request of Mr. CRAIG, his name was added as a cosponsor of S.J.Res. 2, A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance.

AMENDMENT NO. 4508

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 4508 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4509

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 4509 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

AMENDMENT NO. 4518

At the request of Mr. CRAIG, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 4518 proposed to H.R. 5093, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 2941. A bill to authorize grants for the establishment of quasi-judicial

campus drug courts at colleges and universities modeled after State drug courts programs; to the Committee on the Judiciary.

Mr. CAMPBELL. Mr. President, today I introduce the ''Campus Classmate Offenders in Rehabilitation and Treatment Act.''

The Campus Classmate Offenders in Rehabilitation and Treatment Act, which can also be referred to as the ''Campus CORT Act,'' directs the Department of Justice to establish a demonstration program to provide grants and training to help our Nation's universities and colleges establish new quasi-judicial systems. These systems aim at countering the serious drug and substance abuse related problems that are taking such a heavy toll on our institutions of higher learning and the students who attend them. The demonstration program, which would be administered by the Department of Justice's Office of Justice Programs, would be based on the valuable lessons and successes we have garnered from our Nation's innovative and expanding drug court system.

Specifically, this demonstration program legislation would authorize the establishment of up to five Campus CORTs each year for Fiscal Years 2003 through 2006. The bill authorizes the Office of Justice Programs to provide $2,000,000 in Federal funding during each of those years to help get five Campus CORTs well trained, soundly established and up and running. This new program's approach should be similar to how the Office of Justice Programs currently runs the ongoing drug court grant-making program, including providing an Internet-based application process.

There are plenty of good reasons to take the next step and establish a Campus CORTs program based on the drug court model. Since they first appeared in 1989, drug courts have rapidly spread all across the Nation. Rather than simply locking-up nonviolent drug offenders in prison along side violent criminals, drug courts provide the alternative of court-supervised treatment. Instead of simply punishing, drug courts help get people clean.

Drug courts' many successes are underscored both by the bipartisan support they have received in Congress and by the Bush Administration. For example, during a national conference hosted this last April by the National Association of Drug Court Professionals, both Office of National Drug Control Policy Director John Walters, our Nation's ''Drug Czar,'' and Drug Enforcement Agency Director Asa Hutchinson gave speeches in support of drug courts.

According to the latest statistics as reported by the Department of Justice's Office of Justice Programs, there are nearly 700 Drug Courts in operation all across the United States. This includes 483 Adult Drug Courts, 167 Juvenile Drug Courts, and 37 Family Drug Courts. An additional 400-plus new Drug Courts are in the planning process. The report goes on to state that approximately 220,000 adults and 9,000 juveniles have been enrolled in the drug court system and of those, 73,000 adults and 1,500 juveniles have graduated.

The merits of the drug court system are well documented. Nationwide, the drug courts have helped more than 1,000 to be born drug free, more than 3,500 parents to regain custody of their children, and 4,500 parents to resume making their child-support payments. The retention rate is over 70 percent, with 73 percent of the participants managing to keep their jobs or successfully find new work. These are encouraging successes, and not just for the individuals involved, but for society as a whole.

These are the kind of successes we should be able to see once the drug court model is customized and applied through Campus CORTs as we work together to respond to the alcohol, drug and other substance abuse challenges facing our Nation's colleges and universities.

Our Nation's drug courts use a carrot and stick approach where offenders can either live at home and remain free to work under court supervised treatment or face the very real threat of hard jail time. Similarly, Campus CORTs will give troubled students the chance to get supervised treatment and stay clean or get kicked out of school and watch their futures get squandered away.

Instead of simply booting students with substance abuse problems directly out of school, as is currently happening at many universities and colleges all across the country, I believe we should instead help provide institutions of higher learning with new tools they can use to help students get and stay clean. Of course, just like it is with the existing drug courts, there will be some students who simply do not respond to Campus CORTs. While those students will have to face the fact that they may well be expelled from school, at least we will have been able to give them the opportunity to clean-up their act.

Since the new Campus CORTs would be established at colleges and universities, the legislation calls on the Office of Justice Programs, or OJP, to establish new ''quasi-judicial standards and procedures for disciplinary cases'' for institutions of higher learning that wish to participate in the new Federal program.

Today, I am pleased to highlight that one of the leading institutions of higher learning in my home State, Colorado State University, CSU, has already broken new ground as the Nation's first university to apply the drug court concept in a campus setting. The ''Day IV'' program, as it is known at CSU, has racked-up a successful record in helping keep students clean and in school.

Under the pioneering leadership of Cheryl Asmus, the drug court inspired program helped 26 out of 30 students who would have otherwise been kicked out of school stay there during the last spring semester alone. As I understand it, two of the four were dismissed from school for not meeting the Day IV program's treatment requirements and the other two left school for other reasons.

In any case, a success rate approaching 90 percent is a wonderful accomplishment, both for the university and especially for the 26 students who have managed to pull themselves back from potential disaster.

Our drug court system is making a difference all across our Nation. In fact, a 2002 report issued by Columbia University's prestigious National Center on Addiction and Substance Abuse states that ''drug courts provide closer, more comprehensive supervision and much more frequent drug testing and monitoring during the program, than other forms of community supervision.'' The report underscores that ''drug use and criminal behavior are substantially reduced while offenders are participating in drug court'' and that ''criminal behavior is lower after participation, especially for graduates.''

Far too many of our Nation's college students are falling by the wayside as they get sidetracked by crippling drug and alcohol abuse problems. Not only are academic careers being impacted and ended, entire lives are being thrown into limbo.

Our Nation's drug court system is a good example of a viable and productive partnership between the Federal Government, our State governments and local jurisdictions. Their collaboration is making a positive impact all across our country. I want to take this moment to thank the people of the OJP, the experts at the National Association of Drug Court Professionals and the State and local judges, prosecutors, law enforcement officers and other officials who have done so much to establish, build upon and continually improve our Nation's drug court system.

I also want to take a moment to thank Judge Karen Freeman Wilson, Chief Executive Officer of the National Association of Drug Court Professionals, Stuart VanMeveren, District Attorney for Colorado's Eighth Judicial District, and Colorado State University President Albert Yates for their letters of support for the Campus CORT legislation I am introducing today. Their support for this bill is appreciated.

I ask unanimous consent that the three letters of support and the text of the bill be printed in the RECORD.

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

S. 2941

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 ''Campus Classmate Offenders in Rehabilitation and Treatment Act'' or the ''Campus CORT Act''.

SEC. 2. ESTABLISHMENT OF CAMPUS DRUG COURTS.

(a) IN GENERAL.—The Attorney General, acting through the Office of Justice Programs, is authorized to make demonstration grants to accredited universities and colleges to establish not to exceed 5 campus classmate offenders in rehabilitation and treatment programs (referred to as ''Campus CORTS'') each fiscal year modeled after the statewide local drug court programs throughout the United States.

(b) CAMPUS CORTS.—Campus CORTS shall—

(1) be established at accredited colleges or universities;

(2) have jurisdiction over substance abuse related disciplinary cases involving students that may or may not be criminal in nature, including illegal drug use, abuse of prescription drugs, alcohol abuse, and other issues, but no student who is deemed to be a danger to the community may be involved;

(3) pursuant to regulations promulgated by the Attorney General, establish appropriate quasi-judicial standards and procedures for disciplinary cases; and

(4) impose as the ultimate sanction expulsion from school.

(c) CONSULTATION.—The Attorney General shall consult with the National Association of Drug Court Professionals, d.b.a., the National Drug Court Institute, universities and colleges, including the Campus Drug Court program at Colorado State University, and other experts in establishing quasi-judicial standards required by this Act.

(d) ASSISTANCE.—The Attorney General shall make grants to qualified universities and colleges, the National Association of Drug Court Professionals, d.b.a., the National Drug Court Institute, and other associations and experts to assist in establishing campus drug courts and provide training and technical assistance in support of the program.

(e) GRANT MAKING CONSIDERATIONS.—In awarding grants to qualified colleges or universities, the Office of Justice Programs should—

(1) endeavor to include colleges and universities of different sizes across the United States; and

(2) enable colleges and universities to apply for grants through the Internet site of the Office of Justice Programs.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for each of the fiscal years 2003 through 2006 to carry out this Act.

AUGUST 23, 2002.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: As the representative of the National Association of Drug Court Professionals (NADCP) and of the drug court professionals throughout the country I am writing this letter of support for your bill for the ''Campus Classmate Offenders in Rehabilitation and Treatment Act'' or the ''Campus CORT Act.'' Modeled after the ''campus drug court'' at Colorado State University, campus drug courts nationwide are the exciting next step in the drug court arena. I truly appreciate your commitment to making them a reality.

All of the drug court professionals across America laud the depth of your knowledge about substance abuse and its concomitant crime and appreciate your steadfast support of stopping the revolving door of drug addiction and crime in our criminal justice system. With the alarming news about drug use and binge drinking on college campuses, the Campus CORT Act will face the campus drug and alcohol use and abuse problem head on, preventing accidents and crimes at colleges and universities throughout the nation.

Taking the drug court concept to this next level, to college campuses, is the logical way to further the fight against substance abuse and criminal behavior. As you know, Columbia University's prestigious National Center on Addiction and Substance Abuse (CASA) report from 2001 states that drug courts provide closer, more comprehensive supervision and much more frequent drug testing and monitoring during the program, than other forms of community supervision. In addition, it found that drug use and criminal behavior are substantially reduced while offenders are participating in drug court.

Again, thank you for introducing the ''Campus CORT Act'' and for your continuing support of drug courts. I look forward to continuing to work with you and your staff in the future.

Very truly yours,
Judge KAREN FREEMAN WILSON (ret.),
Chief Executive Officer.

OFFICE OF THE DISTRICT ATTORNEY,
EIGHTH JUDICIAL DISTRICT, STATE OF COLORADO,
Fort Collins, CO, August 28, 2002.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Fort Collins, CO.

DEAR SENATOR CAMPBELL: I wholeheartedly support your proposed ''Campus CORT Act.''.

As you know, Colorado State University, through the work of Dr. Cheryl Asmus and others, has developed a Campus Drug Court that is now in full operation. Prior to the implementation of the CSU Campus Drug Court, many bright, promising college students lost their opportunity to obtain their college degree because of being dismissed from school as a result of a drug or alcohol addiction. This new pilot program provides students who have drug or alcohol problems a process in which they can address their usage problem while staying in school. Colorado State University's project has proven very successful. Very few students in the program have failed to abide by the program requirements. Most participants have been able to abstain from usage. This success is due to the very strong impetus for students to ''stay clean'' by allowing them to continue to have access to grants and loans, as well as remain at the university so long as they abide by drug court requirements.

Federal legislation that creates funding to expand the campus drug court program is an excellent proposal. This program helps promising young people, who have chosen to improve their lives through a college education, succeed when alcohol and drugs may be the one obstacle that stands in their way. They are given the opportunity to stay in school, graduate, and become contributing members of society. That success is insured by addressing a drug or alcohol addiction problem that very well would have a negative affect on their families and their ability to succeed professionally.

The availability of federal funds to assist in starting these programs across the country has the promise of spawning very successful drug and alcohol programs nationwide. The traditional Drug Court concept has been very successful. The Campus CORT Act can provide the resources that will result in the same success opportunity for students at our colleges and universities.

We wish you every success in your efforts to pass this legislation. If there is anything I can do to assist, please do not hesitate to contact me.

Sincerely,
STUART A. VANMEVEREN,
District Attorney.

COLORADO STATE UNIVERSITY,
Fort Collins, CO, September 4, 2002.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington DC.

DEAR SENATOR CAMPBELL: This letter serves as strong support for the bill you are proposing to introduce to the United States Senate that will authorize the appropriation of funds to establish ''drug courts'' at other colleges and universities. These drug courts will be modeled after the Drug Courts Program, and the Colorado State University (CSU) campus drug court. I understand that CSU will play a critical role as consultant to the Attorney General of the United States in this effort, and we are committed to working in any capacity in this effort. As the first, and only university with a campus drug court to date, we are in a unique position to provide first-hand experience and advice.

In late 1999, the Family and Youth Institute at Colorado State University set up several meetings with the CSU Office of Judicial Affairs and Colorado's Eighth Judicial District Drug Court. The result of these meetings spawned an effort to apply for support to establish a ''campus drug court.'' In mid-2001, the Family and Youth Institute was awarded two years of support for the drug court from the U.S. Department of Education. Currently, a cross-disciplinary team meets weekly to staff the drug court students. After one semester in operation, all but four (one school dropout, two expelled from program, one positive breathalyzer) of approximately 20 students remain trouble and AOD free. So far, we have three drug court graduates and recorded improvements in the other participants in terms of grades, employment, family situations, attitudes, and behaviors.

As a Carnegie Class I research institution, CSU is poised to lead the field in determining what factors of a drug court influence their success. I am aware of the current debates across the nation of the true impacts of the 1000 plus drug courts. I am confident that by introducing the model into the world of academia, inevitably it will inevitably spur research that will result in research-based evidence to concretely address these debates and concerns.

We have found the model to be easily adaptable to our campus setting and have listed as one of our four goals to assist other campuses in developing their own campus drug courts. We are extremely grateful and appreciative you have decided to assist us in this goal. It is not an accident that Colorado State University, and Colorado, will lead in this effort. You have long championed drug courts and, in particular, the Eighth Judicial District's Juvenile Drug Court, our mentor.

A key strategy of Colorado State University is civic education renewal. A part of this strategy is to focus on initiatives and programs that assist students in developing into people of integrity and strong values. We are also dedicated to the ability to graduate students in four years who are prepared to enter the world as contributing citizens. Using dismissal or expulsion as a consequence for someone with a substance abuse problem is a quick fix for our campus, but not for the individual or the community at large. As a land-grand institution, valuing service to our society, we believe the integration of drug court's goal of using treatment with strong interventions into the disciplinary system, as an alternative to dismissal or expulsion directly supports the mission of Colorado State University.

Sincerely,
ALBERT C. YATES,
President.

By Mr. CRAPO (for himself, Mr. BAYH, Mr. SPECTER, Mr. MILLER, Mr. MCCAIN, and Mr. BUNNING)

S. 2942. A bill to amend title II of the Social Security Act to eliminate the five-month waiting period in the disability insurance program, and for other purposes; to the Committee on Finance.

Mr. CRAPO. Mr. President, I rise today to introduce important legislation that will correct a serious flaw in the Social Security Disability Insurance program, which currently forces many Americans who are diagnosed with a terminal illness to live out their final days in poverty.

Under current law, any eligible individual applying for SSDI benefits must wait 5 full months before he or she can begin receiving benefits. I appreciate the support of Senator BAYH, Senator SPECTER, Senator MCCAIN, and Senator MILLER for this bill that will eliminate the waiting period for those individuals with terminal illnesses.

Far too often, I have had terminally ill constituents contact me through my State offices with horror stories about their personal experiences. These people are healthy, hard-working members of our society. Suddenly, they are told by their doctor that they have a terminal illness and that it would be best if they stop working and go on disability as soon as possible to maintain their strength. However, because of the waiting period, before they know it, these people are several months behind in their bills. Others, unfortunately, do not even live through the full waiting period.

I am sure that if any of my colleagues were to contact their State offices and speak to their staff that handle these disability cases, they would find that their constituents have faced similar difficulties with this waiting period. Like every other hard-working American, these terminally ill individuals have all paid into the Social Security system throughout their working lives, with the expectation that future benefits would be there to supplement lost income should a disability or serious illness ensue.

I am please that this legislation has the support of the National Association for the Terminally Ill. This organization's primary mission is to assist individuals diagnosed with a terminal illness, whose life expectancy is two years or less. They have told me of the many individuals that have come to them for assistance, faced with no income, while waiting through those 5 months before receiving disability benefits. Frequently, the association is contacted by people who are forced to sell furniture, cars, family heirlooms, and even their homes, just to pay expenses for daily living.

Two years ago, this Congress did the right thing by waiving the 24-month waiting period for Medicare coverage for individuals diagnosed with Lou Gehrig's Disease. The time has now come for Congress to take the appropriate action to relieve part of what is already an unthinkable burden on all terminally ill individuals.

I invite my colleagues to join us in this effort and I hope the Senate will proceed expeditiously with this important legislation that will provide relief for tens of thousands of working Americans. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2942

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 ''Social Security Act Improvements for the Terminally Ill Act''.

SEC. 2. ELIMINATION OF TITLE II WAITING PERIOD FOR TERMINALLY ILL INDIVIDUALS.

Section 223(a) of the Social Security Act (42 U.S.C. 423(a)) is amended—

(1) in paragraph (1), by inserting ''he meets the requirements of paragraph (3), or'' after ''but only if''; and

(2) by adding at the end the following new paragraph:

''(3)(A) For purposes of paragraph (1), an individual meets the requirements of this paragraph if—

''(i) the impairment underlying a finding that the individual is under a disability results in his death prior to the end of the applicable period described in subparagraph (B), or

''(ii)(I) in the case where such finding is made before the end of the applicable period, the Commissioner determines that, at the time such finding is made, such impairment is expected to result in the individual's death prior to the end of such period, or

''(II) in the case where such finding is made after the end of the applicable period, the Commissioner determines that, at any time during such period, such impairment was expected to result in the individual's death prior to the end of such period.

''(B) For the purposes of subparagraph (A), the 'applicable period' is the period of the first six consecutive calendar months throughout which such individual is under a disability by reason of such impairment which begins not earlier than the first day of the period described in subsection (c)(2)(B).''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to applications filed after the date of the enactment of this Act.

By Mr. FEINGOLD (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. LEAHY, and Mr. ENZI):

S. 2943. A bill to amend title 9, United States Code, to provide for greater fairness in the arbitration process relating to livestock and poultry contracts; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I rise today with my friend from Iowa to introduce legislation to give farmers options in identifying a forum to resolve disputes with agribusinesses.

This legislation is based on our amendment to the Senate-passed Farm Bill that was unfortunately stripped in the conference committee. Our amendment passed by a vote of 64–31, yet it was ultimately taken out due to objections by large agribusiness companies in the backroom negotiations.

While our effort then was not successful, I am hopeful that we will be able to pass this legislation and begin to give farmers a fair shot in the marketplace.

I am deeply concerned that the concentration of power in the hands of a few large agribusiness firms, companies that can raise a billion dollars on Wall Street at the drop of a hat, is forcing farmers and ranchers to be placed at a competitive disadvantage in the marketplace.

These large corporations are using their market power to force independent producers into a position of weakness through unfair contracts and other uses of market leverage.

In some cases, the domestic marketplace has become almost noncompetitive for the family farmer. Farmers have fewer buyers and suppliers than ever before. One indication of this dominance is one-sided contracts that favor agribusinesses at the expense of farmers and ranchers.

It is of paramount importance that we help restore competition in rural America. One way to promote competition is to ensure that farmers have a choice of forums to resolve disputes with agribusinesses.

While alternative methods of dispute resolution such as arbitration can serve a useful purpose in resolving disputes between parties, I am extremely concerned about the increasing trend of stronger parties to a contract forcing weaker parties to waive their legal rights and agree to arbitrate any future disputes that may arise.

It recently came to my attention that large agribusiness companies often present producers with ''take it or leave it'' contracts, which increasingly include mandatory and binding arbitration clauses. This practice forces farmers to submit their disputes with packers and processors to arbitration.

