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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, October 23, 2001, at 12:30 p.m.

Senate

THURSDAY, OCTOBER 18, 2001

The Senate met at 10 a.m. and was called to order by the Honorable EVAN BAYH, a Senator from the State of Indiana.

PRAYER

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

He who dwells in the secret place of the Most High shall abide under the shadow of the Almighty. I will say of the Lord, "He is my refuge and my fortress; my God, in Him I will trust."—Psalm 91:1-2.

Let us pray: Almighty God, we praise You for the wonderful way You have answered our prayers for this great Senate family. Today we end this workweek with heads held high with confidence, faces radiant with resoluteness, hearts filled with courage, and wills fired with galvanized determination. With Your help we will calmly finish our work today and, as usual, look forward to the rest and rejuvenation of the weekend. You have cared for this Senate through dynamic leaders. Thank You for TOM DASCHLE and his strong inspiration for his own staff and the Senate as a whole. We began this week praying for his staff; we end the week with admiration for their patriotism under frightening circumstances. We praise You for the friendship and mutual esteem of TOM DASCHLE and TRENT LOTT as they affirm our oneness and work for unity. And under the immense pressure of the nights and days of this week, we have witnessed the relentless commitment of people like Senate Officers Jeri Thomson and Al Lenhardt, Capitol Physician John Eisold and his team,

and our friend and counselor, Senator/Doctor BILL FRIST.

Lord, those who tried to create panic with anthrax letters and threatening phone calls have failed. We are stronger than ever and more determined to press on in the battle against terrorism here and throughout the world. Thank You in advance for victory. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable EVAN BAYH led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 18, 2001.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mr. BAYH 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. Mr. President, as has been ordered, this morning the Senate will be in a period of morning business until 10:30 a.m. At 10:30, the Senate will begin consideration of the conference report to accompany the Military Construction Appropriations Act. There will be 30 minutes of debate equally divided between Senators HUTCHISON of Texas and Senator FEINSTEIN. The vote on adoption of the conference report will occur at 11 a.m.

I have been asked by the majority leader to announce this will be the last rollcall vote of the day.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I wonder if the Senator will yield for a question.

Mr. REID. I would be happy to yield.

Mr. THOMAS. I am sorry, I did not understand. What is the proposal in terms of being in session, despite the fact there is just one vote?

Mr. REID. There is a lot of activity expected. There are a number of pieces of legislation that need to be introduced. I have several. I have spoken to people on the Republican side throughout the week, and I know they have wanted time to introduce legislation. So I expect there will be activity in this Senate Chamber throughout the afternoon.

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



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Mr. THOMAS. I thank the Senator very much.

Mr. REID. I say to the Senator from Wyoming, the Democrats have an important meeting we are going to have from 12:30 until 2 o'clock. So during part or all of that time, we will ask to be in recess.

Mr. THOMAS. Until 2 o'clock?

Mr. REID. From 12:30 to 2 o'clock.

Mr. THOMAS. Then at 2 o'clock we would go into morning business for as long as people want to speak?

Mr. REID. Yes.

Mr. THOMAS. I thank the Senator.

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 each.

The Senator from Minnesota.

(The remarks of Mr. WELLSTONE pertaining to the submission of S. Res. 172 are printed in today's RECORD under "Statements on Submitted Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. THOMAS. Mr. President, what is the allocation of time between now and 10:30?

The ACTING PRESIDENT pro tempore. Senators may speak for up to 10 minutes each.

Mr. THOMAS. It is not allocated between the two sides?

The ACTING PRESIDENT pro tempore. No.

Mr. THOMAS. I yield 10 minutes to the Senator from Idaho.

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

ENERGY

Mr. CRAIG. Mr. President, I again rise to focus the Senate on an issue that is without question a high priority one for the Congress and for the American people and one I hope we can deal with before we recess or adjourn this first session of the 107th Congress. I am talking about the critical need for a national energy policy.

For over a decade, we have wandered in the energy world without a policy that truly directed our resources and our public policy toward assuring that our Nation was self-reliant on its primary energy sources. Over that time, we have grown increasingly dependent upon foreign sources for those primary resources.

As a result, if what is now going on in the Middle East were to erupt in a

broader shooting war, it is possible we could see a curtailment of supplies out of those oil-rich countries that could not only create a critical crisis here but would drive up fuel prices at the pump dramatically. It is not happening right now. It is not happening largely because of a flat economy, less use, and because the OPEC nations recognize that the world economy is soft at this moment and have chosen not to turn the spigots on their oil wells down; therefore, driving up the price.

It is temporary, and we all know that it is temporary. Over a year and a half ago, they made it very public that it was their intent to drive the world price of crude oil up to \$28 to \$30 a barrel and to try to sustain that price. It is now below that.

It is obvious to me and to all of us who watch this issue that they are intentionally holding the price down because of the world economy and their fear of its softening.

That is one side of the issue. The other side of the issue for us is a quick examination of our infrastructure and the systems of our infrastructure and the failure of that to deliver the kind of energy our growing economy and our growing Nation needs. We saw that for almost a year in California with rolling blackouts that truly crippled the economy of that great State, largely because they had chosen the wrong policy as it related to continuing to develop energy sources and to upgrade the infrastructure that served the public.

As a result of all of that, we had a new President come to town not quite a year ago and say that without question one of the most critical needs of this Nation is a national energy policy. He established that as a very high priority.

Well, while he was doing that, we in the Senate, and our colleagues on the other side of the rotunda in the House, were busily working at the crafting of such a policy. We have spent countless hours and over 3 years in the Senate, with literally 100 or more very detailed investigative kinds of committee gatherings for the purpose of trying to determine how that policy ought to look, how we ought to shape it, and how we ought to present it to the American people.

All of that work has been done. In fact, the House worked rather quickly. They sensed the urgency, as we did, and before the August recess they had produced their version of a national energy policy. It appeared to me—and I think to all of us—that by late fall we would have a similar bill and we would be voting on it on the floor of the Senate because the Energy Committee, under the guidance of Chairman BINGAMAN, was working its will, starting a markup. Our attempt was going to be considerably more extensive than that of the House. But that work was well underway.

Then comes September 11. We are refocused for a moment, as you know, and for all the right reasons. But this

Senate is not a single-action Senate. There are 100 Senators, and there are multiples of committees and lots of chairmen, and there are hundreds of staff people. Clearly, the Energy Committee of the Senate should have been, and could have been, continuing its work toward the production of a bill to come to the floor of the Senate.

Then, in a rather unprecedented move, over a week and a half ago, the majority leader of the Senate basically told the chairman of the Energy Committee to cease and desist. No longer was he to mark up a bill and get it to the floor. Why? The argument was that it was politically too divisive. Too divisive to talk about a national energy policy, to tell the citizens that this Senate was going to work with the President to develop a policy to move us toward energy self-sufficiency, that is divisive? I don't think so. I think that is leadership. I think that is what our country calls out for at this moment, and people certainly are getting it in most instances.

But in the area of national energy policy, the leader of the Senate is not leading at this moment. Now he says he has instructed the chairman of the Energy Committee to craft a bill that they will build up through the office of the majority leader and it will come to the floor, or it could come to the floor, or it is possible to have a vote on it prior to a recess or adjournment of the first session.

Well, that is not good enough. I don't believe so. I believe a strong majority of the Senate agrees with me that it is time we dealt with a national energy policy and let the chips fall where they may, let the votes fall where they may. As a result of that, FRANK MURKOWSKI, our ranking member of the committee, I, having served on the committee for a good number of years, and a lot of other folks are engaged in trying to craft an energy bill. It won't be as broad or expansive as it might have been had we had the will to work the committee and had the committee not been instructed to stand down and desist, but we will introduce that bill. We believe that can be done on Monday.

We are working with the administration. Now we are asking in a very straightforward way, and I think an honest and responsible way, for the majority leader of the Senate to give us time to bring his bill to the floor; let us bring our bill to the floor and let us work out our differences. Everyone knows the issues at hand and all of us have a pretty good idea of what a national energy policy ought to look like. Then we can work with the House. Prior to adjournment, or following adjournment, we can rest assured that a national energy policy bill will be on the desk of the President of the United States, so that if there is a dramatic energy shock in the future, we will have done the right thing. We will have prepared the country, directed our resources, directed the infrastructure of this country toward the development

of a greater sense of self-reliance because my guess is that if we fail and gas lines mount in a time of crisis, this Senate will be scrambling to make up politically what they are now trying to dodge.

It is not a time for politics. We have worked very cooperatively together on a lot of issues since September 11. Energy should not be one issue that is politicized. But by the very action of the majority leader himself, he is on the verge of risking that possibly happening. So I ask him to honor his commitment that he made publicly—and I have no reason to believe he would not—to get an energy bill to the floor, allow us to get ours to the floor, allow us to offer amendments, and let the Senate work its will. Two or three days of debate, don't we have time to do that when we are standing idle, waiting for decisions to be made, waiting for judicial nominees to come to the floor, and waiting for appropriations bills to come to the floor?

Remember, there are 100 Senators. There are numerous chairmen. This Senate can work in multiples of ways beyond just a single issue and a single action. I think it is time that we as Senators insist that the leadership of the Senate allow us to bring what I believe is one of the top issues in America today, a national energy policy, to the floor so that the American people will know we did the right thing in trying to protect them and their future and the economy of this country from any major shock, should we ever get into a situation in the Middle East, or in those primary production areas on which we are now so reliant, which are well beyond our border and well out of our control.

With those comments, I yield the floor.

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

CONTINUING THE WORK OF THE SENATE

Mr. LEAHY. Mr. President, I commend Senator DASCHLE for having us in session today. I think he has done the right thing. A great deal of work will get done that needs to be done and can be done quickly. Frankly, I believe we should be here. I hope we will very soon have these galleries open to all tourists. I hope very soon we can have the Capitol Building open to all tourists. I was in my office on Saturday. I came through this building and it was empty. I asked one of the guards why tourists are blocked out.

I remember as a teenager coming to Washington for the first time with my parents, the thrill of going through this building, through the Smithsonian and the Library of Congress, because they were open to the American people, as they should be now. I have to think there are a whole lot of parents and their children who can't do that. I am on the Board of Regents at the Smith-

sonian, and I see that the number of visitors is going way down. That is free to everybody.

It should not be that way. This is one of the most beautiful cities in the world, one of the best cities in the world. The people are among the best people anywhere. Washington should be a magnet not only for Americans throughout the country but visitors throughout the world. I want us back here. I have my staff squeezed into cubbyholes and my Capitol office and working out of their homes. We are all connected to the Internet and everything else. We are going to work throughout this weekend. We are going to get the terrorism bill finished, with the bioterrorism piece that I added here in the Senate and the Senators passed.

All that is going to be done this weekend because very brave men and women, on my staff and others, are going to work straight through the weekend, but they are going to take 20 hours to do what they might do in 10 hours on other days because of all the disruptions.

We have to set the example that the Senate is open and ready for business. We cannot ask some 18-year-old on duty in our armed services in Kosovo to stand sentry duty in the middle of the night next to a minefield and say: But U.S. Senators are not here.

The distinguished Presiding Officer has been a Governor, and he is a Senator. He is here. I see my good friend from California who was mayor of San Francisco and stood there at a most difficult time. We are ready to go to work. We will go to work, and the Senate will continue to be the conscience of the Nation.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to consideration of the conference report to accompany H.R. 2904, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2904) "making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes," having met have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by all of the conferees on the part of both Houses.

The ACTING PRESIDENT pro tempore. The Senate will proceed to the consideration of the conference report. (The report is printed in the House proceedings of the RECORD of October 16, 2001.)