As a result, farmers are required to waive access to judicial or administrative forums, substantive contract rights, and statutorily provided protections. In short, this practice violates the farmers' fundamental due process rights and runs directly counter to basic principles of fairness.

Arbitration is billed as an inexpensive alternative to civil lawsuits. The opposite, however, is often the case. Filing fees and other expenses in arbitration result in much higher costs for the parties than civil actions. Attorney fees, whether hourly or contingency, are similar regardless of forum.

For example, in a recent Mississippi case, filing fees for a poultry grower to begin an arbitration proceeding were $11,000. This is far more than the $150 to $250 cost of filing in civil court. It makes no sense for a farmer to seek payment for wrongdoing when he or she has lost $10,000, when it costs

$11,000 just to get the case before an arbitrator.

The practical result of these mandatory arbitration clauses is that farmers have no forum in which to bring their dispute against the company. Arbitration clauses require farmers to waive their right to a jury trial and bring a dispute only in a forum that my be cost-prohibitive. Farmers, who likely have substantial debts due to low prices and large mortgages on their farms, are often left without any recourse even in a case where the agribusiness has plainly acted illegally.

With the litigation option taken away by contract and the arbitration forum taken away by economics, the grower has no forum in which to bring his or her dispute against the company. The net result of these mandatory arbitration clauses is that the farmer always loses.

If poultry farmers lose their farms as a result of a mis-weighed animal, they should have the right to hold the company accountable. When farmers are hurt because they have received bad feed, we must ensure that they are able to choose the forum through which they can resole their concerns.

If farmers believe they have been provided diseased animals from an agribusiness, they should at least have a forum in which to voice their concerns.

In short, we must give farmers a fair choice that both parties to an agricultural contract may willingly and knowingly select. This legislation therefore does not prohibit arbitration. It simply ensures that the decision to arbitrate is truly voluntary and that the rights and remedies provided for by our judicial system are not waived under coercion.

I urge my colleagues to join me in this legislation and give farmers options to resolve disputes in the agriculture marketplace.

There being no objection, the bill was ordered printed in the RECORD, as follows:

S. 2943

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 ''Fair Contracts for Growers Act of 2002''.

SEC. 2. ELECTION OF ARBITRATION.

(a) IN GENERAL.—Chapter 1 of title 9, United States Code, is amended by adding at the end the following:

''§ 17. Livestock and poultry contracts

''(a) DEFINITIONS.—In this section:

''(1) LIVESTOCK.—The term 'livestock' has the meaning given the term in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

''(2) LIVESTOCK OR POULTRY CONTRACT.—The term 'livestock or poultry contract' means any growout contract, marketing agreement, or other arrangement under which a livestock or poultry grower raises and cares for livestock or poultry.

''(3) LIVESTOCK OR POULTRY GROWER.—The term 'livestock or poultry grower' means any person engaged in the business of raising and caring for livestock or poultry in accordance with a livestock or poultry contract, whether the livestock or poultry is owned by the person or by another person.

''(4) POULTRY.—The term 'poultry' has the meaning given the term in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

''(b) CONSENT TO ARBITRATION.—If a livestock or poultry contract provides for the use of arbitration to resolve a controversy under the livestock or poultry contract, arbitration may be used to settle the controversy only if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

''(c) EXPLANATION OF BASIS FOR AWARDS.—If arbitration is elected to settle a dispute under a livestock or poultry contract, the arbitrator shall provide to the parties to the contract a written explanation of the factual and legal basis for the award.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 9, United States Code, is amended by adding at the end the following:

''17. Livestock and poultry contracts.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to a contract entered into, amended, altered, modified, renewed, or extended after the date of enactment of this Act.

By Mr. WYDEN (for himself, Mr. LIEBERMAN, Mr. ALLEN, Ms. LANDRIEU, and Mrs. CLINTON):

S. 2945. To authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, today I am introducing the 21st Century Nanotechnology Act. This bill would authorize a coordinated interagency program that will support long-term nanoscale research and development leading to potential breakthroughs in areas such as materials and manufacturing, nanoelectronics, medicine and healthcare, environment, energy, chemicals, biotechnology, agriculture, information technology, and national and homeland security. Building on the National Nanotechnology Initiative, the bill would authorize appropriations for research throughout the government while providing tools for better cross-agency management and coordination

Nanotechnology is the science and technology of building electronic circuits and devices from single atoms and molecules on a scale of one one-billionth of a meter. It will one day change the way Americans live.

I am convinced that this so-called ''small science'' is the next big thing'' in technology. The world is on the cusp of a nanotechnology revolution that will change our lives on a scale equal to, if not greater than, the computer revolution. The United States could miss that revolution if our nanotechnology work remains uncoordinated and scattered across a half-dozen Federal agencies. That would be tragic on several levels, from scientific to social to economic.

I am determined that the United States will not miss, but will mine the opportunities of nanotechnology. To do this, I want America to marshal its various nanotechnology efforts into one driving force to remain the world's leader in this burgeoning field. And I believe Federal support is essential to achieving that goal.

The legislation I am pleased to be introducing today with Senator LIEBERMAN will provide a smart, accelerated, and coordinated approach to nanotechnology research, development, and education. In my view, there are three major steps America must take to ensure the highest success for its nanotechnology efforts.

First, a National Nanotechnology Research Program should be established to coordinate long-term fundamental nanoscience and engineering research. The program's goals will be to ensure America's leadership and economic competitiveness in nanotechnology, and to make sure ethical and social concerns are taken into account alongside the development of this discipline.

Second, the Federal Government should support nanoscience through a program of research grants, and also through the establishment of nanotechnology research centers. These centers would serve as key components of a national research infrastructure, bringing together experts from the various disciplines that must intersect for nanoscale projects to succeed. As these research efforts take shape, educational opportunities will be the key to their long-term success. As chairman of the Commerce Committee's Science, Technology, and Space Subcommittee, I have already laid out a challenge to triple the number of people graduating with math, science and technology degrees. Today, I commit to helping students who would enter the field of nanotechnology. This discipline requires multiple areas of expertise. Students with the drive and the talent to tackle physics, chemistry, and the material sciences simultaneously deserve all the support we can offer.

Third, the government should create connections across its agencies to aid in the coordination of nanotechnology efforts. These could include a national coordination office, and a Presidential Nanotechnology Advisory Committee, modeled on the President's Information Technology Advisory Committee.

I also believe that at these organizational support structures are put into place, rigorous evaluation must take place to ensure the maximum efficiency of our efforts. The bill would call for an annual review of America's nanotechnology efforts from the Presidential Advisory Committee, and a periodic review from the National Academy of Sciences. In addition to monitoring our own progress, the U.S. should keep abreast of the world's nanotechnology efforts through a series of benchmarking studies.

If the Federal Government fails to get behind nanotechnology now with organized, goal-oriented support, this nation runs the risk of falling behind others in the world who recognize the

potential of this discipline. Nanotechnology is already making pants more stain-resistant, making windows self-washing and making car parts stronger with tiny particles of clay. What America risks missing is the next generation of nanotechnology. In the next wave, nanoparticles and nanodevices will become the building blocks of our health care, agriculture, manufacturing, environmental cleanup, and even national security.

America risks missing a revolution in electronics, where a device the size of a sugar cube could hold all of the information in the Library of Congress. Today's silicon-based technologies can only shrink so small. Eventually, nanotechnologies will grow devices from the molecular level up. Small though they may be, their capabilities and their impact will be enormous. Spacecraft could be the size of mere molecules.

America risks missing a revolution in health care. In my home State, Oregon State University researchers are working on the microscale to create lapel-pin-sized biosensors that use the color-changing cells of the Siamese fighting fish to provide instant visual warnings when a biotoxin is present. An antimicrobial dressing for battlefield wounds is already available today, containing silver nanocrystals that prevent infection and reduce inflammation. The health care possibilities for nanotechnology are limitless. Eventually, nanoscale particles will travel through human bodies to detect and cure disease. Chemotherapy could attack individual cancer cells and leave healthy cells intact. Tiny bulldozers could unclog blocked arteries. Human disease will be fought cell by cell, molecule by molecule, and nanotechnology will provide victories over disease that we can't even conceive today.

America risks missing a host of beneficial breakthroughs. American scientists could be the first to create nanomaterials for manufacturing and design that are stronger, lighter, harder, self-repairing, and safest. Nanoscale devices could scrub automobile pollution out of the air as it is produced. Nanoparticles could cover armor to make American soldiers almost invisible to enemies and even tend their wounds. Nanotechnology could grow steel stronger than what's made today, with little or no waste to pollute the environment.

Moreover—and this is key—America risks missing an economic revolution based on nanotechnology. With much of nanotechnology existing in a research milieu, venture capitalists are already investing $1 billion in American nanotech interests this year alone. It's estimated that nanotechnology will become a trillion-dollar industry over the next ten years. As nanotechnology grows, the ranks of skilled workers needed to discover and apply its capabilities must grow too. In the nanotechnology revolution, areas of high unemployment could become magnets for domestic production, engineering and research for nanotechnology applications—but only if government doesn't miss the boat.

The Federal Government is already making some efforts with regard to nanotechnology. The U.S. does have a National Nanotechnology Initiative. This nation has already committed substantial funds to nanotechnology research and development in the coming years. But here's my bottom line. It is essential to build on this foundation of funding with a framework for sound science over the long term. That is the reason for the legislation I am issuing today. On the framework it provides, of national coordination and strategic planning, scientists will be able to meet the grand challenges of nanotechnology. Over the long term, with Federal support, they will be able to plumb the depths of its capability, and scale the heights of its potential.

In 1944 the visionary President Franklin Delano Roosevelt requested a leading American scientist's opinion on advancing the United States' scientific efforts to benefit the world. Dr. Vannevar Bush offered his reply to President Harry S Truman the next year, following FDR's death. In his report to the President, Dr. Bush wrote, ''The Government should accept new responsibilities for promoting the flow of new scientific knowledge and the development of scientific talent in our youth. These responsibilities are the proper concern of the Government, for they vitally affect our health, our jobs, and our national security. It is in keeping also with basic United States policy that the Government should foster the opening of new frontiers and this is the modern way to do it.''

Those principles, so true nearly sixty years ago, are truer still today. With the 21st Century Nanotechnology Research and Development Act, I propose that the government now accept new responsibilities in promoting and developing nanotechnology. I hope that the Senate can act swiftly on 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. 2945

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 ''21st Century Nanotechnology Research and Development Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The emerging fields of nanoscience and nanoengineering (collectively, ''nanotechnology''), in which matter is manipulated at the atomic level (i.e., atom-by- atom or molecule-by-molecule) in order to build materials, machines, and devices with novel properties or functions, are leading to unprecedented scientific and technological opportunities that will benefit society by changing the way many things are designed and made.

(2) Long-term nanoscale research and development leading to potential breakthroughs in areas such as materials and manufacturing, electronics, medicine and healthcare, environment, energy, chemicals, biotechnology, agriculture, information technology, and national security could be as significant as the combined influences of microelectronics, biotechnology, and information technology on the 20th century. Nanotechnology could lead to things such as—

(A) new generations of electronics where the entire collection of the Library of Congress is stored on devices the size of a sugar cube;

(B) manufacturing that requires less material, pollutes less, and is embedded with sophisticated sensors that will internally detect signs of weakness and automatically respond by releasing chemicals that will prevent damage;

(C) prosthetic and medical implants whose surfaces are molecularly designed to interact with the cells of the body;

(D) materials with an unprecedented combination of strength, toughness, and lightness that will enable land, sea, air, and space vehicles to become lighter and more fuel efficient;

(E) selective membranes that can fish out specific toxic or valuable particles from industrial waste or that can inexpensively desalinate sea water; and

(F) tiny robotic spacecraft that will cost less, consume very little power, adapt to unexpected environments, change its capabilities as needed, and be completely autonomous.

(3) Long-term, high-risk research is necessary to create breakthroughs in technology. Such research requires government funding since the benefits are too distant or uncertain for industry alone to support. Current Federal investments in nanotechnology research and development are not grounded in any specifically authorized statutory foundation. As a result, there is a risk that future funding for long-term, innovative research will be tentative and subject to instability which could threaten to hinder future Untied States technological and economic growth.

(4) The Federal government can play an important role in the development of nanotechnology, as this science is still in its infancy, and it will take many years of sustained investment for this field to achieve maturity.

(5) Many foreign countries, companies and scientists believe that nanotechnology will be the leading technology of the 21st century and are investing heavily into its research. According to a study of international nanotechnology research efforts sponsored by the National Science and Technology Council, the United States is at risk of falling behind its international competitors, including Japan, South Korea, and Europe if it fails to sustain broad based funding in nanotechnology. The United States cannot afford to fall behind our competitors if we want to maintain our economic strength.

(6) Advances in nanotechnology stemming from Federal investments in fundamental research and subsequent private sector development likely will create technologies that support the work and improve the efficiency of the Federal government, and contribute significantly to the efforts of the government's mission agencies.

(7) According to various estimates, including those of the National Science Foundation, the market for nanotech products and services in the United States alone could reach over $1 trillion later this century.

(8) Nanotechnology will evolve from modern advances in chemical, physical, biological, engineering, medical, and materials research, and will contribute to cross-disciplinary training of the 21st century science and technology workforce.

(9) Mastering nanotechnology will require a unique skill set for scientists and engineers that combine chemistry, physics, material science, and information science. Funding in these critical areas has been flat for many years and as a result fewer young people are electing to go into these areas in graduate schools throughout the United States. This will have to reverse if we hope to develop the next generation of skilled workers with multi-disciplinary perspectives necessary for the development of nanotechnology.

(10) Research on nanotechnology creates unprecedented capabilities to alter ourselves and our environment and will give rise to a host of novel social, ethical, philosophical, and legal issues. To appropriately address these issues will require wide reflection and guidance that are responsive to the realities of the science, as well as additional research to predict, understand, and alleviate anticipated problems.

(11) Nanotechnology will provide structures to enable the revolutionary concept of quantum computing, which uses quantum mechanical properties to do calculation. Quantum computing permits a small number of atoms to potentially store and process enormous amounts of information. Just 300 interacting atoms in a quantum computer could store as much information as a classical electronic computer that uses all the particles in the universe, and today's complex encryption algorithms, which would take today's best super computer 20 billion years, could be cracked in 30 minutes.

(12) The Executive Branch has previously established a National Nanotechnology Initiative to coordinate Federal nanotechnology research and development programs. This initiative has contributed significantly to the development of nanotechnology. Authorizing legislation can serve to establish new technology goals and research directions, improve agency coordination and oversight mechanisms, help ensure optimal returns to investment, and simplify reporting, budgeting, and planning processes for the Executive Branch and the Congress.

(13) The the private sector technology innovations that grow from fundamental nanotechnology research are dependent on a haphazard, expensive, and generally inefficient technology transition path. Strategies for accelerating the transition of fundamental knowledge and innovations in commercial products or to support mission agencies should be explored, developed, and when appropriate, executed.

(14) Existing data on the societal, ethical, educational, legal, and workforce implications and issues related to nanotechnology are lacking. To help decision-makers and affected parties better anticipate issues likely to arise with the onset and maturation of nanotechnology, research and studies on these issues must be conducted and disseminated.

SEC. 3. PURPOSE.

It is the purpose of this Act to authorize a coordinated inter-agency program that will support long-term nanoscale research and development leading to potential breakthroughs in areas such as materials and manufacturing, nanoelectronics, medicine and healthcare, environment, energy, chemicals, biotechnology, agriculture, information technology, and national and homeland security.

SEC. 4. NATIONAL NANOTECHNOLOGY RESEARCH PROGRAM.

(a) NATIONAL NANOTECHNOLOGY RESEARCH PROGRAM.—The President shall establish a National Nanotechnology Research Program. Through appropriate agencies, councils, and the National Coordination Office, the program shall—

(1) establish the goals, priorities, grand challenges, and metrics for evaluation for Federal nanotechnology research, development, and other activities;

(2) invest in Federal research and development programs in nanotechnology and related sciences to achieve those goals; and

(3) provide for interagency coordination of Federal nanotechnology research, development, and other activities undertaken pursuant to the program.

(b) GOALS OF THE NATIONAL NANOTECHNOLOGY RESEARCH PROGRAM.—The goals of the program are as follows:

(1) The coordination of long-term fundamental nanoscience and engineering research to build a fundamental understanding of matter enabling control and manipulation at the nanoscale.

(2) The assurance of continued United States global leadership in nanotechnology to meet national goals and to support national economic, health, national security, educational, and scientific interests.

(3) The advancement of United States productivity and industrial competitiveness through stable, consistent, and coordinated investments in long-term scientific and engineering research in nanotechnology.

(4) The development of a network of shared academic facilities and technology centers that will play a critical role in accomplishing the other goals of the program, foster partnerships, and develop and utilize next generation scientific tools.

(5) The development of enabling infrastructural technologies that United States industry can use to commercialize new discoveries and innovations in nanoscience.

(6) The acceleration of the deployment and transition of advanced and experimental nanotechnology and concepts into the private sector.

(7) The establishment of a program designed to provide effective education and training for the next generation of researchers and professionals skilled in the multi disciplinary perspectives necessary for nanotechnology.

(8) To ensure that philosophical, ethical, and other societial concerns will be considered alongside the development of nanotechnology.

(c) RESEARCH AND DEVELOPMENT AREAS.—Through its participating agencies, the Nanotechnology Research and Development Program shall develop, fund, and manage Federal research programs in the following areas:

(1) LONG-TERM FUNDAMENTAL RESEARCH.—The program shall undertake long-term basic nanoscience and engineering research that focuses on fundamental understanding and synthesis of nanometer-size building blocks with potential for breakthroughs in areas such as materials and manufacturing, nanoelectronics, medicine and healthcare, environment, energy, chemical and pharmaceuticals industries, biotechnology and agriculture, computation and information technology, and national security. Funds made available from the appropriate agencies under this paragraph shall be used—

(A) to provide awards of less than $1,000,000 each to single investigators and small groups to provide sustained support to individual investigators and small groups conducting fundamental, innovative research; and

(B) to fund fundamental research and the development of university-industry-laboratory and interagency partnerships.

(2) GRAND CHALLENGES.—The program shall support grand challenges that are essential for the advancement of the field and interdisciplinary research and education teams, including multidisciplinary nanotechnology research centers, that work on major long-term objectives. This funding area will fund, through participatig agencies, interdisciplinary research and education teams that aim to achieve major, long-term objectives, such as the following:

(A) Nanomaterials by design which are stronger, lighter, harder, self-repairing, and safer.

(B) Nanoelectronics, optoelectronics, and magnetics.

(C) Healthcare applications.

(D) Nanoscale processes and environment.

(E) Energy and energy conservation.

(F) Microspacecraft.

(G) Bio-nanodevices for detection and mitigation of biothreats to humans.

(H) Economical, efficient, and safe transportation.

(I) National security.

(J) Other appropriate challenges.

(3) INTERDISCIPLINARY NANOTECHNOLOGY RESEARCH CENTERS.—The appropriate agencies shall fund 10 new centers in the range of $3,000,000 to $5,000,000 per year each for 5 years. A grant under this paragraph to a center may be renewed for 1 5-year term on the basis of that center's performance, determined after a review. The program, through its participating agencies, shall encourage research networking among centers and researchers and require access to facilities to both academia and industry. The centers shall assist in reaching other initiative priorities, including fundamental research, grand challenges, education, development and utilization of specific research tools, and promoting partnerships with industry. To the greatest extent possible, agencies participating in the program shall establish geographically diverse centers including at least one center in a State participating in the National Science Foundation's (NSF) Experimental Program, to Stimulate Competitive Research (EPSCoR), established under section 113 of the NSF Authorization Act of 1988 (42 U.S.C. 1862(g)).