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 30 minutes for debate to be equally divided and controlled between the Senator from California, Mrs. FEINSTEIN, and the Senator from Texas, Mrs. HUTCHISON, or their designees.

Who yields time?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, as my distinguished chairman, the Senator from California, is preparing to speak about the conference report accompanying the military construction appropriations bill, I want to make a few comments about what is going on today.

I am very pleased to say the Senate is open for business, and we are preparing to take up very important legislation as it relates to the U.S. war on terrorism. Before we talk about that, I want to say that what we are doing is important as an example to our country. We have had severe threats to the people who work in the U.S. Capitol. The Capitol is the symbol of freedom and democracy for the whole world. It represents the United States.

Our people made the decision that we would close the office buildings so our staff would be protected. We are checking the office buildings to see what kind of anthrax might be present. We are doing the prudent thing. We are trying to take care of our people.

On the other hand, we are also keeping the Capitol open as the symbol that the business of Government is going on, and many of us are working out of our Capitol offices. We have our staffs with us. They are very happy to be here. There is a spirit of comradeship up and down the halls of the Capitol where people are spilling out from the various small offices to make room in the tiny little offices from where we are now operating. But everybody is happy to do it because we know this is important for our country. It is our way of saying to those who are in the field representing us in Pakistan, Afghanistan, and Uzbekistan that we are here, too, and we are taking care of your needs.

I am very proud we are in session. Our staffs are happy to be here, and we are doing our duty for our country. The people of America should know we are going to do everything that is on our agenda for this week—business as

usual—and the House did the same thing. They passed the bills yesterday. We passed them yesterday, and we will pass them today.

With that, I welcome the chairman of the Military Construction Subcommittee and thank her in advance for the leadership she has provided to this very important committee.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Texas for her comments.

Today I am very pleased to bring before the Senate the conference agreement on the fiscal year 2002 military construction appropriations bill.

Given the circumstances, this is a particularly timely and time-sensitive conference report. I am very pleased that the Senate has demonstrated a willingness to move quickly on it.

The military construction conference agreement provides \$10.5 billion of new budget authority. That is a 17.5-percent increase over last year's military construction funding, and it is a 5.3-percent increase over the President's budget request. This statistic alone sends a strong message of support to America's men and women in uniform.

This is a good package. It meets the most pressing needs of the military, both in terms of readiness and quality-of-life issues. It is not, of course, a perfect package. The conference report does not include everything the Senate wanted, nor does it include everything the House wanted. It does, however, address the priorities of the Department of Defense, which I think is most important, as well as both Houses of Congress. It is a carefully crafted compromise. It is both balanced and bipartisan.

I am particularly pleased to see such quick action on this measure at a time when we as a nation are asking for so much from our men and women in uniform and from their families. The conference agreement provides \$4.8 billion for the Active components of the military. That is a 35-percent increase over fiscal year 2001. So the military components are up 35.8 percent. It provides \$953 million for the Reserve components. That is a 357-percent increase over last year. For family housing, the conference agreement provides \$4.1 billion. That is a 12-percent increase over last year.

These are important increases. They signal a commitment to upgrading and rebuilding the infrastructure that is truly the backbone of our Nation's military.

The conference report also includes a \$100 million increase over the President's budget request for environmental cleanup at military installations that have been closed as part of the base realignment and closure effort. This is most significant. We need to clean up these bases so they can be transitioned into civilian use. This additional funding is necessary. It enables the military to honor its commit-

ments to the people and the communities that have been affected by the economic upheaval caused by base closures.

I point out that this is a great deal of money, yet much more is going to be needed before the environmental cleanup of BRAC sites across the Nation is complete. This is certainly something we should consider before we embark on any future rounds of base closings. I believe this most strongly.

One other item I want to mention today is the issue of defense access roads. The events of September 11 have made us all the more aware of the potential vulnerability of sensitive civilian and military installations to the threat of terrorist attack, and a number of our colleagues have expressed concern about the need for upgrading access roads serving military installations, particularly around chemical demilitarization facilities.

These roads are generally Federal or State highways that provide access to defense installations but are not owned by the Defense Department. Therefore, funding to construct access roads has to go through the Department of Transportation. The military construction bill includes a standing provision authorizing the Secretary of Defense to provide funds to the Transportation Department for access roads but only—only—when the Secretary of Defense has certified that these roads are important for national defense.

In other words, these are not projects that can easily be added to the MILCON bill if the President does not request them. However, because of the current sensitivity of chemical demilitarization facilities, we included a provision in our conference agreement that will enable the Defense Department to conduct a feasibility study on the requirements for Defense roads at chemical demilitarization sites in the United States to support emergency preparedness requirements.

I might also mention the Senate MILCON bill and the House MILCON bill had about a \$600 million difference between the two bills. There were about 173 adds from Members. Only 3 of them were the same in both the House and the Senate bills. So truly the Senate staffers on both sides have done a wonderful job in putting together the conference report.

I am very pleased to say it was a unanimous vote in the conference committee. So it was a reconciling of interests.

I very much thank Chairman BYRD. I thank Senator STEVENS and particularly my ranking member on the subcommittee, Senator HUTCHISON, for their unflagging support and assistance in bringing this conference report to the Senate. Again, I particularly thank the subcommittee staff for their hard work on this measure.

I am very pleased the military construction bill will be one of the first appropriations conference agreements sent to the President, and I hope he will sign it without delay.

I turn this over to the ranking member for her comments, and I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I fully endorse the comments made by our subcommittee chairman, Senator FEINSTEIN. I am pleased to recommend the military construction conference report for fiscal year 2002 to the Senate. We have worked very hard, Senator FEINSTEIN and myself, with our House colleagues, to bring this conference report to a successful conclusion.

I thank our colleagues from the House side, the chairman, DAVID HOBSON from Ohio, and JOHN OLVER from Massachusetts, the ranking member, for working with us in such a collegial way.

As Senator FEINSTEIN said, there were many disagreements and, frankly, some different priorities when our two bills passed respectively in the House and the Senate, but we worked hard and in a very productive way to resolve those differences and keep the priorities of each House but within a responsible budget. Everybody gave a little, but I think everyone did the right thing, and I am very pleased with the product.

We sought a balanced bill, one that provides funding for planning, design, construction, alteration, and improvement of military facilities worldwide, both for Active-Duty and Reserve Forces. I think this is a very important point because we know our Reserve Forces are stepping up to the plate as we speak.

Our President has called 40,000 of them to service, and there could be more. So we are very cognizant of the need for our Reserves to be supported and, in fact, there is a total of almost \$1 billion for Guard and Reserve facilities in this military construction bill.

Additionally, we have focused on military housing. This has been a priority for all of us. Quality of life for our men and women in the services is very important to us, and we are making a transition in our military, frankly, from a force that used to be mostly single men, some single women, to now families of men and women. For that reason, we have had to adjust military construction priorities in recent years. We have \$1.2 billion for barracks improvements; \$44 million for child care centers; \$199 million for hospitals and medical facilities and \$4 billion for family housing.

This intensifies the effort to improve the quality of military housing and accelerate the elimination of substandard housing. I am very pleased with those priorities.

I also concur with the comments of Senator FEINSTEIN on the issue of access roads. A number of colleagues expressed to me their concern about the need for upgrading access roads near chemical demilitarization sites. A defense access road must be appropriately certified by the Department of

Defense, legislatively authorized, and then it is eligible for funding in the military construction appropriations bill.

As Senator FEINSTEIN said, we have provided the Department of Defense the ability to conduct a feasibility study on requirements for Defense roads at chemical demilitarization sites. We think this is the right and responsible approach to determine what the needs are of the Department of Defense and also determine what the responsibilities of the State or local governments should be in that regard.

I also want to make the point this bill will soon be going to the President of the United States for signature. This bill includes some very important upgrades of facilities in support of the Operation Enduring Freedom effort in which we are now engaged. Operation Enduring Freedom, of course, is our war on terrorism. In support of these operations this bill includes an upgrade for a runway in Oman and a base supply warehouse in Turkey, one of our strongest allies. I am very proud that Turkey stepped up to the plate early and said: Whatever you need to protect freedom and democracy is going to be our cause as well.

Further, we included a special operations training range in Okinawa. Japan also stepped up to the plate—the Japanese Prime Minister was one of the first to say: We are with you to protect democracy in this part of the world. And lastly, we included a war reserve storage facility in Guam. We are very pleased to provide these projects that will directly support our ability to stage this war on terrorism.

I thank my chairman, Senator FEINSTEIN, for working with me to assure even though we had the bill on the drawing boards before September 11, nevertheless we could react to the immediate needs of the Department of Defense in these areas.

This bill is on its way to the President, and it will provide the support to our men and women in the military who have pledged their lives to protect our freedom. They have pledged their lives to protect freedom throughout the world. This is the test of our generation, and our young men and women are stepping up to the challenge. They deserve the support we are giving them in this bill. We are doing our duty and fulfilling our responsibilities here today. I am proud to say, once again, the prowess of our military is going to shine through and we are going to show the military of a freedom-loving country is the strongest in the world, with the full support of the Congress.

I yield the floor.

Mr. MCCAIN. Mr. President, I appreciate the opportunity to address the Senate once again on the subject of military construction projects added to an appropriations bill that were not requested by the Department of Defense. This bill contains \$900 million in unrequested military construction projects.

Every year, I come to the Senate floor for the express purpose of highlighting programs and projects added to spending bills for primarily parochial reasons. While I recognize that many of the projects added to this bill may be worthwhile, the process by which they were selected violates at least one, if not several, of the criteria set out several years ago to limit just this sort of wasteful spending.

I find particularly offensive the usual Buy America restrictions included in this bill. Rather than providing the best value to our service members by buying the best products at the best prices, these restrictions require DOD procurement decisions to be driven by protectionist impulses that frequently provide inferior value to our troops. "Buy America" restrictions cost the Department of Defense and the U.S. taxpayer \$5 billion annually, money that is spent not on our good people in uniform but to line the pockets of American producers of goods that could otherwise be purchased at the same value for lower prices overseas.

I am also at a loss as to the rationale for including in this bill certain site-specific earmarks and directive language, including a provision urging the Department of Defense to make the consolidation of four Guard and Reserve facility renovation projects in northeastern Pennsylvania a priority, and to program this requirement in the Future Years Defense Plan; a provision directing the Navy to accelerate design of the Kingsville Naval Air Station Airfield Lighting project, and to include construction funding for it in the budget request for fiscal year 2003; a provision directing the Air Force to accelerate design of Offutt Air Force Base's Fire/Crash Rescue Station, and to include funding for it in next year's budget request; and similar language inappropriately directing scarce resources on a non-competitive basis to Warren Air Force Base, Fort Worth Joint Reserve Base, and Selfridge Air National Guard Base.

In addition, sections of this bill designed to preserve depots, and to funnel work in their direction irrespective of cost, are examples of the old philosophy of protecting home-town jobs at the expense of greater efficiencies. And calling plants and depots "Centers of Excellence" does not constitute an appropriate approach to depot maintenance and manufacturing activities. Consequently, neither the Center of Industrial and Technical Excellence nor the Center of Excellence in Service Contracting provide adequate cloaks for the kind of protectionist and parochial budgeting endemic in the legislative process.

Last year, the Defense appropriations bill included a provision statutorily renaming National Guard armories as "Readiness Centers," a particularly Orwellian use of language. By legally relabeling "depot-level activities" as "operations at Centers of Industrial and Technical Excellence," we further

institutionalize this dubious practice, the implications of which are to deny the American public the most cost-effective use of their tax dollars. When will it end?

There are 28 members of the Appropriations Committee. Only six do not have projects added to the appropriations bill. Those numbers, needless to say, go well beyond the realm of mere coincidence. Of 96 projects added to this bill, 53 are in the States represented by the Senators on the Appropriations committees, totaling over \$503 million.

We are waging war against a new enemy with global operations and the messianic aspirations to match; we are undertaking a long-term process to transform our military from its cold war structure to a force ready for the challenges of a new day. A lack of political will had previously hamstrung the transformation process, but the President and his team have pledged to revolutionize our military structure and operations to meet future threats.

The reorganization of our armed services was, of course, an extremely important subject before September 11, and it is all the more so now. The threats to the security of the United States, to the very lives and property of Americans, have changed in the last decade. The attacks of September 11 have made more urgent the already urgent task of reorganizing our military to make sure that we have the people, weapons and planning necessary to ensure not only the success of our world leadership, international peace and stability and the global progress of our values, but to safeguard the survival of the American way of life.

In the months ahead, no task before the administration and the Congress will be more important or require greater care and deliberation than making the changes necessary to strengthen our national defense in this new, uncertain era of world history. Needless to say, this transformation process will require enlightened, thoughtful leadership, not pork-barreling of military funds, if we are to best serve America in this time of rapid change in the global security environment.

I believe I have made my point. As usual, I labor under no illusions regarding the impact my comments will have on the way we do business here. I have in the past attempted legislative recourse to pork-barrel spending, and I will do so again.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, as I mentioned, this bill took a good deal of good staff work. I am very proud that good staff work has occurred on both sides of the aisle. It is not easy to remedy 170 differences between a House and Senate bill, and yet this happened.

I particularly commend the appropriations staff, Christina Evans, B.G. Wright, on the Republican side; Sid Ashworth, John Kem, and also Matt

Miller of my staff. They worked long and hard on this bill, and I think that it will get, if not a unanimous vote of this body, certainly a near unanimous vote. It is a job well done, and I am very pleased on behalf of Senator HUTCHISON and myself to recognize that.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

All time has expired. The question is on the adoption of the conference report.

The yeas and nays were previously ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS), the Senator from Nevada (Mr. ENSIGN), and the Senator from Utah (Mr. BENNETT) are necessarily absent.

I further announce that if present and voting the Senator from Montana (Mr. BURNS) would vote "yea."

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

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—96

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

NAYS—1

McCain

NOT VOTING—3

Bennett	Burns	Ensign
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The conference report was agreed to. Mrs. HUTCHISON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank all Senators who supported this very important legislation. Senator FEINSTEIN and I are very appreciative of the support of Congress.

This bill is now on its way to the President. It will provide support to our men and women in the field in their quality of life, quality of their equipment, and in the quality of their training. We can do no less. I appreciate the support of the Senate.

The PRESIDING OFFICER. The Senator from North Dakota.

MORNING BUSINESS

Mr. DORGAN. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes between now and 12:30 today.

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

ORDER FOR RECESS

Mr. DORGAN. Mr. President, I ask unanimous consent the Senate stand in recess from 12:30 until 2 p.m.

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

INTERNET TAXATION

Mr. DORGAN. Mr. President, I am going to propound a unanimous consent that I understand may be objected to, but for the moment I will describe what I am about to do and why I want to do it today.

As most of us know who have worked on an issue called the Internet tax moratorium issue, the moratorium that now exists with respect to Internet taxation expires on Sunday of this week. The expiration of the Internet Tax Moratorium Act on Sunday means that next week there will no longer be the prohibition that exists in that act.

Many of us believe we ought to do a couple things.

One, the Internet Tax Moratorium Act is one that I supported because it would have prohibited additional States from imposing taxes on access to the Internet. I support that. It actually grandfathered some States. I would have been content to eliminate the grandfathering even. I don't think we ought to be taxing access.

It also said that we will not allow discriminatory or punitive taxes with respect to Internet transactions. I supported that as well and was happy to vote for that legislation. It had an end date on it. That end date is this Sunday.

What we have been trying to do for a long time is to construct an extension of the Internet tax moratorium, which I support, and attach to that a provision that would allow State and local governments to solve a very significant problem they are confronted with; that

is, remote sellers are selling all across this country now in a significant way and in many instances—in fact, most instances—they are not required to collect local taxes when they make those sales.

The remote sellers say it would be very difficult for them to collect the local sales and use taxes because you have thousands of jurisdictions around the country with different tax rates, different bases, and so on. It would be horribly complicated to subject a remote seller to all of those different standards and different jurisdictions. I am sympathetic to that.

For that reason, I believe State and local governments ought to be required to simplify the tax system by which consumption taxes would be imposed on remote sales.

At the moment, the courts have said the State and local governments may not impose their consumption taxes on remote sales unless the remote seller has a location in that State. The only change that could occur that would allow them to enforce a collection would be the Congress, under the commerce clause, describing a different nexus so that State and local governments could in fact enforce a requirement of collection. I don't believe we ought to do that unless we also require State and local governments to dramatically simplify their sales and use tax system. And when we do that, State and local governments should then be able to enforce a collection.

You have two things: Requiring a simplification of a system, and then requiring remote sellers to collect the tax and remit it to the States.

Why is this important? It is important for two reasons. One is fairness. Main street sellers are required to collect the tax, and their competitors from a remote circumstance are not required to collect the tax. That is not a fair situation.

Second, there is a substantial amount of lost revenue, much of which would be used to finance schools in this country, and that lost revenue is injuring the tax base of State and local governments and injuring the opportunity to fund education which is funded, as most of us know, predominantly by State and local taxes.

What I propose is the following: We extend the moratorium for about 8 months to next June 30. That moratorium extension would be accompanied by a sense of the Congress in my bill. It is only a two-page bill: It is a sense of Congress that State governments and interested business organizations should expedite efforts to develop a streamlined sales and use tax system that, once approved by Congress, would allow sellers to collect and remit sales and use taxes without imposing an undue burden on interstate commerce.

The House of Representatives, I believe this week, passed a 2-year extension on the moratorium, with really nothing involved in it, that actually begins to address the other side of the

equation; that is, how do you deal with all of this lost revenue and the need to fund our schools and education?

We really need to deal with both issues. I agree with the extension of the moratorium. What I propose is that we extend the moratorium to next June 30, do that immediately—I will propose a unanimous consent request when I send this to the desk—and between now and then, ask all of the sides involved to get serious and get this done, develop a compact we can work on together, and therefore require simplification of local tax systems and allow the State and local governments to enforce collection.

My colleague, Senator ENZI from Wyoming, with whom I have worked, as well as Senator VOINOVICH, Senator WYDEN, Senator MCCAIN, Senator GRAHAM of Florida, and many others have worked on this issue for a long while. We have not met success at this point. But Senator ENZI has been working very hard on it and another approach that would have a longer extension but would establish a more concrete system by which the State and local governments could develop a compact.

I am going to be a cosponsor of that proposal. I know he is working with other colleagues on it. I think that is good work as well. In the interim, I didn't want people to think that those of us who were working to solve both problems here—and there are two problems—were insensitive to the need to extend the moratorium. For that reason, I propose today that we extend the moratorium to next June 30. I will ask unanimous consent to do so, and I will send S. 1504 to the desk.

UNANIMOUS CONSENT REQUEST— S. 1504

Mr. DORGAN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1504, the Internet tax moratorium bill; that the Senate then proceed to its immediate consideration, that the bill be read three times, passed, and the motion to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, reserving the right to object, I will state the objection that I understand will be raised, but let me assure my colleague and friend that there is an interest on both sides of the aisle to extend the moratorium, maybe with not this precise language, maybe it would be the Enzi proposal, maybe it would be something Senators ALLARD and MCCAIN and others are working on. We will try to work with you to make sure the moratorium is extended. At this particular time, an objection will be raised.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN. Mr. President, let me say that I understood there would be

an objection. We will now experience a circumstance where the moratorium expires on Sunday. My expectation is that will not have much material impact on what or what might not happen in the country in the intervening days.

It is my hope that all of us who have worked on this can reach an agreement on how to do a number of these things. I don't want to retard the ability of remote sellers, catalogs, Internet, or other devices; I don't want to retard their ability to use that marketing strategy to enhance commerce in this country. I don't want to burden them in a way that would be unfair.

By the same token, we have this growth of remote sales by enterprises that, in many cases, have grown very large but have very few locations and use the mail and Internet transactions with which to conduct business; much of the commerce is then outside of the ability of State and local governments to receive the sales and use tax from that commerce just as other transactions would require.

That doesn't mean that when you buy something over the Internet, or from a catalog, it is tax free; it is not. A use tax is required to be paid, but almost no one pays it.

Some would make the case that, for example, those who want to solve this problem are talking about a new tax. Nothing could be further from the truth. There is already a tax on these transactions. It is not paid because it is horribly complicated for individual citizens to find a use tax form and submit a use tax to Oklahoma, or North Dakota, or Virginia, and say, by the way, I bought a shirt, or shoes, or a tool set, and here is the use tax I owe because the sales tax wasn't collected when I purchased it.

Because of that set of circumstances, we believed it would be better for the seller and the buyer to find a way to collect that, remit that to the coffers of State and local governments. It is used largely for education and improving and strengthening our schools, and we believe it would be important to do that.

We are trying to solve several problems. I believe at the end of the day we will extend this moratorium. I wish we had done it today. We will extend this moratorium. My colleague from Wyoming would make permanent the moratorium on taxing access. I will support that. We will extend the moratorium. If we are doing the right thing, I think we will at the same time begin to address the second part of the issue on behalf of the Governors, mayors, State legislators, States, school administrators, and all the folks who care about that.

On the other side, we are going to address the question of complexity on behalf of the remote sellers. They are not just whistling in the dark here. This is a real problem and a serious problem that we have to address. We are dealing with both sides of the equation. I support addressing both sides in a thoughtful and sensible way.

Again, I understand why an objection was raised, although I regret that it was made. I wish we had been able to extend the moratorium today. I want everybody to understand that there is no division in the Senate, in my judgment, about whether the moratorium should be extended; it is how long, and should we do it without trying to find a way to buckle up the other part of the solution. We ought to, in my judgment, deal with both sets of problems at the same time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, as the Senate sponsor of the Internet tax freedom bill, I appreciate a chance to set the record straight about exactly what this law is.

For example, it is continually cited that the Internet tax freedom law creates a kind of Cayman Islands for the Internet, where you can't collect taxes. That is not right. The only thing the Internet tax freedom law does is it bans discriminatory taxes. You can tax the Internet; you just must do to the offline world what you do to the online world. That is No. 1.

No. 2, not a single jurisdiction in this country—not even one—has been able to show any evidence that they have been hurt by their inability to impose discriminatory taxes on electronic commerce. We are constantly told by the mayors and Governors in some jurisdictions that they have been hurt. We have repeatedly asked for the evidence, and there has been none forthcoming.

I have made it clear that I am very anxious to work with the mayors and Governors on this issue. I was not aware there was going to be an effort to extend the moratorium today for just a few months, because we have had these negotiations now for 18 months in an effort to try to bring the parties together. I want to make it clear that I am anxious to continue those negotiations.

No. 3, there is absolutely nothing in current law that prohibits States and localities from collecting revenue that is owed to them. There is nothing in the Internet Tax Freedom Act that bars them from doing that. I just hope that as we make this effort to bring together technology companies, States, localities, and the mayors, we can recognize that it is possible today under current law to collect all taxes owed. The reason it is not done is, A, the technology doesn't exist to do it in a fashion that would not burden business and, B, a lot of the mayors and Governors don't want the political heat associated with collecting those taxes. Probably most illustrative of this point is what former Governor Celucci of Massachusetts, now Ambassador to Canada, said: Look, I am not going to put people on the border of Massachusetts to chase people down coming

from New Hampshire. I am not going to have that kind of chaos on my hands.