(4) RESEARCH INFRASTRUCTURE.—The program, through its participating agencies, shall ensure adequate research infrastructure and equipment for rapid progress on program goals, including the employment of underutilized manufacturing facilities in areas of high unemployment as production engineering and research testbeds for micron-scale technologies. Major research equipment and instrumentation shall be an eligible funding purpose under the program.

(5) SOCIETAL, ETHICAL, EDUCATIONAL, LEGAL, AND WORKFORCE ISSUES RELATED TO NANOTECHNOLOGY.—The Director of the National Science Foundation shall establish a new Center for Ethical, Societal, Educational, Legal, and Workforce Issues Related to Nanotechnology at $5,000,000 per year to encourage, conduct, coordinate, commission, collect, and disseminate research on the societal, ethical, educational, legal, and workforce issues related to nanotechnology. The Center shall also conduct studies and provide input and assistance to the Director of the National Science Foundation in completing the annual report required under paragraph 7(b)(3) of this Act.

(6) TRANSITION OF TECHNOLOGY.—The program, through its participating agencies, shall ensure cooperation and collaboration with United States industry in all relevant research efforts and develop mechanisms to assure prompt technology transition.

SEC. 5. PROGRAM COORDINATION AND MANAGEMENT.

(a) IN GENERAL.—The National Science and Technology Council shall oversee the planning, management, and coordination of the Federal nanotechnology research and development program. The Council, itself or through an appropriate subgroup it designates or establishes, shall—

(1) establish a set of broad applications of nanotechnology research and development, or grand challenges, to be met by the results and activities of the program, based on national needs;

(2) submit to the Congress through the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science, an annual report, along with the President's annual budget request, describing the implementation of the program under section 4;

(3) provide for interagency coordination of the program, including with the Department of Defense;

(4) coordinate the budget requests of each of the agencies involved in the program with the Office of Management and Budget to ensure that a balanced research portfolio is maintained in order to ensure the appropriate level of research effort;

(5) provide guidance each year to the participating departments and agencies concerning the preparation of appropriations requests for activities related to the program;

(6) consult with academic, industry, State and local government, and other appropriate groups conducting research on and using nanotechnology;

(7) establish an Information Services and Applications Council to promote access to and early application of the technologies, innovations, and expertise derived from nanotechnology research and development program activities to agency missions and systems across the Federal government, and to United States industry;

(8) in cooperation with the Advisory Panel established under subsection (b), develop and apply measurements using appropriate metrics for evaluating program performance and progress toward goals; and

(9) identify research areas which are not being adequately addressed by the agencies' current research programs.

(b) PRESIDENT'S NANOTECHNOLOGY ADVISORY PANEL.—

(1) ESTABLISHMENT.—The President shall establish a National Nanotechnology Advisory Panel.

(2) SELECTION PROCEDURES.—The President shall establish procedures for the selection of individuals not employed by the Federal government who are qualified in the science of nanotechnology and other appropriate fields and may, pursuant to such procedures, select up to 20 individuals, one of whom shall be designated Chairman, to serve on the Advisory Panel. Selection of individuals for the Advisory Panel shall be based solely on established records of distinguished fundamental and applied scientific service, and the panel shall contain a reasonable cross-section of views and expertise, including those regarding the societal, ethical, educational, legal, and workforce issues related to nanotechnology. In selecting individuals to serve on the Advisory Panel, the President shall seek and give due consideration to recommendations from the Congress, industry, the scientific community (including the National Academy of Sciences), scientific professional societies, academia, the defense community, the education community, State and local governments, and other appropriate organizations.

(3) MEETINGS.—The Advisory Panel shall meet no less than twice annually, at such times and places as may be designated by the Chairman in consultation with the National Nanotechnology Coordination Office established under subsection 5(c) of this Act.

(4) DUTIES.—The Advisory Panel shall advise the President and the National Science and Technology Council, and inform the Congress, on matters relating to the National Nanotechnology Program, including goals, roles, and objectives within the program, its capabilities and research needs, guidance on achieving major objectives, and establishing and measuring performance goals using appropriate metrics. The Advisory Panel shall issue an annual report, containing the information required by subsection (d) of this section, to the President, the Council, the heads of each agency involved in the program, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science, on or before September 30 of each year.

(c) NATIONAL NANOTECHNOLOGY COORDINATION OFFICE.—The President shall establish a National Nanotechnology Coordination Office, with full-time staff, to provide day-to-day technical and administrative support to the Council and the Advisory Panel, and to be the point of contact on Federal nanotechnology activities for government organizations, academia, industry, professional societies, and others to exchange technical and programmatic information. The Office shall assure full coordination of research efforts between agencies, scientific disciplines, and United States industry.

(d) PROGRAM PLANS AND REPORTS.—

(1) ANNUAL EVALUATION OF NANOTECHNOLOGY RESEARCH DEVELOPMENT PROGRAM.—The report by the Advisory Panel, required pursuant to subsection (b)(4), shall include—

(A) a review of the program's technical success in achieving the stated goals and grand challenges according to the metrics established by the program and Advisory Panel;

(B) a review of the program's management and coordination;

(C) a review of the funding levels by each agency for the program's activities and their ability to achieve the program's stated goals and grand challenges;

(D) a review of the balance in the program's portfolio and components across agencies and disciplines;

(E) an assessment of the degree of participation in the program by minority serving institutions and institutions located in States participating in NSF's EPSCoR program.

(F) a review of policy issues resulting from advancements in nanotechnology and its effects on the scientific enterprise, commerce, workforce, competitiveness, national security, medicine, and government operations;

(G) recommendations for new program goals and grand challenges;

(H) recommendations for new research areas, partnerships, coordination and management mechanisms, or programs to be established to achieve the program's stated goals and grand challenges;

(I) recommendations for new investments by each participating agency in each program funding area for the 5-year period following the delivery of the report;

(J) reviews and recommendations regarding other issues deemed pertinent or specified by the panel; and

(K) a technology transition study which includes an evaluation of the Federal nanotechnology research and development program's success in transitioning its research, technologies, and concepts into commercial and military products, including—

(i) examples of successful transition of research, technologies, and concepts from the Federal nanotechnology research and development program into commercial and military products;

(ii) best practices of universities, government, and industry in promoting efficient and rapid technology transition in the nanotechnology sector;

(iii) barriers to efficient technology transition in the nanotechnology sector, including, but not limited to, standards, pace of technological change, qualification and testing of research products, intellectual property issues, and Federal funding; and

(iv) recommendations for government sponsored activities to promote rapid technology transition in the nanotechnology sector.

(2) OFFICE OF MANAGEMENT AND BUDGET REPORT.—

(A) BUDGET REQUEST REPORT.—Each Federal agency and department participating in the program shall, as part of its annual request for appropriations, submit a report to the Office of Management and Budget which—

(i) identifies each element of its nanotechnology research and development activities that contributes directly to the program or benefits from the program;

(ii) states the portion of its request for appropriations that is allocated to each such element; and

(iii) states the portion of its request for appropriations that is allocated to each program funding area.

(B) OMB REVIEW AND ALLOCATION STATEMENT.—The Office of Management and Budget shall review each report in light of the goals, priorities, grand challenges, and agency and departmental responsibilities set forth in the annual report of the Council under paragraph (3), and shall include in the President's annual budget estimate, a statement delineating the amount and portion of each appropriate agency's or department's annual budget estimate relating to its activities undertaken pursuant to the program.

(3) ANNUAL NSTC REPORT TO CONGRESS ON THE NANOTECHNOLOGY RESEARCH DEVELOPMENT PROGRAM.—The National Science and Technology Council shall submit an annual report to the Congress that—

(A) includes a detailed description of the goals, grand challenges, and program funding areas established by the President for the program;

(B) sets forth the relevant programs and activities, for the fiscal year with respect to which the budget submission applies, of each Federal agency and department, participating in the program, as well as such other agencies and departments as the President or the Director considers appropriate;

(C) describes the levels of Federal funding for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies, for each of the program funding areas of the program;

(D) describes the levels of Federal funding for each agency and department participating in the program and each program funding area for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies, and compare these levels to the most recent recommendations of the Advisory Panel and the external review of the program;

(E) describes coordination and partnership activities with State, local, international, and private sector efforts in nanotechnology research and development, and how they support the goals of the program;

(F) describes mechanisms and efforts used by the program to assist in the transition of innovative concepts and technologies from

Federally funded programs into the commercial sector, and successes in these transition activities;

(G) describes coordination between the military and civilian portions, as well as the life science and non-life science portions, of the program in technology development, supporting the goals of the program, and supporting the mission needs of the departments and agencies involved;

(H) analyzes the progress made toward achieving the goals, priorities, and grand challenges designated for the program according the metrics established by the program and the Advisory Panel; and

(I) recommends new mechanisms of coordination, program funding areas, partnerships, or activities necessary to achieve the goals, priorities and, grand challenges established for the program.

(4) TRIENNIAL EXTERNAL REVIEW OF NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Director of the National Science Foundation shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a triennial evaluation of the Federal nanotechnology research and development program, including—

(i) a review of the technical success of the program in achieving the stated goals and grand challenges under the metrics established by the program and the nanotechnology Advisory Panel, and under other appropriate measurements;

(ii) a review of the program's management and coordination across agencies and disciplines;

(iii) a review of the funding levels by each agency for the program's activities and their ability with such funding to achieve the program's stated goals and grand challenges;

(iv) recommendations for new or revised program goals and grand challenges;

(v) recommendations for new research areas, partnerships, coordination and management mechanisms, or programs to be established to achieve the program's stated goals and grand challenges;

(vi) recommendations for investment levels in light of goals by each participating agency in each program funding area for the 5-year period following the delivery of the report;

(vii) recommendations on policy, program, and budget changes with respect to nanotechnology research and development activities;

(viii) recommendations for improved metrics to evaluate the success of the program in accomplishing its stated goals; and

(ix) a review the performance of the Information Services and Applications Council and its efforts to promote access to and early application of the technologies, innovations, and expertise derived from program activities to agency missions and systems across the Federal government and to United States industry.

(B) EVALUATION TO BE TRANSMITTED TO CONGRESS.—The Director of the National Science Foundation shall transmit the results of any evaluation for which it made arrangements under subparagraph (A) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science upon receipt. The first such evaluation shall be transmitted no later than 12 months after the date of the enactment of this Act, with subsequent evaluations transmitted to the Committees every 3 years thereafter.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL SCIENCE FOUNDATION.—

(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Director of the National Science Foundation to carry out the Director's responsibilities under this Act—

(A) $221,000,000 for fiscal year 2003; and

(B) $254,150,000 for fiscal year 2004.

(2) SPECIFIC ALLOCATIONS.—

(A) INTERDISCIPLINARY NANOTECHNOLOGY RESEARCH CENTERS.—Of the amounts described in paragraph (1), $40,000,000 for fiscal year 2003, $50,000,000 for fiscal year 2004, shall be available for grants of up to $5,000,000 each for multidisciplinary nanotechnology research centers.

(B) CENTER FOR SOCIETAL, ETHICAL, EDUCATIONAL, LEGAL, AND WORKFORCE ISSUES RELATED TO NANOTECHNOLOGY.—Of the sums authorized for the National Science Foundation each fiscal year, $5,000,000 shall be used to establish a university-based Center for Societal, Ethical, Educational, Legal, and Workforce Issues Related to Nanotechnology.

(C) NATIONAL NANOTECHNOLOGY COORDINATION OFFICE.—Of the sums authorized for the National Science Foundation each fiscal year, $5,000,000 shall be used for the activities of the Nanotechnology Coordination Office.

(D) GAP FUNDING THROUGH THE SCIENCE AND TECHNOLOGY POLICY INSTITUTE.—Of the sums authorized for the National Science Foundation each fiscal year, $5 million shall be for the Science and Technology Policy Institute, in consultation with the Office of Science and Technology Policy, for use in competitive grants to address research areas identified by the council under section 5(a)(9) of this Act. Such grants may be made to government or non-government awardees.

(b) DEPARTMENT OF ENERGY.—There are authorized to be appropriated to the Secretary of Energy to carry out the Secretary's responsibilities under this Act—

(1) $139,300,000 for fiscal year 2003; and

(2) $160,195,000 for fiscal year 2004.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration to carry out the Administrator's responsibilities under this Act—

(1) $22,000,000 for fiscal year 2003; and

(2) $25,300,000 for fiscal year 2004.

(d) NATIONAL INSTITUTES OF HEALTH.—There are authorized to be appropriated to the Director of the National Institutes to carry out the Director's responsibilities under this Act—

(1) $43,200,000 for fiscal year 2003; and

(2) $49,680,000 for fiscal year 2004.

(e) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out the Director's responsibilities under this Act—

(1) $44,000,000 for fiscal year 2003; and

(2) $50,600,000 for fiscal year 2004;

(f) ENVIRONMENTAL PROTECTION AGENCY.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency to carry out the Administrator's responsibilities under this Act—

(1) $5,000,000 for fiscal year 2003; and

(2) $5,750,000 for fiscal year 2004.

(g) DEPARTMENT OF JUSTICE.—There are authorized to be appropriated to the Director of the National Institute of Justice to carry out the Director's responsibilities under this Act—

(1) $1,400,000 for fiscal year 2003; and

(2) $1,610,000 for fiscal year 2004.

SEC. 7. ADDITIONAL REPORTS, STUDIES, AND PLANS.

(a) INTERNATIONAL BENCHMARKING STUDIES.—

(1) UNITED STATES STANDING TO BE MONITORED.—In order to maintain world leadership in nanotechnology, the program established under section 4(a) shall monitor the United States' standing in the key research fields that support technological innovation.

(2) BIENNIAL NSTC STUDY OF RELATIVE UNITED STATES POSITION.—Not later than 3 months after the date of enactment of this Act, the President, through the Council, shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a biennial study of the relative position of United States compared to other nations with respect to nanotechnology research and development.

(3) ISSUES TO BE ADDRESSED.—The study required by paragraph (2) shall address, among other issues—

(A) the current and likely future relative position of United States private sector, academic, and government research in nanotechnology relative to other nations;

(B) niche nanotechnology research areas where the United States is trailing other nations;

(C) critical research areas where the United States should be the world leader to best achieve the goals of the Federal nanotechnology research and development program;

(D) key factors influencing relative United States performance in this field; and

(E) institutional, funding, and human-resource factors that are critical to maintaining leadership status in this field.

(4) ACTION PLAN.—Not less than 6 months after receipt of each study, the Council shall develop a plan for addressing the issues raised in the study. The plan shall include—

(A) investment strategies for addressing the issues raised in the report;

(B) strategies for promoting international research cooperation to leverage international niches of excellence identified by the report; and

(C) institutional and human-resource changes to be made to achieve or maintain leadership status in this field.

(5) TRANSMITTAL TO CONGRESS.—The Council shall submit the study required by paragraph (2) and the plan required by paragraph (4) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science, not later than 18 months after the date of enactment of this Act and every 2 years thereafter.

(b) SOCIETAL, ETHICAL, EDUCATION, LEGAL, AND WORKFORCE ISSUES RELATED TO NANOTECHNOLOGY.—

(1) STUDIES.—The Director of the National Science Foundation shall encourage, conduct, coordinate, commission, collect, and disseminate studies on the societal, ethical, educational, and workforce implications of nanotechnology through the Center for Societal, Ethical, Educational, and Workforce Issues established under section 4(c)(5). The studies shall identify anticipated issues and problems, as well as provide recommendations for preventing or addressing such issues and problems.

(2) DATA COLLECTION.—The Director of the National Science Foundation shall collect data on the size of the anticipated nanotechnology workforce need by detailed occupation, industry, and firm characteristics, and assess the adequacy of the trained talent pool in the United States to fill such workforce needs.

(3) ANNUAL REPORT.—The Director of the National Science Foundation shall compile the studies required by paragraph (2) and, with the assistance of the Center for Ethical, Societal, Educational, Legal,and Workforce

Issues Related to Nanotechnology established by paragraph 4(c)(5) if this Act, shall complete a report that includes a description of the Center's activities, which shall be submitted to the President, the Council, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Science not later than 18 months after the date of enactment of this Act.

SEC. 8. DEFINITIONS.

In this Act:

(1) ADVISORY PANEL.—The term ''Advisory Panel'' means the President's National Nanotechnology Panel.

(2) FUNDAMENTAL RESEARCH.—The term ''fundamental research'' means research that builds a fundamental understanding and leads to discoveries of the phenomena, processes, and tools necessary to control and manipulate matter at the nanoscale.

(3) GRAND CHALLENGE.—The term ''grand challenge'' means a fundamental problem in science or engineering, with broad economic and scientific impact, whose solution will require the application of nanotechnology.

(4) INTERDISCIPLINARY NANOTECHNOLOGY RESEARCH CENTER.—The term ''interdisciplinary nanotechnology research center'' means a group of 6 or more researchers collaborating across scientific and engineering disciplines on large-scale long-term research projects that will significantly advance the science supporting the development of nanotechnology or the use of nanotechnology in addressing scientific issues of national importance, consistent with the goals set forth in section 4(b).

(5) NANOTECHNOLOGY.—The term ''nanotechnology'' means the ability to work at the molecular level, atom-by-atom, to create large structures with fundamentally new molecular organization.

(6) PROGRAM.—The term ''program'' means the national nanotechnology research program established under section 4.

(7) RESEARCH INFRASTRUCTURE.—The term ''research infrastructure'' means the measurement science, instrumentation, modeling and simulation, and user facilities needed to develop a flexible and enabling infrastructure so that United States industry can rapidly commercialize new discoveries in nanotechnology.

Mr. LIEBERMAN. Mr. President, our Nation has long prided itself on being the world's premier innovator of new ideas. Over the last two and a half centuries, the uniquely American willingness to experiment with novel concepts and to chart bold directions has placed us at the forefront of scientific and technological progress. Our ability to engage in scientific exploration and to marry research findings with the development of practical applications has, in turn, enabled us to set the benchmark on virtually every indicator of human progress, from longer lifespans, to higher standards of living, to unparalleled economic productivity.

However, while past accomplishments may confer a present competitive advantage, it does not guarantee future success. We cannot afford to rest on our laurels in a world that is becoming increasingly characterized by the speed with which scientific paradigms shift and technological revolutions occur. In a global economy in which ideas and technology are the new currency, every new breakthrough represents an opportunity to claim, or, in our case, lose, global leadership.

The emerging field of nanotechnology constitutes such an opportunity. It is not just any opportunity, however, but one whose magnitude and significance locates it on the scale of harnessing electricity, creating antibiotics, building computers, or wiring up the Internet. It is, in short, a new frontier in science and technology that has the potential to transform every aspect of our lives. Nanotechnology, in fact, may have even greater potential to affect the way we live since it has such broad prospective applications in so many different areas, from medicine, to electronics, to energy. Nanotechnology is what scientists and technologists often call an ''enabling'' technology, a tool that opens the door to new possibilities constrained only by physics and the limits of our imaginations.