I hope we will continue this effort to try to bring the parties together in a constructive fashion. I wasn't aware there was going to be an effort today by unanimous consent to deal with this issue. I want to make it clear that I am anxious to work with all of the parties who have been involved in this issue. But there is absolutely nothing in the Internet tax freedom law that creates a Cayman Islands with respect to the Internet, No. 1; and, No. 2, there isn't anything that keeps States and localities from collecting taxes that are now owed; the reason it is not done is technology and politics. I hope, working cooperatively together, as we have sought to do for 18 months, it will be possible to do that.

Senator MCCAIN and I have introduced a bill that would bar discriminatory taxes on electronic commerce for 2 years. We introduced that legislation several weeks ago. It is virtually identical to what the House passed this week. I hope we can work from that. I want colleagues to know that before we come to the floor, we will be consulting with all the parties, and we will make an effort to bring people together on that.

Mr. DORGAN. Mr. President, I just want to clarify a point the Senator made. I assume he was not making the point that I was suggesting that the Internet Tax Freedom Act created a "Cayman Islands." I have not suggested that, and I didn't say that today. If the Senator is responding to somebody who might have done that, it wasn't I. I want to make sure the Senator understands that.

If I might make a final point, the Senator is accurate that the State and local governments can now impose a use tax on sales that are made by remote seller to a customer in that State. He is also accurate that they almost never do because it would require the hiring of tens of thousands of Federal workers to try, in each individual case, to achieve that tax collection. That is precisely why there needs to be a balance in these proposals, to achieve both goals: Extend the moratorium and, in some cases, make them permanent; second, to both simplify the sales use tax systems and allow the collection.

I might finally say that I appreciate the generous time, and I say that I would object to a 2-year moratorium with nothing else in it that gives us an assurance of solving the second problem, as some today objected to the 8-month extension of the moratorium I suggested. We will come to a balance on that. The reason I felt the need to offer this today is that Sunday the moratorium expires, and this is simply saying we can solve that and extend it for 8 months, until next June 30, and there will be no expiration.

I appreciate the Senator yielding.

Mr. WYDEN. Mr. President, to wrap up briefly, we have tried for 18 months

to bring the parties together. For example, I proposed—in spite of the fact that I see absolutely no evidence that any jurisdiction in this country has been hurt by their inability to impose discriminatory taxes, I proposed, over the opposition of many in business, that when the mayors and Governors have a proposal that is ready to go, they be given an opportunity to have a vote in the Congress, an opportunity to vote on a proposal of their choosing.

So I have clearly gone to considerable lengths to try to be sensitive to the concerns of mayors and Governors. I hope we will continue the effort to try to bring the parties together.

I was not aware there was going to be an effort to proceed to this bill by UC today, otherwise there would have been many colleagues, who share my view and support the legislation I offered with Congressman Cox that passed 98 to 2 in this Chamber, to support those positions to carry on this debate. The only way we are going to get this done is to bring the parties together.

I point out finally with respect to the time period, the National Conference of State Legislatures, known as NCSL, said recently they wanted a 4-year moratorium because they were not ready, from a technological standpoint, to advance the solutions that would address this issue without putting burdens on out-of-state sellers.

We are dealing with an extraordinarily important issue. The technology sector has been very hard hit, as all of our colleagues know. The last thing they need is to be shellacked with discriminatory taxes. There are more than 7,600 taxing jurisdictions in this country. If you are talking about overturning the Quill case, which is what this debate is all about, which says that you cannot impose taxes unless there is physical presence in a particular jurisdiction—a case I strongly support—you are dealing with very serious matters with respect to the economy of this country.

I would like to see us go back to the way we tried to deal with this for the last 18 months, which was in a conciliatory way, trying to bring the parties together. Starting Monday, there is an opportunity for considerable economic mischief. Fortunately, only four State legislatures are in session right now, but there is an opportunity for considerable economic mischief.

The legislation that Senator MCCAIN and I have advanced on a bipartisan basis provides the framework to proceed, but Senator Enzi, who has been very constructive on this issue for quite some time now, has made for me and others a copy of another proposal he has. I assure him and those with whom he is working that we will look at it very carefully and work with him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I had not intended to speak this morning, but I arrived in the midst of the discus-

sion of an issue which I think is very central to our federalist system of government. The Nation depends upon our States and local governments to deliver some of the most basic services that protect the security and advance the well-being of our people and our Nation as a whole.

We just had a dramatic demonstration of that with what happened after September 11. While there were a number of Federal personnel involved, the front line, the first responders, the people who lost their lives in the collapse of those buildings serving the public interest were largely employees of State and local governments.

We know, and we all applaud the importance of education for the future of our Nation. That is predominantly a State and local responsibility. What we are talking about today is the capacity of State and local governments to have sufficient control of their sources of revenue to continue to provide those very services.

While the current law, as the Senator from Oregon has correctly stated, focuses on prohibiting the States from adopting discriminatory tax systems that will single out and adversely affect distance sellers, particularly those who sell over the Internet, the fact is there is another form of discrimination, and that is the discrimination between the Main Street retail seller and that distant seller.

The discrimination is that in times past, we have adopted a philosophy that said in order for a State to require a seller to collect its sales tax, there had to be a physical presence of that seller within the State. That was a concept that made sense in a previous era, but that era has passed.

We just passed a major antiterrorism bill, and one of the basic changes we made had to do with wiretaps. Our wiretap law was basically written for the old rotary phone. It proved to be inadequate to deal with the issues of the cellular phone, computer communication, and all the things with which we are now familiar and in daily personal use.

The same economic and technical changes that have caused the Congress to reevaluate its concept of what it takes to fight terrorism have affected the way in which commerce is delivered in America.

We now have a situation where if you sell the same book at a retail store on Main Street, that seller is obligated to collect the sales tax of the State and local jurisdictions that might be imposed on that book. If you buy the identical book over the Internet, there is no obligation to collect sales tax.

I do not think that is a defensible differentiation, and the practical effect of that is going to be over time to erode the competitive position of the Main Street seller, and through that erosion also affect the ability to properly finance our police, fire, and education systems that are so critical to the functioning of our Nation.

Yes, there is an issue of discrimination here, a mild discrimination, and a quite unlikely discrimination that might be directed by State legislatures against Internet sellers and a massive discrimination that is being directed today against the Main Street retailer.

I believe these two issues are interconnected, and we should do as Senator ENZI is suggesting: At the same time we grant an extension of the moratorium, we build into that extension a mechanism that will result in the resolution of this much bigger issue of discrimination—the discrimination against the Main Street seller.

Mr. WYDEN. Will the distinguished Senator from Florida yield for a question?

Mr. GRAHAM. In just a moment when I complete my remarks, I will be pleased to yield.

The reality is that what we are about here, for those who are new to this issue, is the fact that time is on the side of the distant sellers. Right now, a relatively small percentage of American retail sales are conducted over the Internet, but that percentage has been growing every year. Already the distant sellers have acquired enough influence to cause the House of Representatives to take the action it has taken and to build considerable support within the Senate for an extension of the moratorium without any mechanism to deal with the discrimination against Main Street and the discrimination against the children and the other citizens who depend upon State and local government for fundamental services such as education and police.

The secret of those who would like to effectively make this discrimination against Main Street permanent is they want to continue moratorium after moratorium until the percentage of people who are using the Internet is so great that there will be no political constituency to deal with this discrimination.

I state for myself and I believe for others that we consider this to be a core issue of the future of federalism in America; that we have to have strong State and local governments, and we have to depend upon them to make decisions appropriate to their people. State and local governments, as one who served there for 20 years, do not like taxing their people. They are as sensitive to that as we are in Washington, maybe more so.

We should not deny them the capacity to make the decisions that are in the best interest of their people. That is a fundamental part of our federalist system, that different levels of government have responsibilities and must accept the obligation of those responsibilities, including the appropriate way to finance them.

So this is, as I say, a very basic issue. I, for one, will insist before we extend this moratorium beyond the very short period as suggested by the Senator from North Dakota that any longer extension must be linked to a process,

not a solution but a process, to move us towards the resolution of this fundamental discrimination that exists within our Nation and within our economy today.

I yield to the Senator from Oregon for his question.

Mr. WYDEN. I thank my colleague, and I think he knows I am very much committed to working with him and with Senator ENZI. I do not know how many hours we have put in over the last 18 months trying to do this. My question was designed really to get a sense of the thinking of the Senator on a particular point that may help us move this issue along.

What I and many others are concerned about is sticking it to sellers who are located thousands of miles away from a local jurisdiction and that seller has no presence in the local jurisdiction other than a Web site. That is the only presence they have today. Of course, the Supreme Court has said there has to be physical presence, under a current Court decision, in order to do that.

In the view of the Senator from Florida, what is the case for imposing these various taxes—of course, anything that is already owed can be collected under the current Internet tax freedom bill, so we are talking about something new. What is the case in the mind of the Senator for having changed treatment of that particular seller who is located thousands of miles from a local jurisdiction and who has no presence in that jurisdiction other than a Web site?

Again, I do not ask this question for any other reason than I think it would be helpful for me and others who spent a significant amount of time to get the thinking of colleagues as we try to figure out a way to move forward on it.

Mr. GRAHAM. I appreciate the very sincere and committed effort the Senator has made to try to arrive at a resolution, and I hope in this debate which has arisen today, and will arise with greater frequency now that the moratorium is about to lapse, that we can reach such a resolution.

What I think is basic is, first, the Constitution. The Constitution vests—and it was one of the most controversial debates at the Constitutional Convention of 1787—in the Federal Government the control of interstate commerce. The Supreme Court, as I read the most recent opinions on this issue, did not say requiring distant sellers to collect sales tax was unconstitutional. Rather, they said it was unauthorized; that it would take an affirmative act of Congress to sanction the States to require distant sellers—that is, sellers who did not have a physical presence in their State—to collect their sales tax.

So the issue is, we have to take an affirmative act in order to empower the States to require that distant sellers should collect their sales tax. So then the question is why—

The PRESIDING OFFICER (Mrs. CLINTON). The time of the Senator from

Florida has expired in morning business.

Mr. GRAHAM. Madam President, I ask for an additional 2 minutes to complete the answer to the question from the Senator from Oregon.

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

Mr. GRAHAM. So the question then is whether we should take that affirmative action. I think we should for two basic reasons. One is fairness. It is, in my judgment, intolerable to have an economic system in which government says if you are selling from a distant location, you are at a competitive advantage over persons who are selling on Main Street. That is precisely the current circumstance of requiring one to collect sales tax but not requiring the other to do it, and it is not an insubstantial competitive disadvantage. In my State, depending on which locality one is in, it could be a 6-, 7-, or more percent differential.

Second, the practical effect of this is going to be to erode the capacity of State and local governments, acting through the democratic process of representative election and decision, as to what services should be provided and how they should be financed to substantially erode that capability.

My State happens to be particularly dependent upon sales tax. About 70 percent or more of our general revenue is collected by sales tax. So if there were a significant percentage of that which moved from Main Street to distant seller, it would have an immediate and substantial impact on the capacity of our State to educate its children, to defend our people through police, to protect our people in time of emergency through fire and other emergency response institutions.

So this is a basic question of whether we at the national level are going to say to our brethren in the 50 States that for all time you are going to be saddled by this discrimination, which will have the effect of eroding your capacity to decide how to finance the services your people are asking you to provide.

I do not believe all wisdom resides in Washington. I believe in a distributed democracy and that we ought to let 50 States and thousands of local jurisdictions make those kinds of judgments, and eliminating this massive discrimination that currently is part of our tax system will return that degree of respect and capacity to State and local governments.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Madam President, at what time is the Senate expected to reconvene following the recess?

The PRESIDING OFFICER. 2 p.m.