Yet, despite the enormous potential that nanotechnology offers, it is not an area in which we have assumed uncontested leadership. From an international prospective, the United States faces the danger of falling behind its Asian and European counterparts in supporting the pace of nanotechnological innovation. Other nations have grasped the fact that the first players to fully capitalize on the promise of nanotechnology have the potential to leap frog in productivity and precipitate a reshuffling in the economic, and perhaps aspects of the military, pecking order. Accordingly, they have undertaken substantial efforts to invest in nanotechnology research, and to accelerate technology transfer and commercialization. While our Nation certainly possesses the raw resources and talent to lead the world in developing this technology, it is also clear that a long-term focus and sustained commitment, as well as new collaborations between government, academia, and industry, will be needed to ensure our place at the head of the nanotechnological universe.

This is why I am so proud today to join my colleague, Senator RON WYDEN of Oregon, in introducing the 21st Century Nanotechnology Research and Development Act. This Act will build on the efforts of the National Nanotechnology Initiative, NNI, which was started under President Clinton and has received continued support under President Bush, to establish a comprehensive, intelligently coordinated program for addressing the full spectrum of challenges confronting a successful national science and technology effort, including those related to funding, coordination, infrastructure development, technology transition, and social issues.

I feel it is appropriate at this point to give credit to President Clinton for having the prescience and initiative of creating the NNI, and to applaud President Bush for expanding support for nanotechnology R&D from $270 million in FY 2000 to the $710 million targeted in his budget request for FY 2003. The NNI has been a key driver of nanotechnology in this country by bringing coherence and organization to what had previously been a scattered set of research programs within the federal government. It has, in no small part through the efforts of its spokespersons. Dr. Mike Roco and Dr. Jim Murday, achieved a higher profile for nanotechnology both within and outside the government, and gathered national attention to the importance of this field.

The time is now ripe to elevate the U.S. nanotechnology efforts beyond the level of an Executive initiative. Funding for nanotechnology will soon reach $1 billion a year, and the NNI currently attempts to coordinate programs across a wide range of Federal agencies and departments. This level of funding and the coordination challenges that arise with so many diverse participants strongly recommend having a program based in statute, provided with greater support and coordination mechanisms, afforded a higher profile, and subjected to constructive Congressional oversight and support.

Our bill closely tracks the recommendations of the National Research Council, NRC, which completed a thorough review of the NNI this past June. The NRC report stated how impressed the reviewers were with the leadership and multi-agency involvement of the NNI. Specifically, it commended the Nanoscale Science, Engineering, and Technology, NSET, subcommittee, which is the primary coordinating mechanisms of the NNI, as playing a key role in establishing research priorities, identifying Grand Challenges, and involving the U.S. scientific community in the NNI. To improve the NNI above its current level of success, the NRC made a number of recommendations. These recommendations have largely been incorporated into our bill, including establishing an independent advisory panel; emphasizing long-term goals; striking a balance between long-term and short-term research; supporting the development of research facilities, equipment, and instrumentation; creating special funding to support research that falls in the breach between agency missions and programs; promoting interdisciplinary research and research groups; facilitating technology transition and outreach to industry; conducting studies on the societal implications of nanotechnology, including those related to ethical, educational, legal, and workforce issues; and the development of metrics for measuring progress toward program goals. This legislation will also complement the provision that I authored in this year's Senate defense authorization bill, S. 2514, establishing a nanotechnology research and development program in the Department of Defense. If this provision is supported in conference, we will have matching pieces of legislation that will encompass and coordinate both civilian and defense nanotechnology programs, establishing a truly nationwide effort

that leverages the expertise residing in every corner of our government.

If history teaches us anything, it is that once the wheels of innovation have stopped and stagnation has set in, mediocrity will soon follow. Nowhere in the world are those wheels of innovation spinning more rapidly than in the area of nanotechnology. This legislation provides a strong foundation and comprehensive framework that elicits contributions from all three sectors of our society in pushing nanotechnology research and development to the next level. I look forward to supporting Senator WYDEN in getting this important bill through the Congress, and encourage my colleagues to join us in setting the stage for U.S. economic growth over the next century.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 139—EXPRESSSING THE SENSE OF CONGRESS THAT THERE SHOULD BE ESTABLISHED A NATIONAL MINORITY HEALTH AND HEALTH DISPARITIES MONTH, AND FOR OTHER PURPOSES

Mr. TORRICELLI submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 139

Whereas in 2000, the Surgeon General announced a goal of eliminating, by 2010, health disparities experienced by racial and ethnic minorities in health access and outcome in 6 areas: infant mortality, cancer screening, cardiovascular disease, diabetes, acquired immunodeficiency syndrome and human immunodeficiency virus infection, and immunizations;

Whereas despite notable progress in the overall health of the Nation there are continuing health disparities in the burden of illness and death experienced by African-Americans, Hispanics, Native Americans, Alaska Natives, Asians, and Pacific Islanders, compared to the population of the United States as a whole;

Whereas minorities are more likely to die from cancer, cardiovascular disease, stroke, chemical dependency, diabetes, infant mortality, violence, and, in recent years, acquired immunodeficiency syndrome than nonminorities suffering from those same illnesses;

Whereas there is a national need for scientists in the fields of biomedical, clinical, behavioral, and health services research to focus on how best to eliminate health disparities between minorities and the population of the United States as a whole;

Whereas the diverse health needs of minorities are more effectively addressed when there are minorities in the health care workforce; and

Whereas behavioral and social sciences research has increased awareness and understanding of factors associated with health care utilization and access, patient attitudes toward health services, and behaviors that affect health and illness, and these factors have the potential to be modified to help close the health disparities gap that effects minority populations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a National Minority Health and Health Disparities Month should be established to promote educational efforts on the health problems currently facing minorities and other populations experiencing health disparities;

(2) the Secretary of Health and Human Services should, as authorized by the Minority Health and Health Disparities Research and Education Act of 2000, present public service announcements on health promotion and disease prevention that target minorities and other populations experiencing health disparities in the United States and educate the public and health care professionals about health disparities;

(3) the President should issue a proclamation recognizing the immediate need to reduce health disparities in the United States and encouraging all health organizations and Americans to conduct appropriate programs and activities to promote healthfulness in minority and other communities experiencing health disparities;

(4) Federal, State, and local governments should work in concert with the private and nonprofit sector to recruit and retain qualified individuals from racial, ethnic, and gender groups that are currently underrepresented in health care professions;

(5) the Agency for Healthcare Research and Quality should continue to collect and report data on health care access and utilization on patients by race, ethnicity, socioeconomic status, and where possible, primary language, as authorized by the Minority Health and Health Disparities Research and Education Act of 2000, to monitor the Nation's progress toward the elimination of health care disparities; and

(6) the information gained from research about factors associated with health care utilization and access, patient attitudes toward health services, and risk and protective behaviors that affect health and illness, should be disseminated to all health care professionals so that they may better communicate with all patients, regardless of race or ethnicity, without bias or prejudice.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4537. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

SA 4538. Mr. GRAHAM (for himself, Mr. SARBANES, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4539. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4540. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4541. Mr. CRAIG (for himself, Mr. DOMENICI, and Mr. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4542. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4543. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4544. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4545. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4546. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4547. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4548. Mr. SARBANES submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4549. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4550. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

SA 4551. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4532 proposed by Mr. BYRD (for himself and Mr. STEVENS) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4552. Mrs. CLINTON (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4553. Mr. BAUCUS (for himself and Mr. BURNS) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

SA 4554. Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4555. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4556. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4557. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4558. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4559. Mr. CRAIG (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

SA 4560. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4561. Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

SA 4562. Mr. BINGAMAN (for himself and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill H.R. 5093, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4537. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1___. EFFECT OF CERTAIN PROVISIONS ON DECISION AND INDIAN LAND.

(a) IN GENERAL.—Nothing in section 134 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (115 Stat. 443) affects the decision of the United States Court of Appeals for the 10th Circuit in Sac and Fox Nation v. Norton, 240 F.3d 1250 (2001).

(b) USE OF CERTAIN INDIAN LAND.—Nothing in this section permits the conduct of gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land described in section 123 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 944), or land that is contiguous to that land, regardless of whether the land or contiguous land has been taken into trust by the Secretary of the Interior.

SA 4538. Mr. GRAHAM (for himself, Mr. SARBANES, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1 . REPORT ON ALTERNATIVE TRANSPORTATION SYSTEMS FOR UNITS OF THE NATIONAL PARK SYSTEM.

(a) REPORT.—Not later than February 1, 2003, the Director of the National Park Service shall submit to the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on traffic and congestion problems and alternative transportation solutions within units of the National Park System.

(b) REQUIREMENTS.—The report submitted under subsection (a) shall—

(1) describe the need for alternative transportation solutions within units of the National Park System, including data on visitation to the units of the National Park System during calendar years 1999, 2000, and 2001 in relation to the capacity of the units;

(2) include recommendations on the best methods for implementing alternative transportation systems for units of the National Park System, which shall—

(A) be based on the findings of the Federal Lands Alternative Transportation Systems Study completed under section 3039 of Transportation Equity Act for the 21st Century (23 U.S.C. 138 note; Public Law 105–178) and the National Bicycling and Walking Study completed under the FY 1991 Transportation Appropriations Act, and

(B) consider both motorized and non-motorized land transportation systems and maritime transportation systems; and

(3) develop options for implementation of the recommendations of the two reports referenced in subparagraph (2)(A), taking into account any additional needs identified since completion of those reports.

SA 4539. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, between lines 2 and 3, insert the following:

SEC. 3___. NATIONAL FOREST LAND MANAGEMENT IN THE STATE OF FLORIDA.

(a) DEFINITIONS.—In this section:

(1) MAP.—The term ''map'' means the map entitled ''Florida Land Dispositions'' and dated March 31, 2002.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(3) STATE.—The term ''State'' means the State of Florida.

(b) SALE OR EXCHANGE OF LAND.—

(1) IN GENERAL.—The Secretary may, under such terms and conditions as the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the parcels of Federal land in the State described in paragraph (2).

(2) DESCRIPTION OF LAND.—The parcels of Federal land in the State referred to in paragraph (1) consist of—

(A) tract A–942a, East Bay, Santa Rosa County, consisting of approximately 61 acres, and more particularly described as T. 1 S., R. 27 W., Sec. 31, W½ of SW¼;

(B) tract A–942b, East Bay, Santa Rosa County, consisting of approximately 40 acres, and more particularly described as T. 1 S., R. 27 W., Sec. 38;

(C) tract A–942c, Ft. Walton, Okaloosa County, located southeast of the intersection of and adjacent to State Road 86 and Mooney Road, consisting of approximately 0.59 acres, and more particularly described as T. 1 S., R. 24 W., Sec. 26;

(D) tract A–942d, located southeast of Crestview, Okaloosa County, consisting of approximately 79.90 acres, and more particularly described as T. 2 N., R. 23 W., Sec. 2, NW¼ NE¼ and NE¼ NW¼;

(E) tract A–943, Okaloosa County Fairgrounds, Ft. Walton, Okaloosa County, consisting of approximately 30.14 acres, and more particularly described as T. 1 S., R. 24 W., Sec. 26, S½;

(F) tract A–944, City Ball Park—Ft. Walton, Okaloosa County, consisting of approximately 12.43 acres, and more particularly described as T. 1 S., R. 24 W., Sec. 26, S½;

(G) tract A–945, Landfill-Golf Course Driving Range, located southeast of Crestview, Okaloosa County, consisting of approximately 40.85 acres, and more particularly described as T. 2 N., R. 23 W., Sec. 4, NW¼ NE¼;

(H) tract A–959, 2 vacant lots on the north side of Micheaux Road in Bristol, Liberty County, consisting of approximately 0.5 acres, and more particularly described as T. 1 S., R. 7 W., Sec. 6;

(I) tract C–3m–d, located southwest of Astor in Lake County, consisting of approximately 15.0 acres, and more particularly described as T. 15 S., R. 28 E., Sec. 37;

(J) tract C–691, Lake County, consisting of the subsurface rights to approximately 40.76 acres of land, and more particularly described as T. 17 S., R. 29 E., Sec. 25, SE¼ NW¼;

(K) tract C–2208b, Lake County, consisting of approximately 39.99 acres, and more particularly described as T. 17 S., R. 28 E., Sec. 28, NW¼ SE¼;

(L) tract C–2209, Lake County, consisting of approximately 127.2 acres, as depicted on the map, and more particularly described as T. 17 S., R. 28 E., Sec. 21, NE¼ SW¼, SE¼ NW¼, and SE¼ NE¼;

(M) tract C–2209b, Lake County, consisting of approximately 39.41 acres, and more particularly described as T. 17 S., R. 29 E., Sec. 32, NE¼ SE¼;

(N) tract C–2209c, Lake County, consisting of approximately 40.09 acres, and more particularly described as T. 18 S., R. 28 E., Sec. 14, SE¼ SW¼;

(O) tract C–2209d, Lake County, consisting of approximately 79.58 acres, and more particularly described as T. 18 S., R. 29 E., Sec. 5, SE¼ NW¼, NE¼ SW¼;

(P) tract C–2210, government lot 1, 20 recreational residential lots, and adjacent land on Lake Kerr, Marion County, consisting of approximately 30 acres, and more particularly described as T. 13 S., R. 25 E., Sec. 22;

(Q) tract C–2213, located in the F.M. Arrendondo grant, East of Ocala, Marion County, and including a portion of the land located east of the western right-of-way of State Highway 19, consisting of approximately 15.0 acres, and more particularly described as T. 14 and 15 S., R. 26 E., Sec. 36, 38, and 40; and

(R) all improvements on the parcels described in subparagraphs (A) through (Q).

(3) MAP AND LEGAL DESCRIPTION.—

(A) AVAILABILITY.—The map shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(B) MODIFICATIONS.—The Secretary may—

(i) correct minor errors in the map; and

(ii) for the purposes of soliciting offers for the sale or exchange of land under paragraph (4), modify the descriptions of land specified in paragraph (2) based on—

(I) a survey; or

(II) a determination by the Secretary that the modification would be in the best interest of the public.

(4) SOLICITATIONS OF OFFERS.—

(A) IN GENERAL.—Subject to such terms and conditions as the Secretary may prescribe, the Secretary may solicit offers for the sale or exchange of land described in paragraph (2).

(B) REJECTION OF OFFERS.—The Secretary may reject any offer received under this section if the Secretary determines that the offer—

(i) is not adequate; or

(ii) is not in the public interest.

(5) METHODS OF SALE.—The Secretary may sell the land described in paragraph (2) at public or private sale (including at auction), in accordance with any terms, conditions, and procedures that the Secretary determines to be appropriate.

(6) BROKERS.—In any sale or exchange of land described in paragraph (2), the Secretary may—

(A) use a real estate broker; and

(B) pay the real estate broker a commission in an amount that is comparable to the amounts of commission generally paid for real estate transactions in the area.

(7) CONCURRENCE OF THE SECRETARY OF THE AIR FORCE.—A parcel of land described in subparagraphs (A) through (G) of paragraph (2) shall not be sold or exchanged by the Secretary without the concurrence of the Secretary of the Air Force.

(8) CASH EQUALIZATION.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), if the value of non-Federal land for which Federal land is exchanged under this section is less than the value of the Federal land exchanged, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of the Federal land.

(9) DISPOSITION OF PROCEEDS.—

(A) IN GENERAL.—The net proceeds derived from any sale or exchange under this section shall be deposited in the fund established by Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a).

(B) USE.—Amounts deposited under subparagraph (A) shall be available to the Secretary for expenditure, without further appropriation, for—

(i) acquisition of land and interests in land for inclusion as units of the National Forest System in the State; and

(ii) reimbursement of costs incurred by the Secretary in carrying out land sales and exchanges under this section, including the payment of real estate broker commissions under paragraph (6).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Land acquired by the United States under this section shall be—

(A) subject to the Act of March 1, 1911 (commonly known as the ''Weeks Act'') (16 U.S.C. 480 et seq.); and

(B) administered in accordance with laws (including regulations) applicable to the National Forest System.

(2) APPLICABLE LAW.—The land described in subsection (b)(2) shall not be subject to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(3) WITHDRAWAL.—Subject to valid existing rights, the land described in subsection (b)(2) is withdrawn from location, entry, and patent under the public land laws, mining laws, and mineral leasing laws (including geothermal leasing laws).

SA 4540. Mrs. CLINTON (for herself and Mr. SCHUMER) submitted an amendment intended to b4e proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

SEC. ____. (a) PAYMENT TO HARRIET TUBMAN HOME, AUBURN, NEW YORK, AUTHORIZED.—(1) The Secretary of the Interior may, using amounts appropriated or otherwise made available by this title, make a payment to the Harriet Tubman Home in Auburn, New York, in the amount of $11,750.

(2) The amount specified in paragraph (1) is the amount of widow's pension that Harriet Tubman should have received from January 1899 to March 1913 under various laws authorizing pension for the death of her husband, Nelson Davis, a deceased veteran of the Civil War, but did not receive, adjusted for inflation since March 1913.

(b) USE OF AMOUNTS.—The Harriet Tubman Home shall use any amounts received paid under subsection (a) for purposes of—

(1) preserving and maintaining the Harriet Tubman Home; and

(2) honoring the memory of Harriet Tubman.

SA 4541. Mr. CRAIG (for himself, Mr. DOMENICI, and Mr. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place add the following—

SEC. . EMERGENCY HAZARDOUS FUELS REDUCTION PLAN.

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

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

(1) wildland urban interface areas;

(2) municipal watersheds;

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

(4) areas susceptible to a reburn.

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

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

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

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

(e) ADMINISTRATIVE PROCESS.—

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

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

(B) the Forest Service appeals process and regulations.

(2) Regulations.—

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

(f) JUDICIAL REVIEW.—

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

(2) Review of projects.—Judicial review of a project implemented under this section shall—

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

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

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

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

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

SEC. . QUINCY LIBRARY INITIATIVE.

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

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

SA 4542. Mr. SANTORUM submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, between lines 2 and 3, insert the following:

SEC. 3___. ACTIONS TO REDUCE FIRE HAZARDS AND INSECT INFESTATION ON NATIONAL FOREST SYSTEM LAND.

(a) FINDINGS.—Congress finds that—

(1) forest health conditions on National Forest System land are deteriorating, and it is in the public interest to take immediate action to treat the land;

(2) pending litigation prevents timely action by the Secretary of Agriculture to reduce the risk of wildfire on National Forest System land using existing administrative and legal processes;

(3) State and local governments, local industry users, and several environmental

groups support immediate action by the Secretary of Agriculture to address the risk of fire danger in an environmentally responsible manner; and

(4) the Forest Service and State and local fire officials should be encouraged to take any actions necessary to create a defensible fuel zone within State-owned land adjacent to National Forest System land.

(b) FIRE AND INSECT RISK REDUCTION IN EXISTING TIMBER SALE ANALYSIS AREAS.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary of Agriculture (referred to in this section as the ''Secretary'') may, as necessary to reduce insect infestation or fire hazards on National Forest System land, treat additional timber—

(A) inside or outside of the existing cutting units for National Forest System timber sales; and

(B) in the analysis areas for those sales.

(2) TIMBER SALE CONTRACTS.—In carrying out additional timber treatments under paragraph (1), the Secretary may modify timber sale contracts currently in effect if—

(A) the purchaser agrees to the modification; or

(B) the Secretary offers additional timber sales in the timber sale analysis areas.

(3) PRIORITY.—In carrying out additional timber treatments under paragraph (1), the Secretary shall give preference (in order of priority) to—

(A) areas that are located not more than ¼ mile from private properties on which the owner has taken or is taking actions to treat the timber on the private property;

(B) stands that—

(i) are a fire hazard or insect infested; and

(ii) are in close proximity to—

(I) private land; or

(II) communities;

(C) areas that have the highest concentration of insect infestation that has the potential to spread to other areas;

(D) stands that—

(i) are a fire hazard or insect infested; and

(ii) are in close proximity to areas of high resource value in which retaining green trees is important, such as wildlife habitats, sensitive landscapes, recreation areas, and developments;

(E) stands that—

(i) are a high fire hazard or insect infested; and

(ii) are within skidding distance of existing roads;

(F) concentrations of insect-infested trees or areas that are high fire hazards; and

(G) high-density stands that—

(i) are most susceptible to insect attack; and

(ii) are in close proximity to insect-infested trees.

(c) TIMING.—Notwithstanding any other provision of law (including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.)), the Secretary shall immediately carry out any actions authorized by this section.

(d) EXEMPTION FROM APPLICABLE LAW.—Any action authorized by this section shall not be subject to the notice, comment, and appeal requirements of section 322 of Public Law 102–381 (16 U.S.C. 1612 note).

(e) JUDICIAL REVIEW.—Any action determined by the Secretary to be authorized by this section and the determination by the Secretary shall not be subject to judicial review by any court of the United States.

(f) ROADLESS CHARACTER.—The actions authorized by this section shall not affect the determination of the wilderness capability, wilderness suitability, or roadless character of any National Forest System land.

(g) REPORT.—The Secretary shall submit to Congress a report on the implementation of this section not later than—

(1) November 30, 2002;

(2) June 30, 2003; and

(3) November 30, 2003.

SA 4543. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, line 12, strike ''restoration:'' and insert the following: ''restoration; of which $3,000,000 is available for the United States Geological Survey National Wildlife Health Center to provide research, training, and technical assistance to States relating to the prevention, diagnosis, and management of chronic wasting disease:''.

SA 4544. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, line 12, strike ''restoration:'' and insert the following: ''restoration; of which $4,000,000 is available for the United States Geological Survey National Wildlife Health Center to provide research, training, and technical assistance to States relating to the prevention, diagnosis, and management of chronic wasting disease:''.

SA 4545. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, line 12, strike ''restoration:'' and insert the following: ''restoration; of which $3,000,000 is available to provide research, training, and technical assistance to States relating to the prevention, diagnosis, and management of chronic wasting disease:''.

SA 4546. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, line 12, strike ''restoration:'' and insert the following: ''restoration; of which $4,000,000 is available to provide research, training, and technical assistance to States relating to the prevention, diagnosis, and management of chronic wasting disease:''.

SA 4547. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, lines 13 and 14, strike ''$348,252,000, to remain available until expended'' and insert ''$350,252,000, to remain available until expended, of which $2,000,000 shall be made available for the rehabilitation and construction of the Wind River Irrigation Project (to be derived by transfer of that amount from the amount made available for tribally controlled community colleges under the heading 'OPERATION OF INDIAN PROGRAMS')''.

SA 4548. Mr. SARBANES submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, between lines 2 and 3, insert the following:

SEC. 3___. REPORT ON AVIAN MORTAILITY AT COMMUNICATIONS TOWERS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the United States Fish and Wildlife Service, in cooperation with the Chairman of the Federal Communications Commission and the Administrator of the Federal Aviation Administration, shall submit to the Committee on Appropriations, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate a report on avian mortality at communications towers in the United States.

(b) CONTENTS.—The report submitted under subsection (a) shall include—

(1) an estimate of the number of birds that collide with communication towers;

(2) a description of the causes of those collisions; and

(3) recommendations on how to prevent those collisions.

SA 4549. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 37, between lines 5 and 6, insert the following:

(c) PRIVACY AUDIT.—

(1) IN GENERAL.—The Privacy Officer shall conduct an audit of the Department to—

(A) evaluate the privacy practices of the Department, including compliance with provisions under section 552a of title 5, United States Code; and

(B) recommend strategies to improve the management of personal information.

(2) ISSUES TO BE STUDIED.—The audit shall include—

(A) a detailed review of the on-line and off-line privacy management policies and practices of the Department with respect to the collection, retention, use, and disclosure of personal information; and

(B) a detailed report of the privacy practices of the Department and recommendations for their improvement.

(3) COMPLETION DATE.—

(A) INITIAL AUDIT.—The initial audit under this subsection shall be completed not later than 24 months after the effective date of this division.

(B) SUBSEQUENT AUDITS.—Subsequent audits under this subsection shall be completed not later than 3 years after the submission of the previous audit report.

(4) REPORT.—Upon the completion of each audit under this subsection, the Privacy Officer shall submit a report to Congress that contains—

(A) the results of the audit; and

(B) recommendations for improvement of the management of personal information by the Department.

SA 4540. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

CHAPTER—

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to enable the Federal Aviation Administrator to compensate air carriers for the direct costs associated with the strengthening of flight deck doors and locks on aircraft required by section 104(a)(1)(B) of the Aviation and Transportation Security Act, notwithstanding any other provision of law, $100,000,000 to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SA 4551. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4532 proposed by Mr. BYRD (for himself and Mr. STEVENS) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

In the text of the provision captioned Chapter 8, strike ''expended:'' and insert ''expended, and for an additional amount to enable the Federal Aviation Administrator to compensate air carriers for the direct costs associated with the strengthening of flight deck doors and locks on aircraft required by section 104(a)(1)(B) of the Aviation and Transportation Security Act, notwithstanding any other provision of law, $100,000,000 to be derived from the Airport and Airway Trust Fund and to remain available until expended:''.

SA 4552. Mrs. CLINTON (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 67, insert between lines 15 and 16 the following:

In this subsection, the term ''key resources'' includes National Park Service sites identified by the Secretary of the Interior that are so universally recognized as symbols of the United States and so heavily visited by the American and international public that such sites would likely be identified as targets of terrorist attacks, including the Statue of Liberty, Independence Hall and the Liberty Bell, the Arch in St. Louis, Missouri, the Golden Gate Bridge, Mt. Rushmore, and memorials and monuments in Washington, D.C.

SA 4553. Mr. BAUCUS (for himself and Mr. Burns) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 123, lines 12 through 15, strike ''28 contracts'' and all that follows through ''Region 1'' and insert ''30 contracts subject to the same terms and conditions as provided in this section: *Provided*, That of the additional contracts authorized by this section at least 11 shall be allocated to Region 1, of which at least 2 contracts shall be allocated to the Kootenai National Forest because of special circumstances there.''

SA 4554. Mr. SARBANES (for himself and Mr. WARNER, Ms. MIKULSKI, and Mr. ALLEN) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 114, between lines 20 and 21, insert the following:

SEC. 141. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Homeland Security Liaison Officers for Maryland, Virginia, and the District of Columbia within the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SA 4555. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. 164. USE OF NATIONAL PRIVATE SECTOR NETWORKS IN EMERGENCY RESPONSE.

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

SA 4556. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 34, insert between lines 13 and 14 the following:

(c) ADDITIONAL DUTIES.—

(1) DEFINED TERM.—In this section, the term ''geospatial information'' means collecting, storing, retrieving, or disseminating graphical or digital data depicting natural or manmade physical features, phenomena or boundaries of the earth and any information related thereto, including surveys, maps, charts, satellite and airborne remote sensing data, images, and services, with services performed by professionals such as surveyors, photogrammetrists, hydrographers, geodesists, cartographers, and other such services of an architectural or engineering nature.

(2) COORDINATION OF GEOSPATIAL INFORMATION.—The Chief Information Officer shall establish and carry out a program to provide for the efficient use of geospatial information, which shall include—

(A) providing such geospatial information as may be necessary to implement the comprehensive national infrastructure plan under section 133(b)(3); and

(B) providing leadership in meeting the requirements of, and populate the databases used by, those responsible for planning, prevention, mitigation, assessment and response to emergencies, critical infrastructure and other Department functions, and to assure the interoperability of, and prevent unnecessary duplication of, geospatial information among all users.

(3) RESPONSIBILITIES.—In carrying out paragraph (2), the responsibilities of the Chief Information Officer shall include—

(A) managing the geospatial information needs and activities of the Department;

(B) establishing such standards as are necessary to assure the interoperability of geospatial information pertaining to Homeland Security among all users of such information within—

(i) the Department;

(ii) other agencies;

(iii) State and local government; and

(iv) the private sector;

(C) coordinating with and providing liaison to the Federal Geographic Data Committee and carrying out the Department's responsibilities pursuant to Office of Management and Budget Circular A–16 and Executive Order 12906;

(D) assisting and encouraging the Undersecretary for Emergency Preparedness in providing grants—

(i) to fund the creation and procurement of geospatial information systems and data; and

(ii) to execute information sharing agreements with State, local, and tribal governments; and

(E) to the maximum extent possible, ensuring that the Department utilizes commercial geospatial data and services available by awarding contracts to entities in the private sector.

(4) PRECAUTIONS.—The Secretary shall ensure that the proper precautions are observed regarding public access to data which may be of critical importance regarding national or homeland security.

On page 72, after line 8, insert the following:

(15) With the assistance of the Chief Information Officer and, where appropriate, in consultation with the Under Secretary for Critical Infrastructure Protection, providing grants regarding geospatial information, as described in section 108(c)(1)—

(A) to fund creation and procurement of geospatial information systems and data; and

(B) to execute information sharing agreements with State, local, and tribal governments.

SA 4557. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, strike lines 10 and 11, and insert the following:

TITLE VI—IDENTITY THEFT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Identity Theft Victims Assistance Act of 2002''.

SEC. 602. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) IN GENERAL.—Chapter 47 title 18, United States Code, is amended by adding after section 1028 the following:

''§ 1028A. Treatment of identity theft mitigation

''(a) DEFINITIONS.—As used in this section—

''(1) the term 'business entity' means any corporation, trust, partnership, sole proprietorship, or unincorporated association, including any financial service provider, financial information repository, creditor (as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), telecommunications, utilities, or other service provider;

''(2) the term 'consumer' means an individual;

''(3) the term 'financial information' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

''(A) account numbers and balances;

''(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

''(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

''(4) the term 'financial information repository' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person;

''(5) the term 'identity theft' means an actual or potential violation of section 1028 or any other similar provision of Federal or State law;

''(6) the term 'means of identification' has the same meaning given the term in section 1028; and

''(7) the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

''(b) INFORMATION AVAILABLE TO VICTIMS.—

''(1) IN GENERAL.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a commercial transaction, provided credit, provided, for consideration, products, goods, or services, accepted payment, or otherwise done business for consideration with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 20 days after the receipt of a written request by the victim, meeting the requirements of subsection (c), and in compliance with subsection (d), provide, without charge, a copy of all application and business transaction information related to the transaction being alleged as an identity theft to—

''(A) the victim;

''(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim; or

''(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

''(2) RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—No provision of Federal or State law prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this section.

''(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this section requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law.

''(c) VERIFICATION OF IDENTITY AND CLAIM.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (b)(1), the victim shall provide to the business entity—

''(1) as proof of positive identification, at the election of the business entity—

''(A) the presentation of a government-issued identification card;

''(B) if providing proof by mail, a copy of a government-issued identification card;

''(C) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

''(D) personally identifying information that the business entity typically requests from new applicants or for new transactions at the time of the victim's request for information; and

''(2) as proof of a claim of identity theft, at the election of the business entity—

''(A) a copy of a police report evidencing the claim of the victim of identity theft;

''(B) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

''(C) any affidavit of fact that is acceptable to the business entity for that purpose.

''(d) VERIFICATION STANDARD.—Prior to releasing records pursuant to subsection (b), a business entity shall take reasonable steps to verify the identity of the victim requesting such records.

''(e) LIMITATION ON LIABILITY.—No business entity may be held liable for a disclosure, made in good faith and reasonable judgment, to provide information under this section with respect to an individual in connection with an identity theft to other business entities, law enforcement authorities, victims, or any person alleging to be a victim, if—

''(1) the business entity complies with subsection (c); and

''(2) such disclosure was made—

''(A) for the purpose of detection, investigation, or prosecution of identity theft; or

''(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

''(f) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under subsection (b) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

''(1) this section does not require disclosure of the information;

''(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information; or

''(3) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

''(g) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this section creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

''(h) ENFORCEMENT.—

''(1) CIVIL ACTIONS.—

''(A) IN GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this section by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

''(i) enjoin that practice;

''(ii) enforce compliance of this section;

''(iii) obtain damages—

''(I) in the sum of actual damages, restitution, and other compensation on behalf of the residents of the State; and

''(II) punitive damages, if the violation is willful or intentional; and

''(iv) obtain such other equitable relief as the court may consider to be appropriate.

''(B) NOTICE.—Before bringing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General of the United States—

''(i) written notice of the action; and

''(ii) a copy of the complaint for the action.

''(C) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this section, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

''(i) the business entity has made a reasonably diligent search of its available business records; and

''(ii) the records requested under this section do not exist or are not available.

''(D) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to provide a private right of action or claim for relief.

''(2) INTERVENTION.—

''(A) IN GENERAL.—On receiving notice of an action under paragraph (1)(B), the Attorney General of the United States shall have the right to intervene in that action.

''(B) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under this subsection, the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

''(C) SERVICE OF PROCESS.—Upon request of the Attorney General of the United States, the attorney general of a State that has filed an action under this subsection shall, pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Government with—

''(i) a copy of the complaint; and

''(ii) written disclosure of substantially all material evidence and information in the possession of the attorney general of the State.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under this subsection, nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State—

''(A) to conduct investigations;

''(B) to administer oaths or affirmations; or

''(C) to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for a violation of this section, no State may, during the pendency of that action, institute an action under this subsection against any defendant named in the complaint in that action for violation of that practice.

''(5) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States—

''(i) where the defendant resides;

''(ii) where the defendant is doing business; or

''(iii) that meets applicable requirements relating to venue under section 1391 of title 28.

''(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

''(i) resides;

''(ii) is doing business; or

''(iii) may be found.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

''1028A. Treatment of identity theft mitigation.''.

SEC. 603. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) CONSUMER REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681*i*) is amended by adding at the end the following:

''(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

''(1) BLOCK.—Except as provided in paragraphs (4) and (5) and not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported.

''(2) REINVESTIGATION.—A consumer reporting agency shall reinvestigate any information that a consumer has requested to be blocked under paragraph (1) in accordance with the requirements of subsections (a) through (d).

''(3) NOTIFICATION.—A consumer reporting agency shall, within the time period specified in subsection (a)(2)(A)—

''(A) provide the furnisher of the information identified by the consumer under paragraph (1) with the information described in subsection (a)(2); and

''(B) notify the furnisher—

''(i) that the information may be a result of identity theft;

''(ii) that a police report has been filed;

''(iii) that a block has been requested under this subsection; and

''(iv) of the effective date of the block.

''(4) AUTHORITY TO DECLINE OR RESCIND.—

''(A) IN GENERAL.—A consumer reporting agency may at any time decline to block, or may rescind any block, of consumer information under this subsection if—

''(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency finds that—

''(I) the block was issued, or the request for a block was made, based on a misrepresentation of fact by the consumer relevant to the request to block; or

''(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions;

''(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error; or

''(iii) the consumer reporting agency determines—

''(I) that the consumer's dispute is frivolous or irrelevant in accordance with subsection (a)(3); or

''(II) after completion of its reinvestigation under subsection (a)(1), that the information disputed by the consumer is accurate, complete, and verifiable in accordance with subsection (a)(5).

''(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified, in the same manner and within the same time period as consumers are notified of the reinsertion of information under subsection (a)(5)(B).

''(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.

''(5) EXCEPTIONS.—

''(A) NEGATIVE INFORMATION DATA.—A consumer reporting agency shall not be required to comply with this subsection when such agency is issuing information for authorizations, for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

''(i) dishonored checks;

''(ii) accounts closed for cause;

''(iii) substantial overdrafts;

''(iv) abuse of automated teller machines; or

''(v) other information which indicates a risk of fraud occurring.

''(B) RESELLERS.—The provisions of this subsection do not apply to a consumer reporting agency if the consumer reporting agency—

''(i) does not maintain a file on the consumer from which consumer reports are produced;

''(ii) is not, at the time of the request of the consumer under paragraph (1), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

''(iii) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.''.

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

''(j) Any person who knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681*i*(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.''.

(c) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

''SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

''(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

''(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 4 years from the date of the defendant's violation if—

''(1) the plaintiff is the victim of an identity theft; or

''(2) the plaintiff—

''(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

''(B) has not materially and willfully misrepresented such a claim.''.

SEC. 604. COORDINATING COMMITTEE STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking ''and the Commissioner of Immigration and Naturalization'' and inserting ''the Commissioner

of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,''; and

(2) in subsection (c), by striking ''2 years after the effective date of this Act.'' and inserting ''on December 28, 2004.''.

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) CONSULTATION.—In discharging its duties, the coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 603 of the Identity Theft Victims Assistance Act of 2002), including telecommunications and utility companies, and organizations representing consumers.''.

(c) REPORT DISTRIBUTION AND CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by subsection (b)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the coordinating committee, shall report on the activities of the coordinating committee to—

''(A) the Committee on the Judiciary of the Senate;

''(B) the Committee on the Judiciary of the House of Representatives;

''(C) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(D) the Committee on Financial Services of the House of Representatives.'';

(2) in subparagraph (E), by striking ''and'' at the end; and

(3) by striking subparagraph (F) and inserting the following:

''(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

''(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft;

''(H) a comprehensive description of how the Federal Government can best provide State and local law enforcement agencies with timely and current information regarding terrorists or terrorist activity where such information specifically relates to identity theft; and

''(I) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

''(i) facilitate more effective investigation and prosecution of cases involving—

''(I) identity theft; and

''(II) the creation and distribution of false identification documents;

''(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and

''(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person.''.

TITLE VII—EFFECTIVE DATE

SEC. 701. EFFECTIVE DATE.

SA 4558. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, lines 14–15

Strike ''not later than 4 years'' and insert ''not later than 5 years''.

SA 4559. Mr. CRAIG (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place, insert the following:

SEC. . LEWIS AND CLARK BICENTENNIAL CORPS OF DISCOVERY II TRAVELING EDUCATION CENTER.

The National Park Service, using funds made available by this act, shall provide $2 million toward equipping and operating the Lewis and Clark Bicentennial Corps of Discovery II Traveling Education Center.

SA 4560. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MODIFICATIONS TO AVIATION AND TRANSPORTATION SECURITY ACT.

(a) SECURITY SCREENING OPT-OUT PROGRAM.—Section 44919(d) of title 49, United States Code, is amended—

(1) by striking ''not more than 1 airport from each of the 5 airport security risk categories'' and inserting ''up to 40 airports equally distributed among the 5 airport security risk categories''; and

(2) by adding at the end the following: ''The Under Secretary shall encourage large and medium hub airports to participate in the program''.

(b) EXTENSION OF DEADLINE.—Section 110(c)(2) of the Aviation and Transportation Security Act is amended by striking ''1 year after the date of enactment of this Act'' and inserting ''December 31, 2002''.

SA 4561. Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, between lines 2 and 3, insert the following:

TITLE ____—VOLUNTARY SEPARATION INCENTIVE PAYMENTS FOR EMPLOYEES OF THE SMITHSONIAN INSTITUTION

SECTION ____01. SHORT TITLE.

This title may be cited as the ''Smithsonian Personnel Flexibility Act of 2002''.

SEC. ____02. DEFINITIONS.