Mr. BYRD. I ask unanimous consent that at 2 p.m., when the Senate reconvenes following the recess, I be recognized for not to exceed 35 minutes.

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

Mr. ENZI. Madam President, I ask unanimous consent that Senator

VOINOVICH be allowed to follow the Senator from West Virginia.

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

The Senator from Wyoming is recognized.

Mr. ENZI. I thank the Chair.

I have refrained from getting into this discussion about the moratorium on Internet taxes up to this point, but I need to voice some comments because I am one of the people who has been working on this issue for the last 18 months and was a part of the debate we had 18 months ago that put the current moratorium into effect.

I thank Senator GRAHAM from Florida, who has been intensely involved. He has been one of the main people who has provided a connection with Congress and State legislators. I thank Senator RON WYDEN, the Senator from Oregon, for his intense interest. I think probably the number of hours the Senator from Oregon and I, and Senator MCCAIN, Senator KERRY, Senator DORGAN, and Senator GRAHAM have spent in meetings on this issue, which has not been a specific bill, probably exceeds the time spent on any other issue that was not actually a bill, which indicates the intensity of the need there is to resolve the issue nationwide.

Particularly since the events of September 11, there has been a drain on resources for cities, towns, counties, and States as they have put more security in place, as they have provided for the difficulties that have happened in their States. Most of them rely on a sales tax to be able to do that.

Education is another area heavily funded by sales taxes. Those States that collect sales taxes and rely on sales taxes have been intensely interested that their right to collect sales taxes is not taken away. Getting all of the groups together has been extremely difficult: the recognition that there is an added burden on direct marketers when they do this, that the States need it, that the retailers are at an unfair disadvantage if there is not a sales tax collected. And it is small retail merchants that provide for donations for the year books and the other local activities that would be sorely missed if they were not there.

Getting some protection for all of these groups and bringing them together has been a real task. We have been making tremendous progress. There has been some concern that the moratorium runs out Sunday and the Nation will go into a major crisis. That is not the case. The grandfathering dates back to 1998. I suspect nobody is going to undo that particular date.

We need a solution. This is not my solution. This is the solution of all of the people I mentioned who have been working on it and will be continuing to work on it to come to some kind of an agreement where, first of all, we extend the moratorium; second, we make sure we protect the States so they can, with some pressure—and this is where the States have to come to the middle,

too—simplify their tax system so that direct marketer or that person doing remote sales has some capability of complying. In order to make that easier, one of the things we have built into the bill is a requirement that there be one form, one reporting place, one place to send the check, and a maximum of one audit. There is also a requirement there be reasonable compensation to the person who collects it.

Everybody who does direct sales collects sales taxes. They collect it in the State in which they are located, which is where they have a nexus and in other States where they have a nexus. There is an intense interest on their part to see that there is some simplification to the tax system in the States where they have to work.

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

Mr. ENZI. I am happy to yield for a question when I complete my remarks.

As I mentioned, we have been working with retailers and a coalition, including a lot of retailers and others who rely on the sales tax or rely on businesses that have a sales tax. That includes people who build shopping malls and do other types of retail businesses. I acknowledge their help in coming to this particular bill. I thank the National League of Cities and the National Governors' Association, and most particularly, my Governor from Wyoming, Governor Geringer, and the Governor from Utah, Governor Leavitt, for the tremendous hours they have put in together trying to get everybody on the same page.

I yield for a question.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I thank my colleague from Wyoming. I appreciate the work that has gone into this. He obviously has strong views on it. It has been very constructive in trying to work with me and others.

I ask my colleague about a procedural matter that could allow us to go forward and bring the parties together. Senator MCCAIN and I introduced legislation several weeks ago that is virtually identical to what the House passed this week. The House has already begun to move.

My question to my colleague is, would the distinguished Senator from Wyoming be willing to work with me and others, the entire group involved, to craft a unanimous consent request that could come up early next week where we could take up in the Senate the House-passed bill and then have an open and fair debate on amendments and all of the up-or-down votes that Members of this body would choose to have?

Would my colleague be willing to work with me and others to see if we could craft that kind of approach that is agreeable all around?

Mr. ENZI. I am happy to work with the Senator from Oregon. I have been working also with the Senator from Arizona, Mr. MCCAIN, to see if we can-

not propound some kind of unanimous consent. It needs to be done quickly before States run off the edge and pass some things we might then feel bad about repealing but have to repeal. I am interested in doing that.

However, I hope the propounded unanimous consent could deal with this bill, rather than the straight 12-month extension. I have been talking to people on the House side and I think they see some reasonableness in going with the approach I am providing, as well.

We need to come up with a propounded unanimous consent that will get us to this form of debate and voting on amendments so this bill will have a majority of cosponsors and can be passed.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. REID. Today Senator DORGAN, the chairman of the Democratic Policy Committee, is going to have at our luncheon the Ambassador of Egypt, the Ambassador of Jordan, the Ambassador of the United Arab Emirates and the Charge d'Affaires of Pakistan. I compliment Senator DORGAN for arranging these eminent people to speak with Members.

I mention that only as a preface to a letter I received from a constituent of mine in Las Vegas, a young constituent. Her name is Sanaa Khan, and she is a ninth grade student. The letter reads:

Dear Senator Reid: It is unfortunate that Americans do not have the basic knowledge about Islam. This is the faith practiced by almost seven million Muslims living in the United States, and over one billion people around the world. It is the fastest growing religion in the world. As a research topic for my 9th grade English project, I chose to highlight the basic tenets of Islam, in order to develop a better understanding among my friends and teachers in school. I would like to send this to you so that you may share with your friends and colleagues.

The Islamic belief is structured around five main pillars: (1) The profession of faith. (2) Daily worship. (3) Fasting during the month of Ramadan (based on the Islamic lunar calendar). (4) Charity and (5) Making the pilgrimage to Makkah.

The profession of faith is simple. It's declaring that one believes in one God and that Muhammad (peace be upon him) is the messenger of God. By reciting this, one may convert to Islam. Muhammad (peace be upon him) was the last prophet of God who lived from 570 to 633 BCE.

Daily worship is praying five times a day: at dawn, midday, afternoon, evening, and at night. These prayers are short and include recitation of verses from the Qur'an, the holy book for Muslims. During these prayers, Muslims bow their heads in the direction of Makkah, Saudi Arabia, the holiest place for Muslims.

Charity in Islam is called "zakat". This is the obligation to share what one possesses with the poor. Muslims are required to give 2.5% of all the money and jewelry they own once a year to less fortunate people.

Fasting during the month of Ramadan is also mandatory. Fasting is refraining from food and drink from dawn until dusk. Muslims go by the Islamic lunar calendar making Ramadan the ninth month. Fasting is

significant because it makes you a stronger person by realizing the significance of self control, discipline, and restricting ones desires.

The last pillar is making the pilgrimage to Makkah, Saudi Arabia. This pilgrimage is called Hajj. The holiest mosque is in Makkah, Masjid-al-Haram. Hajj occurs only once a year during the twelfth month of the Islamic calendar. It is required that you perform Hajj at least once in your lifetime if one can financially afford it.

The prophet of Islam is Muhammad (peace be upon him). He was born in Makkah, Saudi Arabia in 570 BCE. In 610 BCE, the angel Gabriel carried the revelation from God and brought it down to Muhammad (peace be upon him). After a period of time, these revelations were placed into one book called the Qur'an.

I hope this information, though very basic, would at least provoke some thought process towards efforts to better understand Islam.

I appreciate very much Sanaa sending me this letter. I hope everyone in the Senate will become familiar with her letter and become familiar with the tenets of her religion.

I have been on the floor before, speaking about Islam and what a great religion it is. I have said before and I repeat that my wife's primary physicians are two members of the Islamic faith, her internist and the person who has performed surgery on her. I know them well. I have been in their homes. I have socialized with them. I have talked about very serious things with them. We have helped each other with family problems.

I have been to the new mosque with them in Las Vegas. They are wonderful people with great families. I have come to realize Islam is a good religion; it is a good way of life. Muslims maintain a good health code as their religion dictates, and they have great spiritual values as their religion dictates. It is too bad there are some people—evil people around the world—who would target the innocent in the name of Islam.

I believe that the strength of Islam, and the faith and fortitude of more than one billion Muslims around the world, will overcome these evil people and their evil deeds.

(The remarks of Mr. REID pertaining to the introduction of S. 1566 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EMILY COURIC

Mr. ALLEN. Madam President, I rise this afternoon on a very sad note. We lost a State senator from Virginia, Emily Couric.

For those who knew Emily Couric, and for those who worked with Emily Couric and followed her life and her battles, we all know we have lost a fine person. We have lost an articulate, passionate, and inspirational leader.

Emily Couric passed away today, October 18. She had been a State senator in the 25th District of Virginia since after her election in 1995. That is an area around Charlottesville, Albemarle County, Greene County, Madison County, Orange County, and Nelson County—generally the Piedmont area of Virginia.

She passed away of pancreatic cancer today in her home in Charlottesville.

She served in the State senate while I served as the Governor of the Commonwealth of Virginia.

She was recognized by all on both sides of the aisle as a leader—especially in her areas of greatest concern, which were health care and education.

Before serving in the State senate, she served on the school board in the city of Charlottesville, and indeed before getting elected to the State senate was chairman of the school board.

She had many accomplishments, such as establishing advanced mathematics and technology diploma seals for those high school graduates. Picture that—encouraging students to do even more than what is just enough to get by. But if they wanted to do even more, they could add an advanced mathematics and technology aspect to their education.

She was also a leader in supporting research and rehabilitation for victims of spinal cord injuries and traumatic brain injuries.

She was a leader in the Democrat Party in Virginia. Had she not contracted pancreatic cancer, she would right now certainly be running for Lieutenant Governor on the Democrat ticket. She explored that race. But she was diagnosed with cancer back in July of last year—2000. She was certainly regarded as a frontrunner and would not have had any opposition whatsoever in her party. I would certainly guess that she would probably have won very easily. But she had to withdraw from the race because she had to undergo treatment for the pancreatic cancer.

Nevertheless, she didn't want to get out of what she cared about, which was serving the people. Indeed, she served as the general chair of the Democrat Party of Virginia, and undertook that responsibility in December of 2000.

She served on many committees in the State senate, such as the Education and Health Committee, the Agriculture, Conservation and Natural Resources Committee, and the Rehabilitation and Social Services Committee.

She served in a variety of areas, but she did not just serve Virginia, she served the region. She served not only in the legislature, but on the Southern Regional Education Board and the Southern Legislative Conference Education Committee, as well as other policy committees.

As I said, prior to her election, she did serve on the Charlottesville School Board from 1985 to 1991, including one term as chairman. She served on a lot of community boards and organizations. She was a member of the Charlottesville Boys & Girls Club, the Charlottesville Area School Business Alliance, the Jefferson Area Board for Aging, the Virginia National Bank, the Virginia Festival of the Book, the Heritage Repertory Theater, Camp Holiday Trails, and various other activities in the community. Until her last breath, you knew her passion was for all these ideas, but especially those that would benefit youngsters with their health, their education, and their future opportunities.

She was born in Atlanta, GA. She moved to Virginia in 1951. She was a graduate of Yorktown High School in Arlington, VA, right across the river from us.

She received her bachelor of arts from Smith College and graduated with honors, magna cum laude, Phi Beta Kappa, and Sigma Xi from Smith College.

Expressing for my colleague and myself, and I think all Senators and anybody who knew Emily Couric, our prayers and thoughts are with her husband, Dr. George Beller of Charlottesville, VA, her son Ray Wadlow—he is a doctor—and her daughter-in-law Jessica of Philadelphia, PA; and her son Jeff Wadlow of Los Angeles, CA.