In this title:

(1) EMPLOYEE.—

(A) IN GENERAL.—The term ''employee'' means a civil service employee of the Institution who—

(i) is serving under an appointment without time limitation; and

(ii) has been employed by the Institution as a civil service employee for a continuous period of at least 3 years.

(B) EXCLUSIONS.—The term ''employee'' does not include—

(i) a reemployed annuitant under—

(I) subchapter III of chapter 83 or chapter 84 of title 5, United States Code; or

(II) another retirement system for employees of the Federal Government;

(ii) an employee with a disability for which the employee is or would be eligible for disability retirement under—

(I) subchapter III of chapter 83 or chapter 84 of title 5, United States Code; or

(II) another retirement system for employees of the Federal Government;

(iii) an employee who has received a decision notice of involuntary separation for misconduct or unacceptable performance;

(iv) an employee who has previously received an incentive payment from the Federal Government under this title or any other authority;

(v) an employee who—

(I) is covered by statutory reemployment rights; and

(II) is on transfer employment with another organization; or

(vi) an employee who—

(I) during the 24-month period preceding the date of separation of the employee, received and did not repay a recruitment or relocation bonus under section 5753 of title 5, United States Code;

(II) during the 12-month period preceding the date of separation of the employee, received and did not repay a retention allowance under section 5754 of title 5, United States Code; or

(III) during the 36-month period preceding the date of separation of the employee, did not repay funds provided for student loan repayment under section 5379 of title 5, United States Code, unless the paying agency has waived the right to recover those funds.

(2) EXECUTIVE BRANCH EMPLOYEE.—The term ''executive branch employee'' means an employee of an Executive agency (as defined in section 105 of title 5, United States Code), other than the United States Postal Service or the Postal Rate Commission, who is employed under section ____05.

(3) INCENTIVE PAYMENT.—The term ''incentive payment'' means a voluntary separation incentive payment authorized under section ____04(a).

(4) INSTITUTION.—The term ''Institution'' means the Smithsonian Institution.

(5) JUDICIAL BRANCH EMPLOYEE.—The term ''judicial branch employee'' means an employee of the judicial branch of the Federal Government employed under section ____05.

(6) PLAN.—The term ''plan'' means the voluntary separation incentive plan for the Institution completed under section ____03(a).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Smithsonian Institution.

SEC. ____03. VOLUNTARY SEPARATION INCENTIVE PAYMENT PLAN.

(a) IN GENERAL.—Before obligating any funds of the Institution for incentive payments, the Secretary shall complete a voluntary separation incentive payment plan for the Institution that—

(1) describes the intended use of the incentive payments; and

(2) provides a proposed organizational chart for the Institution describing the organization of the Institution after the incentive payments have been completed.

(b) CONTENTS.—The plan shall include—

(1) the specific positions and functions to be reduced or eliminated;

(2) a description of which categories of employees will be offered incentive payments;

(3) the time period during which incentive payments shall be paid;

(4) the number and amounts of incentive payments to be offered; and

(5) a description of how the Institution will operate without the eliminated positions and functions.

(c) IMPLEMENTATION.—Before implementing the plan, the Secretary shall consult with the Director of the Office of Management and Budget.

SEC. ___04. AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) IN GENERAL.—The Secretary may make an incentive payment to any employee who voluntarily separates within the 3-year period beginning on the date of enactment of this Act in accordance with this title and the plan.

(b) REQUIREMENTS.—An incentive payment—

(1) shall be offered to employees on the basis of—

(A) organizational unit;

(B) occupational series or level;

(C) geographic location;

(D) specific periods during which employees may elect an incentive payment;

(E) skills, knowledge, or other job-related factors; or

(F) a combination of the factors described in subparagraphs (A) through (E);

(2) shall be paid in a lump sum after the separation of the employee;

(3) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code (without adjustment for any previous payment made); or

(B) an amount determined by the Secretary, not to exceed $25,000;

(4) may be made only in the case of an employee who voluntarily separates, by retirement or resignation, under this title;

(5) shall not be a basis for payment, or included in the computation, of any other type of benefit of the Federal Government;

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, from any other separation; and

(7) shall be paid from funds available for the payment of the basic pay of the employee.

SEC. ___05. EFFECT OF SUBSEQUENT EMPLOYMENT BY THE FEDERAL GOVERNMENT.

(a) IN GENERAL.—Except as provided in subsection (b), if, within the 5-year period beginning on the date of separation of the employee under this title, an employee who has received a voluntary separation incentive payment under this title accepts employment for compensation with the Federal Government (other than the legislative branch) (including, with respect to any employee other than an executive branch employee or a judicial branch employee, employment under a personal services contract), the employee shall, before the first day of employment with the Federal Government, pay to the Institution the entire amount of the incentive payment.

(b) EXCEPTIONS.—

(1) EXECUTIVE BRANCH EMPLOYEE.—If an employee described in subsection (a) is an executive branch employee, the Director of the Office of Personnel Management may, at the request of the head of the employing agency, waive repayment under subsection (a) if—

(A) the executive branch employee possesses unique abilities; or

(B) in the case of an emergency involving a direct threat to life or property, the executive branch employee—

(i) has skills directly related to resolving the emergency; and

(ii) shall be employed only until such time as the emergency is resolved.

(2) JUDICIAL BRANCH EMPLOYEE.—If an employee described in subsection (a) is a judicial branch employee, the Director of the Administrative Office of the United States Courts may waive repayment under subsection (a) if the employee—

(A) possesses unique abilities; and

(B) is the only qualified applicant available for the position.

SA 4562. Mr. BINGAMAN (for himself and Mr. DASCHLE) submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

"SEC. ___.

''(a) FINDINGS.—Congress finds that:

''(1) In 2002 approximately six and one half million acres of forest lands in the United States have burned, 21 people have lost their lives, and 3,079 structures have been destroyed. The Forest Service and the Bureau of Land Management have spent more than $1 billion fighting these fires.

''(2) 73 million acres of public lands are classified as class 3 fire risks. This includes 23 million acres that are in strategic areas designated by the Forest Service and the Department of the Interior for emergency treatment to withstand catastrophic fire.

''(3) The forest management policy of fire suppression has resulted in an accumulation of fuel loads, dead and dying trees, and nonnative species that creates fuel ladders which allow fires to reach the crowns of large old trees and cause catastrophic fire.

''(4) The Forest Service and the Department of the Interior should immediately undertake an emergency forest grooming program to reduce the risk of catastrophic fire.

''(b) IN GENERAL.—The Secretary of Agriculture and the Secretary of the Interior shall conduct immediately and to completion projects consistent with the Implementation Plan for the 10-year Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the Conference Report to the Department of the Interior and Related Agencies Appropriations Act, FY 2001 (H. Rept. 106–646) to reduce hazardous fuels. Any project carried out pursuant to this section shall be consistent with the applicable forest plan, resource management plan, or other applicable agency plans.

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

''(1) wild and urban interface areas;

''(2) municipal watersheds; or

''(3) forested or rangeland areas affected by disease, insect activity, wind throw, or areas subject to catastrophic reburn.

''(d) ACREAGE LIMITATION.—In implementing this section, the Secretary of Agriculture and the Secretary of the Interior shall treat an aggregate area of not more than 2.5 million acres of federal land. This amount is in addition to the existing hazardous fuels reduction program that treats approximately 2.5 million acres each year.

''(e) PROCESS.—The Secretary of Agriculture and the Secretary of the Interior shall jointly develop a collaborative process with interested parties consistent with the Implementation Plan described in subjection (a) for the selection of projects carried out under this section consistent with subsection (b). Such collaborative process may be the process set forth in title II of the Secure Rural Schools and Community Self-Determination Act, Public Law 106–393.

''(f) ADMINISTRATIVE PROCESS.—

''(1) REVIEW.—Projects implemented pursuant to subsection (g) shall not be subject to the appeal requirements of the Appeals Reform Act (section 322 of Public Law 102–381) or review by the Department of the Interior Board of Land Appeals. Nothing in this section affects projects for which scoping has begun prior to enactment of this Act.

''(2) REGULATIONS.—The Secretary of Agriculture and the Secretary of the Interior, as appropriate, may promulgate such regulations as are necessary to implement this section.

''(g) CONCLUSIVE PRESUMPTION.—Within one-half mile of any community, unless there are extraordinary circumstances, hazardous fuels reduction actions authorized by subsection (g) are conclusively determined to be categorically excluded from further analysis under the National Environmental Policy Act, and the Secretary of Agriculture or the Secretary of the Interior, as appropriate, need not make any findings as to whether the projects individually or cumulatively have a significant effect on the human environment. This conclusive determination shall apply in any judicial proceeding brought to enforce the National Environmental Policy Act pursuant to this section.

''(h) CATEGORICAL EXCLUSIONS.—(1) Subject to paragraph (2), until September 30, 2003, the Secretary of Agriculture and the Secretary of the Interior may categorically exclude a proposed hazardous fuels reduction action, including prescribed fire, from documentation in an environmental impact statement or environmental assessment if the proposed hazardous fuels reduction action is located on lands identified as condition class 3 as determined by the Secretary of Agriculture and the Secretary of the Interior and pursuant to scientific mapping surveys and removes no more than 250,000 board feet of merchantable wood products or removes as salvage 1,000,000 board feet or less of merchantable wood products and assures regeneration of harvested or salvaged areas.

''(2) Scoping is required on all actions proposed pursuant to this subsection.

''(i) EXTRAORDINARY CIRCUMSTANCES.—For all projects implemented pursuant to this section, if there are extraordinary circumstances, the Secretary of Agriculture and the Secretary of the Interior shall follow agency procedures related to categorical exclusions and extraordinary circumstances.

''(j) REDUCE FIRE RISK.—In order to ensure that the agencies are implementing projects that reduce the risk of unnaturally intense wildfires, the Secretary of Agriculture and the Secretary of the Interior—

''(1) shall not construct new roads in any inventoried roadless areas part of any project implemented pursuant to this section;

''(2) shall, at their discretion, maintain an ecologically sufficient number of old and large trees appropriate for each ecosystem type and shall focus on thinning from below for all projects implemented pursuant to this section;

''(3) for projects involving key municipal watersheds, must protect or enhance water quality or water quantity available in the area; and

''(4) must deposit in the Treasury of the United States all revenues and receipts generated from projects implemented pursuant to this section.

''(k) HAZARDOUS FUELS REDUCTION FUNDING FOCUS.—In order to focus hazardous fuels reduction activities on the highest priority areas where critical issues of human safety and property loss are the most serious and within key municipal watersheds identified in forest plans, the Secretary of Agriculture and the Secretary of the Interior shall expend all of the hazardous fuels operations funds provided in this Act only on projects in areas identified as condition class 3 as defined in subsection (g) and at least seventy percent of the hazardous fuels operations funds provided in this Act only on projects within one-half mile of any community or within key municipal watersheds identified in forest plans. Nothing in this subsection will affect projects for which scoping has begun prior to enactment of this Act.

''(l) COMMUNITIES.—At least ten percent of the hazardous fuels operations funds provided in this Act shall be spent on projects that benefit small businesses that uses hazardous fuels and are located in small, economically disadvantaged communities.

''(m) MONITORING.—(1) The Secretary of Agriculture and the Secretary of the Interior shall establish a multiparty monitoring process in order to assess a representative sampling of the projects implemented pursuant to this section.

''(2) Funds to implement this subsection shall be derived from hazardous fuels reduction funds.''

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, September 18, 2002, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on H.R. 2880, a bill to amend laws relating to the lands of the enrollees and lineal descendants of enrollees whose names appear on the final Indian rolls of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, and for other purposes.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate at 10:00 a.m., on Tuesday, September 17, 2002. The purpose of this hearing will be to discuss implementation of the 2002 farm bill.

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

COMMITTEE ON ARMED SERVICES

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, September 17, 2002, at 9:30 a.m., in closed session to receive testimony on Iraq.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DASCHLE. 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, September 17, 2002, at 10:30 a.m., to conduct an oversight hearing on ''The Tennessee Valley Authority and Financial Disclosure.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Tuesday, September 17, 2002, at 9:30 a.m. in SD–106. The purpose of the hearing is to receive testimony on the Federal Energy Regulatory Commission's Notice of Proposed Rulemaking, ''Remedying Under Discrimination through Open Access Transmission Service and Standard Electricity Market Design,'' issued July 31.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on Losing Momentum: Are Childhood Vaccine Supplies Adequate? during the session of the Senate on Tuesday, September 17, 2002, at 2:30 p..m. in SD–430.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, September 17, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 1392, a bill to establish procedures for the Bureau of Indian Affairs of the Department of the Interior with respect to tribal recognition, and on S. 1393, a bill to provide grants to ensure full and fair participation in certain decision-making process at the Bureau of Indian Affairs.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 17, 2002 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON AVIATION

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Tuesday, September 17, 2002, at 10:30 a.m. on Aviation Cargo Security. This will be a closed hearing.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Tuesday, September 17, 2002, at 2:30 p.m. on Nanotechnology.

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

NATIVE AMERICAN COMMERCIAL DRIVING TRAINING AND TECHNICAL ASSISTANCE ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 557, S. 1344.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1344) to provide training and technical assistance to Native Americans who are interested in commercial vehicle driving careers.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Native American Commercial Driving Training and Technical Assistance Act''.

[SEC. 2. FINDINGS AND PURPOSES.

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

[(1) Despite the availability of abundant natural resources on Indian lands and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer higher rates of unemployment, poverty, poor health, substandard housing, and associated social ills than those of any other group in the United States.

[(2) The United States has an obligation to assist Indian tribes with the creation of appropriate economic and political conditions.

[(3) The economic success and material well-being of Native American communities depends on the combined efforts of the Federal Government, tribal governments, the private sector, and individuals.

[(4) Two tribally controlled community colleges, D–Q University in the State of California and Fort Peck Community College in the State of Montana, currently offer commercial vehicle driving programs.

[(5) The American Trucking Association reports that at least until the year 2005, the trucking industry will need to hire 403,000 truck drivers each year to fill empty positions.

[(6) According to the Federal Government Occupational Handbook the commercial driving industry is expected to increase about as fast as the average for all occupations through the year 2008 as the economy grows and the amount of freight carried by trucks increases.

[(7) A career in commercial vehicle driving offers a competitive salary, employment benefits, job security, and a profession.

[(b) PURPOSE.—It is the purpose of this Act—

[(1) to foster and promote job creation and economic opportunities for Native Americans; and

[(2) to provide education, technical, and training assistance to Native Americans who are interested in a commercial vehicle driving career.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) COMMERCIAL VEHICLE DRIVING.—The term ''commercial vehicle driving'' means the driving of a vehicle which is a tractor-trailer truck.

[(2) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

[SEC. 4. COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.

[(a) GRANTS.—The Secretary may award 4 grants, on a competitive basis, to eligible entities to support programs providing training and certificates leading to the professional development of individuals with respect to commercial vehicle driving.

[(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

[(1) be a tribally-controlled community college or university (as defined in section 2 of the Tribally-Controlled Community College or University Assistance Act of 1978 (25 U.S.C. 1801)); and

[(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

[(c) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

[(1) grant applications that propose training that exceeds the United States Department of Transportation's Proposed Minimum Standards for Training Tractor-Trailer Drivers; and

[(2) grant applications that propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native American Commercial Driving Training and Technical Assistance Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) despite the availability of abundant natural resources on land under the jurisdiction of Indian tribes and the existence of a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, Native Americans suffer higher rates of unemployment, poverty, poor health, substandard housing, and associated social problems than any other group in the United States;

(2) the United States has an obligation to assist Native American communities in the establishment of appropriate economic and political conditions;

(3) the economic success and material well-being of Indian communities depend on the combined efforts of the Federal Government, tribal governments, the private sector, and individuals;

(4) commercial vehicle driving programs are currently offered at several tribal colleges and universities;

(5) the American Trucking Association reports that at least until 2005, the trucking industry will need to hire 403,000 truck drivers each year to fill vacant positions;

(6) according to the Federal Government Occupational Handbook, the commercial vehicle driving industry is expected to expand at the average rate of expansion for all occupations through the year 2008 because of economic growth and an increase in the quantity of freight carried by trucks; and

(7) a career in commercial vehicle driving offers a competitive salary, employment benefits, job security, and a profession.

(b) PURPOSES.—The purposes of this Act are—

(1) to foster and promote job creation and economic opportunities for Native Americans; and

(2) to provide education, technical, and training assistance to Native Americans who are interested in commercial vehicle driving careers.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMERCIAL VEHICLE DRIVING.—The term ''commercial vehicle driving'' means the driving of—

(A) a vehicle that is a tractor-trailer truck; or

(B) any other vehicle (such as a bus or a vehicle used for the purpose of construction) the driving of which requires a commercial license.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) NATIVE AMERICAN.—The term ''Native American'' means an individual who is a member of—

(A) an Indian tribe; or

(B) any people or culture that is indigenous to the United States, as determined by the Secretary.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

SEC. 4. COMMERCIAL VEHICLE DRIVING TRAINING PROGRAM.

(a) GRANTS.—The Secretary may provide grants, on a competitive basis, to entities described in subsection (b) to support programs providing training and certificates leading to the licensing of Native Americans with respect to commercial vehicle driving.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a tribal college or university (as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059(b)(3)); and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) PRIORITY.—In providing grants under subsection (a), the Secretary shall give priority to grant applications that—

(1) propose training that exceeds proposed minimum standards for training tractor-trailer drivers of the Department of Transportation;

(2) propose training that exceeds the entry level truck driver certification standards set by the Professional Truck Driver Institute; and

(3) propose an education partnership with a private trucking firm, trucking association, or similar entity in order to ensure the effectiveness of the grant program under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. REID. Mr. President, I ask unanimous consent that the Senate agree to the committee substitute amendment; that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1344), as amended, was read the third time and passed.

INDIAN FINANCING AMENDMENTS ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 558, S. 2017.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2017) to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Indian Financing Act Amendments of 2002''.

[SEC. 2. FINDINGS AND PURPOSE.

[(a) FINDINGS.—Congress finds that—

[(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial capital sources that, but for that Act, would not be available through loans guaranteed by the Secretary of the Interior;

[(2) although the Secretary of the Interior has made loan guarantees available, acceptance of loan guarantees by lenders to benefit Native American business borrowers has been limited;

[(3) 27 years after enactment of the Act, the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

[(4) acceptance by lenders of the loan guarantees may be limited by liquidity and other capital market-driven concerns; and

[(5) it is in the best interest of the guaranteed loan program to—

[(A) encourage the orderly development and expansion of a secondary market for loans guaranteed by the Secretary; and

[(B) expand the number of lenders originating loans under that Act.

[(b) PURPOSES.—The purposes of this Act are—

[(1) to stimulate the use by lenders of secondary market investors for loans guaranteed by the Secretary of the Interior;

[(2) to preserve the authority of the Secretary to administer the program and regulate lenders;

[(3) to clarify that a good faith investor in loans guaranteed by the Secretary will receive appropriate payments;

[(4) to provide for the appointment by the Secretary of a qualified fiscal transfer agent to administer a system for the orderly transfer of the loans;

[(5) to authorize the Secretary to—

[(A) promulgate regulations to encourage and expand a secondary market program for loans guaranteed by the Secretary; and

[(B) allow the pooling of the loans as the secondary market develops; and

[(6) to authorize the Secretary to establish a schedule for assessing lenders and investors for the necessary costs of the fiscal transfer agent and system.