She is also survived by her parents Elinor and John Couric of Arlington, VA; her siblings, Clara Couric Batchelor, John Couric, Jr., and, of course, one we know and see every morning, Katie Couric; her step children, Michael Beller, Amy Beller, and Leslie Beller; and also seven nieces and nephews; and two step-grandchildren.

We will all miss Emily Couric. Regardless of our political parties, Emily Couric was an inspiration. Her life really embodied her true dedication to her fellow human beings.

Once she was diagnosed with this terrible cancer, she kept fighting. She did not give up. She is an inspiration and her spirit lives on. All of us have been blessed to have known her; and, indeed, future generations will have healthier, better lives because Emily Couric cared enough to devote a great deal of her lifetime to public service and the betterment of others.

Mr. WARNER. Will the Senator yield for a moment?

Mr. ALLEN. I am pleased to yield.

The PRESIDING OFFICER. The senior Senator from Virginia.

Mr. WARNER. Madam President, I associate myself with my colleague's remarks. I say to Senator ALLEN, indeed, you knew her very well. I had come to know her in later years.

The Presiding Officer might be interested in this little story. I had a chance to be with her about 6 or 8 months ago, it seems to me, when she won an award in Northern Virginia and I was sort of the toastmaster of that evening. We

had a very friendly conversation—as we often do.

I talked to her about my father, who had likewise died from cancer. He was a medical doctor who devoted his life to others. We engaged briefly in a conversation.

I said: It took great courage for you not to seek the Lieutenant Governor's post.

She acknowledged that, and then, with a twinkle in her eye—she was a very attractive woman, by the way—she said: Yes. I thought about the Lieutenant Governor post because that was going to be a way stop to come and have a campaign against you, Senator WARNER.

And she could have waged a campaign against this old Senator that would give him a wakeup call, for sure.

Our State has lost one of its shining stars, but that is God's will, and we must accept it. I share with the Senator our prayers for her family and her friends.

Mr. ALLEN. Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I add my voice to that of the two Senators from Virginia. I did not know Emily Couric, but having listened to the distinguished junior Senator from Virginia speak about her, and the senior Senator, not only did Virginia lose someone of great value but the country did as well. I am sure her family and friends appreciate immensely the words spoken in this Chamber this afternoon. I am sure all of us would like to associate ourselves with them. We express our sympathies to them.

BEST PHARMACEUTICALS FOR CHILDREN ACT

Mr. DODD. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 184, S. 838; that the only amendment in order other than the committee-reported substitute be a Dodd-DeWine amendment; that the amendment be agreed to, the committee substitute, as amended, be agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, with the above occurring with no intervening action or debate.

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

The Senate proceeded to consider the bill (S. 838) to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Best Pharmaceuticals for Children Act".

SEC. 2. PEDIATRIC STUDIES OF ALREADY-MARKETED DRUGS.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) by striking subsection (b); and

(2) in subsection (c)—

(A) by inserting after "the Secretary" the following: "determines that information relating to the use of an approved drug in the pediatric population may produce health benefits in that population"; and

(B) by striking "concerning a drug identified in the list described in subsection (b)".

SEC. 3. RESEARCH FUND FOR THE STUDY OF DRUGS LACKING EXCLUSIVITY.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended—

(1) by redesignating the second section 409C, relating to clinical research (42 U.S.C. 284k), as section 409G;

(2) by redesignating the second section 409D, relating to enhancement awards (42 U.S.C. 284l), as section 409H; and

(3) by adding at the end the following:

"SEC. 409I. PROGRAM FOR PEDIATRIC STUDIES OF DRUGS LACKING EXCLUSIVITY.

"(a) LIST OF DRUGS LACKING EXCLUSIVITY FOR WHICH PEDIATRIC STUDIES ARE NEEDED.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs and experts in pediatric research, shall develop, prioritize, and publish an annual list of approved drugs for which—

"(A)(i) there is an approved application under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)); or

"(ii) there is a submitted application that could be approved under the criteria of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)); or

"(iii) there is no patent protection or market exclusivity protection under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); and

"(B) additional studies are needed to assess the safety and effectiveness of the use of the drug in the pediatric population.

"(2) CONSIDERATION OF AVAILABLE INFORMATION.—In developing the list under paragraph (1), the Secretary shall consider, for each drug on the list—

"(A) the availability of information concerning the safe and effective use of the drug in the pediatric population;

"(B) whether additional information is needed;

"(C) whether new pediatric studies concerning the drug may produce health benefits in the pediatric population; and

"(D) whether reformulation of the drug is necessary;

"(b) CONTRACTS FOR PEDIATRIC STUDIES.—The Secretary shall award contracts to entities that have the expertise to conduct pediatric clinical trials (including qualified universities, hospitals, laboratories, contract research organizations, federally funded programs such as pediatric pharmacology research units, other public or private institutions, or individuals) to enable the entities to conduct pediatric studies concerning one or more drugs identified in the list described in subsection (a).

"(c) PROCESS FOR CONTRACTS AND LABELING CHANGES.—

"(1) WRITTEN REQUEST TO HOLDERS OF APPROVED APPLICATIONS FOR DRUGS LACKING EXCLUSIVITY.—

"(A) IN GENERAL.—The Commissioner of Food and Drugs, in consultation with the Director of National Institutes of Health, may issue a written request (which shall include a timeframe for negotiations for an agreement) for pediatric studies concerning a drug identified in the list described in subsection (a) to all holders of an approved application for the drug under section

505 of the Federal Food, Drug, and Cosmetic Act. Such a request shall be made in accordance with section 505A of the Federal Food, Drug, and Cosmetic Act.

"(B) PUBLICATION OF REQUEST.—If the Commissioner of Food and Drugs does not receive a response to a written request issued under subparagraph (A) within 30 days of the date on which a request was issued, the Secretary, acting through the Director of National Institutes of Health and in consultation with the Commissioner of Food and Drugs, shall publish a request for contract proposals to conduct the pediatric studies described in the written request.

"(C) DISQUALIFICATION.—A holder that receives a first right of refusal shall not be entitled to respond to a request for contract proposals under subparagraph (B).

"(D) GUIDANCE.—Not later than 270 days after the date of enactment of this section, the Commissioner of Food and Drugs shall promulgate guidance to establish the process for the submission of responses to written requests under subparagraph (A).

"(2) CONTRACTS.—A contract under this section may be awarded only if a proposal for the contract is submitted to the Secretary in such form and manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(3) REPORTING OF STUDIES.—

"(A) Upon completion of a pediatric study in accordance with a contract awarded under this section, a report concerning the study shall be submitted to the Director of National Institutes of Health and the Commissioner of Food and Drugs. The report shall include all data generated in connection with the study.

"(B) AVAILABILITY OF REPORTS.—Each report submitted under subparagraph (A) shall be considered to be in the public domain, and shall be assigned a docket number by the Commissioner of Food and Drugs. An interested person may submit written comments concerning such pediatric studies to the Commissioner of Food and Drugs, and the written comments shall become part of the docket file with respect to each of the drugs.

"(C) ACTION BY COMMISSIONER.—The Commissioner of Food and Drugs shall take appropriate action in response to the reports submitted under subparagraph (A) in accordance with paragraph (4).

"(4) REQUEST FOR LABELING CHANGES.—During the 180-day period after the date on which a report is submitted under paragraph (3)(A), the Commissioner of Food and Drugs shall—

"(A) review the report and such other data as are available concerning the safe and effective use in the pediatric population of the drug studied; and

"(B) negotiate with the holders of approved applications for the drug studied for any labeling changes that the Commissioner of Food and Drugs determines to be appropriate and requests the holders to make; and

"(C)(i) place in the public docket file a copy of the report and of any requested labeling changes; and

"(ii) publish in the Federal Register a summary of the report and a copy of any requested labeling changes.

"(5) DISPUTE RESOLUTION.—If, not later than the end of the 180-day period specified in paragraph (4), the holder of an approved application for the drug involved does not agree to any labeling change requested by the Commissioner of Food and Drugs under that paragraph—

"(A) the Commissioner of Food and Drugs shall immediately refer the request to the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee; and

"(B) not later than 90 days after receiving the referral, the Subcommittee shall—

"(i) review the available information on the safe and effective use of the drug in the pediatric population, including study reports submitted under this section; and

“(ii) make a recommendation to the Commissioner of Food and Drugs as to appropriate labeling changes, if any.

“(6) **FDA DETERMINATION.**—Not later than 30 days after receiving a recommendation from the Subcommittee under paragraph (5)(B)(ii) with respect to a drug, the Commissioner of Food and Drugs shall consider the recommendation and, if appropriate, make a request to the holders of approved applications for the drug to make any labeling change that the Commissioner of Food and Drugs determines to be appropriate.

“(7) **FAILURE TO AGREE.**—If a holder of an approved application for a drug, within 30 days after receiving a request to make a labeling change under paragraph (6), does not agree to make a requested labeling change, the Commissioner may deem the drug to be misbranded under the Federal Food, Drug, and Cosmetic Act.

“(8) **RECOMMENDATION FOR FORMULATION CHANGES.**—If a pediatric study completed under public contract indicates that a formulation change is necessary and the Secretary agrees, the Secretary shall send a nonbinding letter of recommendation regarding that change to each holder of an approved application.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **IN GENERAL.**—There are authorized to be appropriated to carry out this section—

“(A) \$200,000,000 for fiscal year 2002; and

“(B) such sums as are necessary for each of the 5 succeeding fiscal years.

“(2) **AVAILABILITY.**—Any amount appropriated under paragraph (1) shall remain available to carry out this section until expended.”.

SEC. 4. TIMELY LABELING CHANGES FOR DRUGS GRANTED EXCLUSIVITY; DRUG FEES.

(a) **ELIMINATION OF USER FEE WAIVER FOR PEDIATRIC SUPPLEMENTS.**—Section 736(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(a)(1)) is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraph (G) as subparagraph (F).

(b) **LABELING CHANGES.**—

(1) **DEFINITION OF PRIORITY SUPPLEMENT.**—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(kk) **PRIORITY SUPPLEMENT.**—The term ‘priority supplement’ means a drug application referred to in section 101(4) of the Food and Drug Administration Modernization Act of 1997 (111 Stat. 2298).”.

(2) **TREATMENT AS PRIORITY SUPPLEMENTS.**—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended by adding at the end the following:

“(l) **LABELING SUPPLEMENTS.**—

“(1) **PRIORITY STATUS FOR PEDIATRIC SUPPLEMENTS.**—Any supplement to an application under section 505 proposing a labeling change pursuant to a report on a pediatric study under this section—

“(A) shall be considered to be a priority supplement; and

“(B) shall be subject to the performance goals established by the Commissioner for priority drugs.

“(2) **DISPUTE RESOLUTION.**—If the Commissioner determines that an application with respect to which a pediatric study is conducted under this section is approvable and that the only open issue for final action on the application is the reaching of an agreement between the sponsor of the application and the Commissioner on appropriate changes to the labeling for the drug that is the subject of the application—

“(A) not later than 180 days after the date of submission of the application—

“(i) the Commissioner shall request that the sponsor of the application make any labeling change that the Commissioner determines to be appropriate; and

“(ii) if the sponsor of the application does not agree to make a labeling change requested by the Commissioner by that date, the Commis-

sioner shall immediately refer the matter to the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee;

“(B) not later than 90 days after receiving the referral, the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee shall—

“(i) review the pediatric study reports; and

“(ii) make a recommendation to the Commissioner concerning appropriate labeling changes, if any;

“(C) the Commissioner shall consider the recommendations of the Pediatric Advisory Subcommittee of the Anti-Infective Drugs Advisory Committee and, if appropriate, not later than 30 days after receiving the recommendation, make a request to the sponsor of the application to make any labeling change that the Commissioner determines to be appropriate; and

“(D) if the sponsor of the application, within 30 days after receiving a request under subparagraph (C), does not agree to make a labeling change requested by the Commissioner, the Commissioner may deem the drug that is the subject of the application to be misbranded.”.