[SEC. 3. LOAN GUARANTEES.

[Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

[(1) by inserting ''(a) IN GENERAL.—'' before ''Any loan''; and

[(2) by adding at the end the following:

[''(b) TRANSFER OF LOANS AND UNGUARANTEED PORTIONS OF LOANS.—

[''(1) TRANSFER.—

[''(A) IN GENERAL.—The lender of a loan guaranteed under this title may transfer to any person—

[''(i) all of the rights and obligations of the lender under the loan, or in an unguaranteed portion of the loan; and

[''(ii) the security given for the loan or unguaranteed portion.

[''(B) REGULATIONS.—A transfer under subparagraph (A) shall be consistent with such regulations as the Secretary shall promulgate under subsection (g).

[''(C) NOTICE.—A lender that completes a transfer under subparagraph (A) shall give notice of the transfer to the Secretary (or a designee of the Secretary).

[''(2) EFFECT OF TRANSFER.—On any transfer under this subsection, the transferee shall—

[''(A) be considered to be the lender under this title;

[''(B) become the secured party of record; and

[''(C) be responsible for—

[''(i) performing the duties of the lender; and

[''(ii) servicing the loan or portion of the loan, as appropriate, in accordance with the terms of guarantee of the Secretary of the loan or portion of the loan.

[''(c) TRANSFER OF GUARANTEED PORTIONS OF LOANS.—

[''(1) TRANSFER.—

[''(A) IN GENERAL.—The lender of a loan guaranteed under this title, and any subsequent transferee of all or part of the guaranteed portion of the loan, may transfer to any person—

[''(i) all or part of the guaranteed portion of the loan; and

[''(ii) the security given for the guaranteed portion transferred.

[''(B) REGULATIONS.—A transfer under subparagraph (A) shall be consistent with such regulations as the Secretary shall promulgate under subsection (g).

[''(C) NOTICE.—A lender that completes a transfer under subparagraph (A) shall give notice of the transfer to the Secretary (or a designee of the Secretary).

[''(D) ACKNOWLEDGEMENT.—On receipt of notice of a transfer under subparagraph (C), the Secretary (or a designee of the Secretary) shall issue to the transferee the acknowledgement of the Secretary of—

[''(i) the transfer; and

[''(ii) the interest of the transferee in the guaranteed portion of a loan that was transferred.

[''(2) EFFECT.—Notwithstanding any other provision of law, with respect to any transfer under this subsection, the lender shall—

[''(A) remain obligated under the guarantee agreement between the lender and the Secretary;

[''(B) continue to be responsible for servicing the loan in a manner consistent with the guarantee agreement; and

[''(C) remain the secured creditor of record.

[''(d) FULL FAITH AND CREDIT.—

[''(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees made under this title.

[''(2) VALIDITY.—

[''(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee of a loan under this title shall be incontestable if the guarantee is held by a transferee of a guaranteed obligation whose interest in a guaranteed loan has been acknowledged by the Secretary (or a designee of the Secretary) under subsection (c)(1)(D).

[''(B) FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which the Secretary determines that a transferee of a loan or portion of a loan transferred under this section has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with the loan.

[''(e) DAMAGES.—The Secretary may recover from a lender any damages suffered by the Secretary as a result of a material breach of an obligation of the lender under the guarantee of the loan.

[''(f) FEE.—The Secretary may collect a fee for any loan or guaranteed portion of a loan transferred in accordance with subsection (b) or (c).

[''(g) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall promulgate such regulations as are necessary to facilitate, administer, and promote the transfer of loans and guaranteed portions of loans under this section.

[''(h) CENTRAL REGISTRATION.—On promulgation of final regulations under subsection (g), the Secretary shall—

[''(1) provide for the central registration of all loans and portions of loans transferred under this section; and

[''(2) contract with a fiscal transfer agent—

[''(A) to act as a designee of the Secretary; and

[''(B) on behalf of the Secretary—

[''(i) to carry out the central registration and paying agent functions; and

[''(ii) to issue acknowledgements of the Secretary under subsection (c)(1)(D).

[''(i) POOLING.—

[''(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans, or portions of loans, transferred under this section.

[''(2) REGULATIONS.—The Secretary may promulgate regulations to effect orderly and efficient pooling procedures under this title.''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Financing Amendments Act of 2002''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) 27 years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

(A) to encourage the orderly development and expansion of a secondary market for loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) PURPOSE.—The purpose of this Act is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

SEC. 3. AMENDMENTS TO INDIAN FINANCING ACT.

(a) LIMITATION ON LOAN AMOUNTS WITHOUT PRIOR APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended in the last sentence by striking ''$100,000'' and inserting ''$250,000''.

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking ''Any loan guaranteed'' and inserting the following:

''(a) IN GENERAL.—Any loan guaranteed or insured''; and

(2) by adding at the end the following:

''(b) INITIAL TRANSFERS.—

''(1) IN GENERAL.—The lender of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the lender in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the lender shall give notice of the transfer to the Secretary.

''(3) RESPONSIBILITIES OF TRANSFEREE.—On any transfer under paragraph (1), the transferee shall—

''(A) be deemed to be the lender for the purpose of this title;

''(B) become the secured party of record; and

''(C) be responsible for—

''(i) performing the duties of the lender; and

''(ii) servicing the loan in accordance with the terms of the guarantee by the Secretary of the loan.

''(c) SECONDARY TRANSFERS.—

''(1) IN GENERAL.—Any transferee under subsection (b) of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

''(A) all rights and obligations of the transferee in the loan or in the unguaranteed or uninsured portion of the loan; and

''(B) any security given for the loan.

''(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

''(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

''(B) the transferor shall give notice of the transfer to the Secretary.

''(3) ACKNOWLEDGMENT BY SECRETARY.—On receipt of a notice of a transfer under paragraph (2)(B), the Secretary shall issue to the transferee an acknowledgement by the Secretary of—

''(A) the transfer; and

''(B) the interest of the transferee in the guaranteed or insured portion of the loan.

''(4) RESPONSIBILITIES OF LENDER.—Notwithstanding any transfer permitted by this subsection, the lender shall—

''(A) remain obligated on the guarantee agreement or insurance agreement between the lender and the Secretary;

''(B) continue to be responsible for servicing the loan in a manner consistent with that guarantee agreement or insurance agreement; and

''(C) remain the secured creditor of record.

''(d) FULL FAITH AND CREDIT.—

''(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this title after the date of enactment of this subsection.

''(2) VALIDITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee or insurance of a loan under this title shall be incontestable if the obligations of the guarantee or insurance held by a transferee have been acknowledged under subsection (c)(3).

''(B) EXCEPTION FOR FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which a transferee has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with a loan.

''(e) DAMAGES.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may recover from a lender of a loan under this title any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

''(f) FEES.—The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

''(g) CENTRAL REGISTRATION OF LOANS.—On promulgation of final regulations under subsection (i), the Secretary shall—

''(1) provide for a central registration of all guaranteed or insured loans transferred under this section; and

''(2) enter into 1 or more contracts with a fiscal transfer agent—

''(A) to act as the designee of the Secretary under this section; and

''(B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions, and issuance of acknowledgements, under this section.

''(h) POOLING OF LOANS.—

''(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans or interests in loans transferred under this section.

''(2) REGULATIONS.—In promulgating regulations under subsection (i), the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

''(i) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.''.

Mr. REID. Mr. President, I ask unanimous consent that the Senate agree to the committee substitute amendment; that the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2017), as amended, was read the third time and passed.

NATIVE AMERICAN ALCOHOL AND SUBSTANCE ABUSE PROGRAM CONSOLIDATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 560, S. 210.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 210) to authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Native American Alcohol and Substance Abuse Program Consolidation Act of 2001''.

[SEC. 2. STATEMENT OF PURPOSE.

[The purposes of this Act are—

[(1) to enable Indian tribes to consolidate and integrate alcohol and other substance abuse prevention, diagnosis and treatment programs, and mental health and related programs, to provide unified and more effective and efficient services to Native Americans afflicted with alcohol and other substance abuse problems; and

[(2) to recognize that Indian tribes can best determine the goals and methods for establishing and implementing prevention, diagnosis and treatment programs for their communities, consistent with the policy of self-determination.

[SEC. 3. DEFINITIONS.

[(a) IN GENERAL.—In this Act:

[(1) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''agency'' in section 551(1) of title 5, United States Code.

[(2) INDIAN.—The term ''Indian'' has the meaning given that term in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

[(3) INDIAN TRIBE.—The terms ''Indian tribe'' and ''tribe'' have the meaning given the term ''Indian tribe'' in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) and shall include entities as provided for in subsection (b)(2).

[(4) SECRETARY.—Except where otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services.

[(5) SUBSTANCE ABUSE.—The term ''substance abuse'' includes the illegal use or abuse of a drug, the abuse of an inhalant, or the abuse of tobacco or related products.

[(b) INDIAN TRIBE.—

[(1) IN GENERAL.—In any case in which an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this Act, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this Act).

[(2) INCLUSION OF OTHER ENTITIES.—In a case described in paragraph (1), the term ''Indian tribe'', as defined in subsection (a)(2), shall include the additional authorized Indian tribe, inter-tribal consortium, or tribal organization.

[SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

[The Secretary, in cooperation with the Secretary of Labor, the Secretary of the Interior, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, and the Secretary of Transportation, as appropriate, shall, upon the receipt of a plan acceptable to the Secretary that is submitted by an Indian tribe, authorize the tribe to coordinate, in accordance with such plan, its federally funded alcohol and substance abuse and mental health programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

[SEC. 5. PROGRAMS AFFECTED.

[The programs that may be integrated in a demonstration project under any plan referred to in section 4 shall include—

[(1) any program under which an Indian tribe is eligible for the receipt of funds under a statutory or administrative formula for the purposes of prevention, diagnosis, or treatment of alcohol and other substance abuse problems and disorders, or mental health problems and disorders, or any program designed to enhance the ability to treat, diagnose, or prevent alcohol and other substance abuse and related problems and disorders, or mental health problems or disorders;

[(2) any program under which an Indian tribe is eligible for receipt of funds though a competitive or other grant program for the purposes of prevention, diagnosis, or treatment of alcohol and other substance abuse problems and disorders, or mental health problems and disorders, or treatment, diagnosis, or prevention of related problems and disorders, or any program designed to enhance the ability to treat, diagnose, or prevent alcohol and other substance abuse and related problems and disorders, or mental health problems or disorders, if—

[(A) the Indian tribe has provided notice to the appropriate agency regarding the intentions of the tribe to include the grant program in the plan it submits to the Secretary, and the affected agency has consented to the inclusion of the grant in the plan; or

[(B) the Indian tribe has elected to include the grant program in its plan, and the administrative requirements contained in the plan are essentially the same as the administrative requirements under the grant program; and

[(3) any program under which an Indian tribe is eligible for receipt of funds under any other funding scheme for the purposes of prevention, diagnosis, or treatment of alcohol and other substance abuse problems and disorders, or mental health problems and disorders, or treatment, diagnosis, or prevention of related problems and disorders, or any program designed to enhance the ability to treat, diagnose, or prevent alcohol and other substance abuse and related problems and disorders, or mental health problems or disorders.

[SEC. 6. PLAN REQUIREMENTS.

[For a plan to be acceptable under section 4, the plan shall—

[(1) identify the programs to be integrated;

[(2) be consistent with the purposes of this Act authorizing the services to be integrated into the project;

[(3) describe a comprehensive strategy that identifies the full range of existing and potential alcohol and substance abuse and

mental health treatment and prevention programs available on and near the tribe's service area;

[(4) describe the manner in which services are to be integrated and delivered and the results expected under the plan;

[(5) identify the projected expenditures under the plan in a single budget;

[(6) identify the agency or agencies in the tribe to be involved in the delivery of the services integrated under the plan;

[(7) identify any statutory provisions, regulations, policies, or procedures that the tribe believes need to be waived in order to implement its plan; and

[(8) be approved by the governing body of the tribe.

[SEC. 7. PLAN REVIEW.

[(a) CONSULTATION.—Upon receipt of a plan from an Indian tribe under section 4, the Secretary shall consult with the head of each Federal agency providing funds to be used to implement the plan, and with the tribe submitting the plan.

[(b) IDENTIFICATION OF WAIVERS.—The parties consulting on the implementation of the plan under subsection (a) shall identify any waivers of statutory requirements or of Federal agency regulations, policies, or procedures necessary to enable the tribal government to implement its plan.

[(c) WAIVERS.—Notwithstanding any other provision of law, the head of the affected Federal agency shall have the authority to waive any statutory requirement, regulation, policy, or procedure promulgated by the Federal agency that has been identified by the tribe or the Federal agency under subsection (b) unless the head of the affected Federal agency determines that such a waiver is inconsistent with the purposes of this Act or with those provisions of the Act that authorizes the program involved which are specifically applicable to Indian programs.

[SEC. 8. PLAN APPROVAL.

[(a) IN GENERAL.—Not later than 90 days after the receipt by the Secretary of a tribe's plan under section 4, the Secretary shall inform the tribe, in writing, of the Secretary's approval or disapproval of the plan, including any request for a waiver that is made as part of the plan.

[(b) DISAPPROVAL.—If a plan is disapproved under subsection (a), the Secretary shall inform the tribal government, in writing, of the reasons for the disapproval and shall give the tribe an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval, including reconsidering the disapproval of any waiver requested by the Indian tribe.

[SEC. 9. FEDERAL RESPONSIBILITIES.

[(a) RESPONSIBILITIES OF THE INDIAN HEALTH SERVICE.—

[(1) MEMORANDUM OF UNDERSTANDING.—Not later than 180 days after the date of enactment of this Act, the Secretary, the Secretary of the Interior, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, and the Secretary of Transportation shall enter into an interdepartmental memorandum of agreement providing for the implementation of the plans authorized under this Act.

[(2) LEAD AGENCY.—The lead agency under this Act shall be the Indian Health Service.

[(3) RESPONSIBILITIES.—The responsibilities of the lead agency under this Act shall include—

[(A) the development of a single reporting format related to the plan for the individual project which shall be used by a tribe to report on the activities carried out under the plan;

[(B) the development of a single reporting format related to the projected expenditures for the individual plan which shall be used by a tribe to report on all plan expenditures;

[(C) the development of a single system of Federal oversight for the plan, which shall be implemented by the lead agency;

[(D) the provision of technical assistance to a tribe appropriate to the plan, delivered under an arrangement subject to the approval of the tribe participating in the project, except that a tribe shall have the authority to accept or reject the plan for providing the technical assistance and the technical assistance provider; and

[(E) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out projects under this Act, in consultation with each of the Indian tribes that participate in projects under this Act, of a meeting not less than 2 times during each fiscal year for the purpose of providing an opportunity for all Indian tribes that carry out projects under this Act to discuss issues relating to the implementation of this Act with officials of each agency specified in paragraph (1).

[(b) REPORT REQUIREMENTS.—The single reporting format shall be developed by the Secretary under subsection (a)(3), consistent with the requirements of this Act. Such reporting format, together with records maintained on the consolidated program at the tribal level shall contain such information as will—

[(1) allow a determination that the tribe has complied with the requirements incorporated in its approved plan; and

[(2) provide assurances to the Secretary that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.

[SEC. 10. NO REDUCTION IN AMOUNTS.

[In no case shall the amount of Federal funds available to a participating tribe involved in any project be reduced as a result of the enactment of this Act.

[SEC. 11. INTERAGENCY FUND TRANSFERS AUTHORIZED.

[The Secretary, the Secretary of the Interior, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the United States Attorney General, or the Secretary of Transportation, as appropriate, is authorized to take such action as may be necessary to provide for the interagency transfer of funds otherwise available to a tribe in order to further the purposes of this Act.

[SEC. 12. ADMINISTRATION OF FUNDS AND OVERAGE.

[(a) ADMINISTRATION OF FUNDS.—

[(1) IN GENERAL.—Program funds shall be administered under this Act in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount utilized from each program) are expended on activities authorized under such program.

[(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring a tribe to maintain separate records tracing any services or activities conducted under its approved plan under section 4 to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among individual programs.

[(b) OVERAGE.—All administrative costs under a plan under this Act may be commingled, and participating Indian tribes shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for Federal audit purposes so long as the overage is used for the purposes provided for under this Act.

[SEC. 13. FISCAL ACCOUNTABILITY.

[Nothing in this Act shall be construed to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

[SEC. 14. REPORT ON STATUTORY AND OTHER BARRIERS TO INTEGRATION.

[(a) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the implementation of the program authorized under this Act.

[(b) FINAL REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the results of the implementation of the program authorized under this Act. The report shall identify statutory barriers to the ability of tribes to integrate more effectively their alcohol and substance abuse services in a manner consistent with the purposes of this Act.

[SEC. 15. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ALCOHOL AND DRUG TREATMENT OR MENTAL HEALTH PROGRAMS.

[Any State with an alcohol and substance abuse or mental health program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of subchapter IV of chapter 33 of title 5, United States Code, may deem appropriate to help insure the success of such program.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native American Alcohol and Substance Abuse Program Consolidation Act of 2002''.

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are—

(1) to enable Indian tribes to consolidate and integrate alcohol and other substance abuse prevention, diagnosis, and treatment programs, and mental health and related programs, to provide unified and more effective and efficient services to Indians afflicted with alcohol and other substance abuse problems;

(2) to recognize that Indian tribes can best determine the goals and methods for establishing and implementing prevention, diagnosis, and treatment programs for their communities, consistent with the policy of self-determination;

(3) to encourage and facilitate the implementation of an automated clinical information system to complement the Indian health care delivery system;

(4) to authorize the use of Federal funds to purchase, lease, license, or provide training for, technology for an automated clinical information system that incorporates clinical, as well as financial and reporting, capabilities for Indian behavioral health care programs;

(5) to encourage quality assurance policies and procedures, and empower Indian tribes through training and use of technology, to significantly enhance the delivery of, and treatment results from, Indian behavioral health care programs;

(6) to assist Indian tribes in maximizing use of public, tribal, human, and financial resources in developing effective, understandable, and meaningful practices under Indian behavioral health care programs; and

(7) to encourage and facilitate timely and effective analysis and evaluation of Indian behavioral health care programs.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) AUTOMATED CLINICAL INFORMATION SYSTEM.—The term ''automated clinical information

system'' means an automated computer software system that can be used to manage clinical, financial, and reporting information for Indian behavioral health care programs.

(2) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''agency'' in section 551 of title 5, United States Code.

(3) INDIAN.—The term ''Indian'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) INDIAN BEHAVIORAL HEALTH CARE PROGRAM.—The term ''Indian behavioral health care program'' means a federally funded program, for the benefit of Indians, to prevent, diagnose, or treat, or enhance the ability to prevent, diagnose, or treat—

(A) mental health problems; or

(B) alcohol or other substance abuse problems.

(5) INDIAN TRIBE.—The terms ''Indian tribe'' and ''tribe'' have the meaning given the term ''Indian tribe'' in section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b) and include entities as provided for in subsection (b)(2).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(7) SUBSTANCE ABUSE.—The term ''substance abuse'' includes—

(A) the illegal use or abuse of a drug or an inhalant; and

(B) the abuse of tobacco or a related product.

(b) INDIAN TRIBE.—

(1) IN GENERAL.—In any case in which an Indian tribe has authorized another Indian tribe, an intertribal consortium, a tribal organization, or an Indian health center to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this Act, the authorized Indian tribe, intertribal consortium, tribal organization, or Indian health center shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this Act).