SEC. 5. OFFICE OF PEDIATRIC THERAPEUTICS.

(a) **ESTABLISHMENT.**—The Secretary of Health and Human Services shall establish an Office of Pediatric Therapeutics within the Office of the Commissioner of Food and Drugs.

(b) **DUTIES.**—The Office of Pediatric Therapeutics shall be responsible for oversight and coordination of all activities of the Food and Drug Administration that may have any effect on a pediatric population or the practice of pediatrics or may in any other way involve pediatric issues.

(c) **STAFF.**—The staff of the Office of Pediatric Therapeutics shall include—

(1) employees of the Department of Health and Human Services who, as of the date of enactment of this Act, exercise responsibilities relating to pediatric therapeutics;

(2) 1 or more additional individuals with expertise concerning ethical issues presented by the conduct of clinical research in the pediatric population; and

(3) 1 or more additional individuals with expertise in pediatrics who shall consult and collaborate with all components of the Food and Drug Administration concerning activities described in subsection (b).

SEC. 6. NEONATES.

Section 505A(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(g)) is amended by inserting “(including neonates in appropriate cases)” after “pediatric age groups”.

SEC. 7. SUNSET.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended by striking subsection (j) and inserting the following:

“(j) **SUNSET.**—A drug may not receive any 6-month period under subsection (a) or (c) unless—

“(1) on or before October 1, 2007, the Secretary makes a written request for pediatric studies of the drug;

“(2) on or before October 1, 2007, an approvable application for the drug is submitted under section 505(b)(1); and

“(3) all requirements of this section are met.”.

SEC. 8. DISSEMINATION OF PEDIATRIC INFORMATION.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) (as amended by section 4(b)(2)) is amended by adding at the end the following:

“(m) **DISSEMINATION OF PEDIATRIC INFORMATION.**—

“(1) **IN GENERAL.**—Not later than 180 days after the date of submission of a report on a pediatric study under this section, the Commissioner shall make available to the public a summary of the medical and clinical pharmacology reviews of pediatric studies conducted for the supplement, including by publication in the Federal Register.

“(2) **EFFECT OF SUBSECTION.**—Nothing in this subsection alters or amends in any way section 552 of title 5 or section 1905 of title 18, United States Code.”.

SEC. 9. CLARIFICATION OF INTERACTION OF MARKET EXCLUSIVITY UNDER SECTION 505A OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND MARKET EXCLUSIVITY AWARDED TO AN APPLICANT FOR APPROVAL OF A DRUG UNDER SECTION 505(j) OF THAT ACT.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) (as amended by section 8) is amended by adding at the end the following:

“(n) **CLARIFICATION OF INTERACTION OF MARKET EXCLUSIVITY UNDER THIS SECTION AND MARKET EXCLUSIVITY AWARDED TO AN APPLICANT FOR APPROVAL OF A DRUG UNDER SECTION 505(j).**—

“(1) **IN GENERAL.**—If a 180-day period under section 505(j)(5)(B)(iv) overlaps with a 6-month extension under this section, so that the applicant for approval of a drug under section 505(j) entitled to the 180-day period under that section loses a portion of the 180-day period to which the applicant is entitled for the drug, the 180-day period shall be extended—

“(A) if the 180-day period would, but for this subsection, expire after the 6-month extension, by the number of days of the overlap; or

“(B) if the 180-day period would, but for this subsection, expire during the 6-month extension, by 6 months.

“(2) **EFFECT OF SUBSECTION.**—Under no circumstances shall application of this section result in an applicant for approval of a drug under section 505(j) being enabled to commercially market the drug to the exclusion of a subsequent applicant for approval of a drug under section 505(j) for more than 180 days.”.

SEC. 10. STUDY CONCERNING RESEARCH INVOLVING CHILDREN.

(a) **CONTRACT WITH INSTITUTE OF MEDICINE.**—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for—

(1) the conduct, in accordance with subsection (b), of a review of—

(A) Federal regulations in effect on the date of the enactment of this Act relating to research involving children;

(B) federally-prepared or supported reports relating to research involving children; and

(C) federally-supported evidence-based research involving children; and

(2) the submission to the appropriate committees of Congress, by not later than 2 years after the date of enactment of this Act, of a report concerning the review conducted under paragraph (1) that includes recommendations on best practices relating to research involving children.

(b) **AREAS OF REVIEW.**—In conducting the review under subsection (a)(1), the Institute of Medicine shall consider the following:

(1) The written and oral process of obtaining and defining “assent”, “permission” and “informed consent” with respect to child clinical research participants and the parents, guardians, and the individuals who may serve as the legally authorized representatives of such children (as defined in subpart A of part 46 of title 45, Code of Federal Regulations).

(2) The expectations and comprehension of child research participants and the parents, guardians, or legally authorized representatives of such children, for the direct benefits and risks of the child’s research involvement, particularly in terms of research versus therapeutic treatment.

(3) The definition of “minimal risk” with respect to a healthy child or a child with an illness.

(4) The appropriateness of the regulations applicable to children of differing ages and maturity levels, including regulations relating to legal status.

(5) Whether payment (financial or otherwise) may be provided to a child or his or her parent, guardian, or legally authorized representative for the participation of the child in research, and if so, the amount and type of payment that may be made.

(6) Compliance with the regulations referred to in subsection (a)(1)(A), the monitoring of such compliance (including the role of institutional review boards), and the enforcement actions taken for violations of such regulations.

(7) The unique roles and responsibilities of institutional review boards in reviewing research involving children, including composition of membership on institutional review boards.

(c) **REQUIREMENTS OF EXPERTISE.**—The Institute of Medicine shall conduct the review under subsection (a)(1) and make recommendations under subsection (a)(2) in conjunction with experts in pediatric medicine, pediatric research, and the ethical conduct of research involving children.

SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) (as amended by sections 2(1), 4(b)(2), 8, and 9) is amended—

(1)(A) by striking “(j)(4)(D)(ii)” each place it appears and inserting “(j)(5)(D)(ii)”;

(B) by striking “(j)(4)(D)” each place it appears and inserting “(j)(5)(D)”;

(C) by striking “505(j)(4)(D)” each place it appears and inserting “505(j)(5)(D)”;

(2) by redesignating subsections (a), (g), (h), (i), (j), (k), (l), (m), and (n) as subsections (b), (a), (g), (h), (m), (l), (i), (j), and (k), respectively;

(3) by moving the subsections so as to appear in alphabetical order;

(4) in paragraphs (1), (2), and (3) of subsection (d), subsection (e), and subsection (m) (as redesignated by paragraph (1)), by striking “subsection (a) or (c)” and inserting “subsection (b) or (c)”;

(5) in subsection (g) (as redesignated by paragraph (1)), by striking “subsection (a) or (b)” and inserting “subsection (b) or (c)”.

Mr. HATCH. Mr. President, I rise to commend my colleagues Senators DEWINE and DODD for their efforts to reauthorize an important piece of legislation—the pediatric exclusivity rules. The DeWine-Dodd pediatric exclusivity law was passed as part of the Food and Drug Administration Modernization Act of 2001. This bill has helped spur a great deal of research into pediatric indications for many pharmaceutical products. It is a good law.

I also want to recognize the efforts of Chairman KENNEDY and Ranking Member GREGG and Senator FRIST for their work in moving this through the HELP Committee.

I am offering a technical amendment that I believe will be acceptable to all, that clarifies how the pediatric exclusivity provisions work in conjunction with certain provisions of the Drug Price Competition and Patent Term Restoration Act. Representative WAXMAN and I were instrumental in developing this important 1984 law.

I have worked with my colleagues, the administration, and interested parties to make certain that the 1997 pediatric exclusivity law does not act to curtail the incentives of those generic drug manufacturers awarded 180 days of exclusivity under the 1984 law because they have successfully challenged a patent or have shown that a pioneer drug product is not infringed.

The amendment I offer today helps make clear that a generic firm that qualifies for the 180-day patent non-infringement/patent invalidity incentives gains just that—180 days, no more, no less.

I also thank Senator DODD for agreeing to continue to work to iron out some issues as this bill is conferenced with the House. For example, we want to work together to make certain the overlap language applies to generic drug applications already in the pipeline at FDA. I also understand that some may have concerns that certain aspects of this language may raise questions with respect to the takings clause. It is my hope that the conferees will work to perfect the language.

I commend Helen Rhee, who has worked on this bill for both her old boss, Senator DEWINE and her new boss Senator FRIST and Deborah Barrett of Senator DODD's office for their work on this bill.

I also commend the expert staff of the Food and Drug Administration, including Melinda Plaisier, Jarilyn Dupont, Liz Dickinson, and Kim Dettelbach for their hard work on this legislation.

I urge my colleagues to work together to reauthorize the DeWine-Dodd pediatric bill.

Mr. FRIST. Mr. President, I rise today to support S. 838, the Best Pharmaceuticals for Children Act. In the January 2001 report to Congress, the FDA stated that the law that we are reauthorizing today, “has done more to generate clinical studies and useful prescribing information for the pediatric population than other regulatory or legislative process to date.”

In just the 3 years since the law was implemented, it has made a positive difference in the lives of thousands of children. I am pleased to be a cosponsor and strong supporter of this highly successful program. In the short time that this program has been in existence, FDA has issued about 200 written requests for pediatric studies. Companies have undertaken over 400 pediatric studies, of which 58 studies have been completed, in a wide range of critical therapeutic areas, including gastroesophageal reflux disease, diabetes mellitus, pain, asthma, and hypertension. Thirty-seven drugs have been granted pediatric exclusivity, and important label changes have either been made, or are underway, as a result of pediatric studies.

For instance, new pediatric dosing information for a new oral formulation of midazolam, a medication used to sedate children in surgery, now offers an alternative to the injectable form of the drug that needs to be directly injected into a child's vein. The studies submitted under this pediatric exclusivity law not only resulted in this new oral syrup formulation and correct dosing information, but also identified a subpopulation of pediatric patients with heart disease and pulmonary hypertension who are at higher risk for

adverse events unless they are given lower doses than other children. A pediatric nephrologist from Memphis, TN, prescribed Rantididine, using new dosing and labeling information that resulted from this law, to neonates who were experiencing health problems due to acid reflux.

Despite the successes of this law, we did not settle for a straight reauthorization. We instead sought to improve this already highly successful law. This law provides a funding mechanism to ensure that off-patent drugs and certain declined written requests for the study of on-patent drugs, for which the Secretary believes there is a continuing need for pediatric testing, are studied. It establishes timeframes for responding to written requests, timeframes and processes for negotiating label changes, and authorizes the Federal Government to deem a drug misbranded if the company ultimately disagrees with FDA's proposed new drug label. The government could then begin an enforcement action under existing authority to seek a court order regarding relabeling of the drug.

We also lift the current restrictions on user fees established under the Prescription Drug User Fee Act to include this pediatric testing program. By including pediatric testing in the user fee program, the FDA will be given additional resources needed to give priority review to pediatric testing applications.

We provide for the public dissemination of summaries of the pediatric studies that are submitted so that certain unprotected information will be disseminated to pediatricians even before labeling information has been finalized.