(2) INCLUSION OF OTHER ENTITIES.—In a case described in paragraph (1), the term ''Indian tribe'', as defined in subsection (a)(3), shall include the additional authorized Indian tribe, intertribal consortium, tribal organization, or Indian health center.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Labor, the Secretary of the Interior, the Secretary of Education, the Secretary of Housing and Urban Development, the Attorney General, and the Secretary of Transportation, as appropriate, shall, upon receipt of a plan acceptable to the Secretary that is submitted by an Indian tribe, authorize the tribe to carry out a demonstration project to coordinate, in accordance with the plan, the Indian behavioral health care programs of the tribe in a manner that integrates the program services involved into a single, coordinated, comprehensive program that uses, to the extent necessary, an automated clinical information system to better manage administrative and clinical services, costs, and reporting requirements through the consolidation and integration of administrative and clinical functions.

(b) USE OF FUNDS FOR TECHNOLOGY.—Notwithstanding any requirement applicable to an Indian behavioral health care program of an Indian tribe that is integrated under a demonstration project carried out under subsection (a), the Indian tribe may use funds made available under the program to purchase, lease, license, or provide training for, technology for an automated clinical information system.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in a demonstration project under a plan submitted under section 4 are—

(1) any Indian behavioral health care program under which an Indian tribe is eligible for the receipt of funds under a statutory or administrative formula;

(2) any Indian behavioral health care program under which an Indian tribe is eligible for receipt of funds through competitive or other grants, if—

(A)(i) the Indian tribe has provided notice to the appropriate agency regarding the intentions of the tribe to include the Indian behavioral health care program in the plan that the tribe submits to the Secretary; and

(ii) the affected agency has consented to the inclusion of the grant in the plan; or

(B)(i) the Indian tribe has elected to include the Indian behavioral health care program in its plan; and

(ii) the administrative requirements contained in the plan are essentially the same as the administrative requirements applicable to a grant under the Indian behavioral health care program; and

(3) any Indian behavioral health care program under which an Indian tribe is eligible for receipt of funds under any other funding scheme.

SEC. 6. PLAN REQUIREMENTS.

A plan of an Indian tribe submitted under section 4 shall—

(1) identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated into the demonstration project;

(3) describe a comprehensive strategy that—

(A) identifies the full range of existing and potential alcohol and substance abuse and mental health treatment and prevention programs available on and near the tribe's service area; and

(B) may include site and technology assessments and any necessary computer hardware installation and support;

(4) describe the manner in which services are to be integrated and delivered and the results expected under the plan, including, if implemented, the manner and expected results of implementation of an automated clinical information system;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the agency or agencies in the tribe to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the tribe believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the tribe.

SEC. 7. PLAN REVIEW.

(a) CONSULTATION.—Upon receipt of a plan from an Indian tribe under section 4, the Secretary shall consult with—

(1) the head of each Federal agency providing funds to be used to implement the plan; and

(2) the tribe submitting the plan.

(b) IDENTIFICATION OF WAIVERS.—The parties consulting on the implementation of the plan under subsection (a) shall identify any waivers of statutory requirements or of Federal agency regulations, policies, or procedures necessary to enable the tribal government to implement its plan.

(c) WAIVERS.—Notwithstanding any other provision of law, the head of the affected Federal agency shall have the authority to waive any statutory requirement, regulation, policy, or procedure promulgated by the Federal agency that has been identified by the tribe or the Federal agency under subsection (b) unless the head of the affected Federal agency determines that such a waiver is inconsistent with—

(1) the purposes of this Act; or

(2) any statutory requirement applicable to the program to be integrated under the plan that is specifically applicable to Indian programs.

SEC. 8. PLAN APPROVAL.

(a) IN GENERAL.—Not later than 90 days after the receipt by the Secretary of a tribe's plan under section 4, the Secretary shall inform the tribe, in writing, of the Secretary's approval or disapproval of the plan, including any request for a waiver that is made as part of the plan.

(b) DISAPPROVAL.—If a plan is disapproved under subsection (a), the Secretary shall inform the tribal government, in writing, of the reasons for the disapproval and shall give the tribe an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval, including reconsidering the disapproval of any waiver requested by the Indian tribe.

SEC. 9. FEDERAL RESPONSIBILITIES.

(a) RESPONSIBILITIES OF THE INDIAN HEALTH SERVICE.—

(1) MEMORANDUM OF UNDERSTANDING.—Not later than 180 days after the date of enactment of this Act, the Secretary, the Secretary of the Interior, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Attorney General, and the Secretary of Transportation shall enter into an interdepartmental memorandum of agreement providing for the implementation of the plans authorized under this Act.

(2) LEAD AGENCY.—The lead agency under this Act shall be the Indian Health Service.

(3) RESPONSIBILITIES.—The responsibilities of the lead agency under this Act shall include—

(A) the development of a single reporting format related to each plan for a demonstration project, which shall be used by a tribe to report on the activities carried out under the plan;

(B) the development of a single reporting format related to the projected expenditures for the individual plan, which shall be used by a tribe to report on all plan expenditures;

(C) the development of a single system of Federal oversight for the plan, which shall be implemented by the lead agency;

(D) the provision of, or arrangement for provision of, technical assistance to a tribe appropriate to support and implement the plan, delivered under an arrangement subject to the approval of the tribe participating in the project, except that a tribe shall have the authority to accept or reject the plan for providing the technical assistance and the technical assistance provider; and

(E) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribes that carry out projects under this Act, in consultation with each of the Indian tribes that participate in projects under this Act, of a meeting not less than twice during each fiscal year for the purpose of providing an opportunity for all Indian tribes that carry out projects under this Act to discuss issues relating to the implementation of this Act with officials of each agency specified in paragraph (1).

(b) REPORT REQUIREMENTS.—The single reporting format shall be developed by the Secretary under subsection (a)(3), consistent with the requirements of this Act. Such reporting format, together with records maintained on the consolidated program at the tribal level shall contain such information as will—

(1) allow a determination that the tribe has complied with the requirements incorporated in its approved plan; and

(2) provide assurances to the Secretary that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

SEC. 10. NO REDUCTION IN AMOUNTS.

In no case shall the amount of Federal funds available to a participating tribe involved in any project be reduced as a result of the enactment of this Act.

SEC. 11. INTERAGENCY FUND TRANSFERS AUTHORIZED.

The Secretary, the Secretary of the Interior, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Attorney General, or the Secretary of Transportation, as appropriate, is authorized to take such action as may be necessary to provide for the interagency transfer of funds otherwise available to a tribe in order to further the purposes of this Act.

SEC. 12. ADMINISTRATION OF FUNDS AND OVERAGE.

(a) ADMINISTRATION OF FUNDS.—

(1) IN GENERAL.—Program funds shall be administered under this Act in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount used from each program) are expended on activities authorized under such program.

(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring a tribe to maintain separate records tracing any services or activities conducted under its approved plan under section 4 to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among individual programs.

(b) OVERAGE.—All administrative costs under a plan under this Act may be commingled, and participating Indian tribes shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for Federal audit purposes so long as the overage is used for the purposes provided for under this Act.

SEC. 13. FISCAL ACCOUNTABILITY.

Nothing in this Act shall be construed to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

SEC. 14. REPORT ON STATUTORY AND OTHER BARRIERS TO INTEGRATION.

(a) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the implementation of the program authorized under this Act.

(b) FINAL REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the results of the implementation of the program authorized under this Act. The report shall identify statutory barriers to the ability of tribes to integrate more effectively their alcohol and substance abuse services in a manner consistent with the purposes of this Act.

SEC. 15. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ALCOHOL AND DRUG TREATMENT OR MENTAL HEALTH PROGRAMS.

Any State with an alcohol and substance abuse or mental health program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of subchapter IV of chapter 33 of title 5, United States Code, may determine appropriate to help ensure the success of such program.

Mr. REID. Mr. President, I ask unanimous consent that the Senate agree to the committee substitute amendment; that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 210), as amended, was read the third time and passed.

ORDERS FOR WEDNESDAY, SEPTEMBER 18, 2002

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, September 18; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 5093, the Interior Appropriations Act; that at 11:30, there be a period for morning business until 12:30, 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 under the control of the Republican leader or his designee; that at 12:30, the Senate resume consideration of H.R. 5005, Homeland security, under the previous order; further, that the live quorum with respect to the cloture motion filed earlier today be waived.

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

PROGRAM

Mr. REID. Mr. President, cloture was filed on the Lieberman substitute amendment to the Homeland Security Act. Because of that, all first-degree amendments must be filed tomorrow prior to 1 p.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, I ask unanimous consent that the Senate now stand in adjournment under the previous order.

There being no objection, the Senate, at 6:51 p.m., adjourned until Wednesday, September 18, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 17, 2002:

DEPARTMENT OF STATE

PETER DESHAZO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING TENURE OF SERVICE AS DEPUTY PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION OF AMERICAN STATES.

OVERSEAS PRIVATE INVESTMENT CORPORATION

JOHN L. MORRISON, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2004, VICE JOHN J. PIKARSKI, JR., TERM EXPIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral (lower half)

CAPT. JODY A. BRECKENRIDGE, 0000
CAPT. JOHN E. CROWLEY, 0000
CAPT. LARRY L. HERETH, 0000
CAPT. RICHARD R. HOUCK, 0000
CAPT. CLIFFORD I. PEARSON, 0000
CAPT. JAMES C. VAN SICE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be captain

CHRISTINE D BALBONI, 0000
LANCE L BARDO, 0000
CAROL C BENNETT, 0000
DENNIS D BLACKALL, 0000
MATTHEW M BLIZARD, 0000
TERRENCE W CARTER, 0000
THOMAS D CRIMAN, 0000
NORMAN L CUSTARD, 0000
KURT W DEVOE, 0000
MARK R DEVRIES, 0000
GAIL A DONNELLY, 0000
STEPHEN C DUCA, 0000
DANE S EGLI, 0000
ROBERT A FARMER, 0000
MICHAEL P FARRELL, 0000
EKUNDAYO G FAUX, 0000
GARY E FELICETTI, 0000
KENNETH D FORSLUND, 0000
SCOT S GRAHAM, 0000
MARK S GUILLORY, 0000
KURTIS J GUTH, 0000
WARREN L HASKOVEC, 0000
DAVID L HILL, 0000
VIRGINIA K HOLTZMANBELL, 0000
JAMES C HOWE, 0000
JAMES T HUBBARD, 0000
RICHARD M KASER, 0000
JONATHAN S KEENE, 0000
JUDITH E KEENE, 0000
FREDERICK J KENNEY, 0000
DANIEL A LALIBERTE, 0000
WILLIAM D LEE, 0000
DAVID L LERSCH, 0000
MARSHALL B LYTLE, 0000
JAY G MANIK, 0000
BRET K MCGOUGH, 0000
BRADLEY R MOZEE, 0000
PETER V NEFFENGER, 0000
DAVALEE G NORTON, 0000
ROBERT R OBRIEN, 0000
STEPHEN J OHNSTAD, 0000
KEVIN G QUIGLEY, 0000
ADOLFO D RAMIREZ, 0000
MICHAEL P RAND, 0000
RICHARD A RENDON, 0000
DANIEL N RIEHM, 0000
JOSEPH F RODRIGUEZ, 0000
GEORGE A RUSSELL, 0000
DAVID L SCOTT, 0000
BARRY P SMITH, 0000
CURTIS A SPRINGER, 0000
RICHARD A STANCHI, 0000
PHILIP H SULLIVAN, 0000
GERALD M SWANSON, 0000
KEITH A TAYLOR, 0000
PATRICK B TRAPP, 0000
JAMES E TUNSTALL, 0000
GEORGE P VANCE, 0000
STEVEN E VANDERPLAS, 0000

THE FOLLOWING NAMED OFFICER OF THE UNITED STATES COAST GUARD TO BE A MEMBER OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY IN THE GRADE INDICATED UNDER SECTION 188, TITLE 14, U.S. CODE:

To be lieutenant

DAVID C. CLIPPINGER, 0000

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. GEORGE W. KEEFE, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 531 AND 624:

To be major

MAURICE L. MCDOUGALD, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JOHN R. HINSON, 0000
BRUCE A. OLSON, 0000
CLARICE J. PETERS, 0000
JOSEPH M. SCATURO, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

CATHI A. KIGER, 0000
BARRY L. RICHMOND, 0000
PAUL A. STEVES, 0000
TIMOTHY R. WARRICK, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO

THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JAY F. DALEY, 0000
DENNIS L. FRALEY, 0000
TED H. FRANDSEN, 0000
KEVIN W. JENKINS, 0000
JAMES A. JOYCE JR., 0000
THOMAS G. KNIGHT, 0000
PAMELA J. RODRIGUEZ, 0000
RONNIE D. STUCKEY, 0000
DONNA S. WOODBY, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

PAUL M. AMALFITANO, 0000
LYNN C. HAGUE, 0000
JAMES S. HOGGARD, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

STEPHEN M. BLOOMER, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

THEODORE A. MICKEVICIUS, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

HUGO E. SALAZAR, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DAVID A. SUGGS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CHANDLER P. SEAGRAVES, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

ARTHUR R. STIFFEL IV, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

JEFFREY BALL, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

ENEIN Y H ABOUL, 0000
ERIC M ACOBA, 0000
BARRY D ADAMS, 0000
HEATHER W AGUSTINES, 0000
DENNIS A ALBA JR., 0000
PAUL A ANDRE, 0000
ARTHUR C ANTHONY, 0000
WILLIAM C ASHBY, 0000
DAVID L BAILEY, 0000
FELIX A BIGBY, 0000
TRUPTI N BRAHMBHATT, 0000
ERIC H CONDEVALENTIN, 0000
ROSANNE Y CONWAY, 0000
GREGORY W COOK, 0000
CANDACE A CORNETT, 0000
CEDRIC M CORPUZ, 0000
MICHAEL F CRIQUI, 0000
WILLIAM M DENISTON, 0000
MICHAEL J DUSZYNSKI, 0000
STEPHEN C ELGIN, 0000
DAVID A ELLENBECKER, 0000
WALDO F FERRERAS, 0000
JIMMY E FRANCIS, 0000
RUTH E GOLDBERG, 0000
FRANCIS E HANLEY, 0000
JOHN E HANNON IV, 0000
DANIEL J HARDT, 0000
WILLIAM J HARTMANN, 0000
KATY M HAWKINS, 0000
BEULAH I HENDERSON, 0000
JAMES HERBST, 0000
LEE D HOEY, 0000
DENISE N HOLDRIDGE, 0000
RACELI C HULETT, 0000
MARY M HUPP, 0000
BRIAN E HUTCHISON, 0000
BRIAN T IVEY, 0000
TINA M JANGEL, 0000
SUSAN M JAY, 0000
GERALD H KAFORSKI JR., 0000
JASON R KELTNER, 0000
LISA K KENNEMUR, 0000
MICHAEL N LANE, 0000
ROBERT J LESLIE, 0000
MARC C LEWIS, 0000
JAMIE M LINDLY, 0000
LOUKIA D LOUKOPOULOS, 0000
MICHAEL G LUTTE, 0000
JAMES J LYNCH, 0000
RALPH J MARRO, 0000
DAVID M MARTIN, 0000
PAUL C MILLER, 0000
KRISTEN L MOE, 0000
MICHAEL M MONTOYA, 0000
SHEILA J MOSELEY, 0000
SARAH M NEILL, 0000
KELLEY A NEWMAN, 0000
RONALD J NORRA, 0000
CHRISTOPHER J ODONNELL, 0000
CHARLES E OLSON, 0000
RANDALL R OWENS, 0000
RENE A PACHUTA, 0000
HAE A PARK, 0000
JAMES E PATREY, 0000
DAN K PATTERSON, 0000
ELENA M PREZIOSO, 0000
SHUSMITA H RAHMAN, 0000
TIMOTHY R RICHARDSON, 0000
ALAN M ROSS, 0000
JULIE L RUDDY, 0000
JERRY N SANDERS JR., 0000
MARK A SCHIFFNER, 0000
BERET A SKROCH, 0000
JASON E SPENCER, 0000
ROHINI SURAJ, 0000
MARK A SWEARNGIN, 0000
ERIC R TIMMENS, 0000
JOY E TIMMENS, 0000
CONNIE L TODD, 0000
BRIAN G TOLBERT, 0000
SHANE A VATH, 0000
JUDITH M WALKER, 0000
HERLENA O WASHINGTON, 0000
LAURA L V WEGEMANN, 0000
DEBORAH D WHITE, 0000
MICHAEL WHITECAR, 0000
BYRON C WIGGINS, 0000
GERARD J WOELKERS, 0000
DEBRA L YNIGUEZ, 0000
KIMBERLY A ZUZELSKI, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

CHRISTOPHER H BERKERS, 0000
ROBIN T BINGHAM, 0000
MARK R BOONE, 0000
STEVEN A BROFSKY, 0000
MICHAEL C CABASSA, 0000
LEWIS T CARPENTER, 0000
DAVID F CHACON, 0000
TERENCE CHAN, 0000
LOUIS H DELAGARZA, 0000
MADELYN GAMBREL, 0000
TODD C GRAMBAU, 0000
STEPHENIE L HEDSTROM, 0000
ROBERT S HEMPERLY, 0000
DAVID JIN, 0000
GRACE L KEY, 0000
IVETTA M MACLIN, 0000
TODD D MILLER, 0000
TROY R NAPIER, 0000
MATTHEW C NEUMANN, 0000
SHAWN P OBANNON, 0000
VICTOR R ORAMAS, 0000
LAMAR C ORTON, 0000
JOSE G PEDROZA, 0000
SUZANNE D RIMMER, 0000
KOICHI SAITO, 0000
MARTHA L SIRUS, 0000
COURTNEY L STAADECKER, 0000
BUFFY STORM, 0000
TRENEICE L WICKS, 0000
KIMBERLY A WILLIAMS, 0000
RICHARD L ZIMMERMANN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

DAVID R BROWN, 0000
CARL H FARMER, 0000
ROBERT J FITKIN, 0000
STANLEY W FORNEA, 0000
JEFFREY T HAN, 0000
DEAN L HOELZ, 0000
DWIGHT A HORN, 0000
CARL P KOCH, 0000
JOHN S KROENER, 0000
PATRICK J LAUTENBACH, 0000
MARCUS E LAWRENCE, 0000
MARC A MCDOWELL, 0000
GEORGE J MENDES, 0000
WILLIAM E MIDDLETON, 0000
VINSON W MILLER, 0000
JEFFREY S MILNE, 0000
JAMES H PITTMAN, 0000
TIMOTHY B POWELL, 0000
JASON L RIGGS, 0000
DAVID D SCHILLING, 0000
GREG T SCHLUTER, 0000
ANDREW P SHOLTES, 0000
STEVEN L SOUDERS, 0000
WILLIAM D STALLARD, 0000
LOFTEN C THORNTON, 0000
ROBERT J VANCE, 0000
ANDREW A WADE, 0000
DARRELL J WESLEY, 0000
TIMOTHY R WHITE, 0000
GEORGE B YOUNGER, 0000

WITHDRAWAL

Executive message transmitted by the President to the Senate on September 17, 2002, withdrawing from further Senate consideration the following nomination:

JOHN RODERICK DAVIS, OF ALABAMA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HENRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2005, VICE E. GORDON GEE, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON MAY 6, 2002.