I would like to thank Senator HATCH and his staff, Bruce Artim and Trish Knight, for their work in drafting language to clarify that this pediatric incentive program does not, and is not intended to, preclude other incentives, for example, one that provides for a 180-day exclusivity period for the first generic drug company that challenges a patent. Another important clarification we made in this bill is that the pediatric exclusivity program is not intended to prevent generics from entering the market solely based on the fact that some or all of the pediatric use information may be protected under the pediatric exclusivity law. Allowing generic drug companies to market a drug to adults, while requiring that any precautions, warnings, or contraindication for pediatric use that the Secretary determines to be necessary ensures that the safety of children is protected and that the intent of two different laws are both met.

To further ensure that the safety of children in clinical trials is protected, this bill requires that the Institute of Medicine conduct a review of federal regulations, reports, and research involving children and provide recommendations on best practices relating to research involving children. This

builds on an important review and report from the Department of Health and Human Services that Senator KENNEDY and I worked with Senator DEWINE and DODD to include in the Children's Health Act last year.

While we ensure that the Secretary convenes and consults with the Pediatric Advisory Committee, we also ensure that pediatric oncology remains a research priority. Twenty written requests have been issued so far for oncology drugs, and this bill authorizes the Pediatric Oncology Subcommittee to evaluate therapeutic alternatives to treat pediatric cancer and provide recommendations and guidance to ensure children with cancer having timely access to the most promising new cancer therapies.

I would like to thank my colleagues, Senators DODD, DEWINE, AND KENNEDY for their relentless effort to create such a strong bill. We have worked hard to make major improvements to an already highly successful law. I would like to thank Senators COLLINS and BOND for their early support and for helping to draft language to ensure that drugs used in the neonate population are studied, when safely and ethically appropriate. I also appreciate the support of Senators GREGG, MIKULSKI, JEFFORDS, MURRAY, CLINTON, BINGAMAN, and WELLSTONE for this bill and for their help in improving this already highly successful pediatric testing law.

I would also like to thank Helen Rhee on my staff and Debra Barrett from Senator DODD's staff for their tireless dedication and effort to help us bring so many Members from across the aisle and off the Hill together to pass this legislation. Finally, I would like to thank Elaine Holland Vining with the American Academy of Pediatrics, Mark Isaac and Natasha Bilimoria with the Elizabeth Glaser Pediatric AIDS Foundation, and Jeanne Ireland, Christie Onoda, and Stephanie Sikora from Senator DODD's office for their expertise and guidance in drafting this bill. Vince Ventimiglia from Senator GREGG's staff, Christina Ho from Senator CLINTON's staff, and David Dorsey, David Nexon, and Paul Kim from Senator KENNEDY's office also deserve much credit for negotiating and bringing this bill to final passage today.

AMENDMENT NO. 1905

The amendment (No. 1905) was agreed to.

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

The committee amendment in the nature of a substitute, as amended was agreed to.

The bill (S. 838), as amended, was read the third time and passed.

ORDER OF PROCEDURE

Mr. DODD. Madam President, we are about to go into recess.

I ask unanimous consent that when the Senate reconvenes and after the re-

marks of Senator BYRD and Senator VOINOVICH, Senator DEWINE and I be recognized for a half hour with the time equally divided.

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2 p.m.

Thereupon, the Senate, at 12:45 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Mr. REED).

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for up to 35 minutes.

CONTINUING THE WORK OF THE SENATE

Mr. BYRD. Mr. President, in the early days of the Great Depression, I lived in the coal mining camps of southern West Virginia. I remember those days when we only had an old Philco radio up on the wall of the house. But the voice of President Franklin Roosevelt was a golden voice. When his voice came over the airways, the coal miners and their families gathered around and listened intently and always with hope.

Roosevelt, in his first inaugural address, stated quite clearly:

[The only thing we have to fear is fear itself—nameless, unreasoning, unjustified terror which paralyzes needed efforts to convert retreat into advance.

Mr. President, the U.S. Senate must not be paralyzed. At a time when the Senate must lead by example, we must show the Nation that work can continue and that our Government will not close down.

Congress is supposed to approve 13 appropriations bills—these are the regular appropriations bills—by the start of the fiscal year on October 1. But that fiscal year started several days ago. Yet we have only sent the Interior and the military construction appropriations conference reports to the President for his signature. At the same time, we have now approved a third continuing resolution—this one to last until October 31. That is Halloween. The Appropriations Committees in the House and Senate have been doing their work. The legislation is being written and reported to the Senate for consideration. But instead of debating and voting on these bills, instead of expeditiously doing the work of the people, the Senate is moving all too slowly—moving at a snail's pace, as a matter of fact—on these essential funding bills.

The American people are looking for leadership in their elected representatives, and they have a right to demand it. We need to act; we need to show them, we need to show the world that the Senate is undaunted, that we can accomplish our goals notwithstanding

those who would seek to have the American people cower in fear.

One of the bills, for example, delayed on the floor is the fiscal year 2002 foreign operations appropriations bill includes \$450 million to combat HIV-AIDS, the worst global health crisis in half a millennium. The bill includes money for medicines to treat malaria and tuberculosis. Hundreds of millions of dollars for efforts to reduce poverty, improve basic health care, and build basic housing and sanitation systems are also being delayed. Even funds to combat terrorism and to reduce threats from biological, chemical, and nuclear weapons are currently in that bill, the bill being held up by one side of the aisle on this Senate floor.

I appreciate the efforts of the majority leader to bring these appropriations bills to the floor. Unfortunately, his efforts to date have been blocked to a considerable extent.

Now is the time for the Members of the Senate to exercise the leadership which the American people have entrusted to us. Now is the time to abandon petty political partisanship and to link arms against terror. Now is not the time to ignore our responsibilities. Now is not the time to abandon our posts and scurry out of town. Let us demonstrate a steady hand. Our message must be that calmness is going to prevail. It does prevail; it will continue to prevail. We must avoid the appearance of disorder, panic, and especially petty partisanship.

To those who say let us slam all of our legislation into one package and pack our bags and get out of town, I say lift your sights. We cannot fulfill our duties with one eye on the door. We have a Constitution to guide us. We have a Constitution to uphold and an oath to which we swore our solemn allegiance.

We cannot let Osama bin Laden take over the Senate. We cannot succumb to terror, nor can we succumb to partisan games. Many of our appropriations bills are waiting and ready for Senate floor debate. These are bills that fund important programs, important programs for you out there in the Great Plains, in the great hills and valleys throughout this country—important for the well being of our people. These bills fund endeavors which are critical to our homeland defense, critical to our national defense, critical to our citizens' health, critical to our Nation's economic health. We must go forward. We must embrace the cooling comfort of reasoned, rational order and debate.

We have to protect our staff and the public who come to this complex. That is being done. I have every confidence that it is being done well and with great professionalism. But nobody ever said that representing the people would be easy. Now is the time for us to earn our paychecks!

We cannot simply fund these appropriations bills at last year's level in a giant continuing resolution and go

home. And that is what will happen if we don't pass these appropriations bills. They will end up in a giant omnibus bill—a giant continuing resolution. That means they would be funded at the same level as last year. We must do the people's business.

We have seen great courage and grand dedication in the eyes of our citizens. One has only to recall the firemen, the rescue workers, the policemen, the volunteers who served so valiantly in New York City and who still dig and labor patiently through the rubble that inters thousands of the bodies of our fellow citizens. Are Senators any less dedicated to our jobs than these people have been to theirs? One has only to observe Old Glory flying from the windows of passenger cars and clutched in the hands of children to appreciate anew the spirit of our people and the power of American ideals.

We must not fail the millions of Americans by sending the message to misguided men that we can be so easily spooked.

This Nation has always produced men and women who had the spirit and the fortitude to carry on, to do the difficult job of protecting freedom and securing the constitutional pillars of this, the greatest Nation on Earth.

This Senate is the grandest of those constitutional pillars. Let us secure the people's House and promote the people's welfare by the simple and straightforward act of continuing to do our business and to do it in an orderly and rational way.

Horace said:

Do your duty and leave the rest to heaven.

Now is the time for all of us to embrace the sublime wisdom of those words.

We might repeat the words of Longfellow in doing so:

Thou, too, sail on, O Ship of State!
Sail on, O Union, strong and great!
Humanity with all its fears,
With all the hopes of future years,
Is hanging breathless on thy fate!
We know what Master laid thy keel,
What Workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shaped the anchors of thy hope!
Fear not each sudden sound and shock,
'Tis of the wave and not the rock;
'Tis but the flapping of the sail,
And not a rent made by the gale!
In spite of rock and tempest's roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea!
Our hearts, our hopes, are all with thee,
Our hearts, our hopes, our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with thee—are all with thee!

THE GREAT GENERATIONS OF AMERICA

Mr. BYRD. Mr. President, in his book, "The Greatest Generation," NBC's news anchorman Tom Brokaw discusses the greatness of the generation of Americans who withstood the problems, the terrors, the doubts, the

fears of the 1930s and the 1940s. He points out that it was this generation of Americans who "came of age in the Great Depression when economic despair hovered over the land like a plague." When Pearl Harbor made it irrefutably clear that America was not a fortress, he writes, "This generation . . . answered the call to help save the world from the two most powerful and ruthless military machines ever assembled." Afterward, those people "helped convert a wartime economy into the most powerful peacetime economy in history." This was "the greatest generation any society has ever produced."

Like Mr. Brokaw, I, too, admire the generation of Americans who survived the hardships of the Great Depression and won World War II. They were truly outstanding Americans, a great generation. I am proud to say they are of my generation.

But ever since reading Mr. Brokaw's book, I can't help but think about the greatness of not only that generation of Americans, but also the greatness of generation after generation of Americans. It seems that in almost every age of our history, Americans have risen to meet the challenges and difficulties of their times to move our country forward toward even further greatness.

I immediately think of the generation of Americans about which I love so much to read and to speak—the generation of Americans who won our independence and established this Government of the people, by the people, and for the people. In the Declaration of Independence, these Americans took the ideas of the English enlightenment and made them a national vision. These Americans infused into the very nature of our political life the egalitarian, democratic impulses that guide us today.

In seeking our independence, those Americans demonstrated remarkable determination, remarkable courage.

Just by putting their names on this Declaration of Independence, which I hold in my hand, the 56 signers became guilty of high treason against the British Crown. It was a crime that was punishable by death. But the unflagging determination of that generation was expressed in the words of Patrick Henry, who declared: "Give me liberty or give me death." It was also demonstrated by a 21-year-old schoolteacher turned soldier-patriot named Nathan Hale.

If your American history book doesn't tell the story of Nathan Hale, it is not a history book. It is probably a book on social studies, not a book of American history. I studied American history by reading Muzzey back in 1927, 1928, by the light of an old kerosene lamp. Muzzey. He told the story of Nathan Hale: When about to be executed by the British for supplying GEN George Washington with important information—drawings of the British gun emplacements, and so on, and about the location and the strength of the

British troops, Nathan Hale uttered those immortal words: "I only regret that I have but one life to lose for my country."

The leaders of that generation of revolutionary Americans were not your down and out, nothing-left-to-lose, rebel-rousing revolutionaries.

Benjamin Franklin was a transatlantic figure, a world figure of great accomplishments. He was a world-renowned and respected scholar, philosopher, inventor, diplomat, and scientist.

George Washington was a highly respected, wealthy landowner. He did not have to leave his beautiful, vast country estate and risk everything, including his family fortune and death, to lead a ragtag revolutionary army against the mighty British military machine.

Thomas Jefferson was a great scientist, a great mathematician, author, educator, architect, inventor, political leader.

This list of greats in the revolutionary generation also includes such giants as James Madison, George Mason, Alexander Hamilton, James Otis, Samuel Adams, John Adams, and the list goes on and on. And it does not stop with the leaders. The list includes colonial merchants such as Robert Morris. It includes colonial craftsmen such as Paul Revere. It includes tens of thousands of colonial workers who made up the famous correspondence committees, the Sons of Liberty who enforced the boycotts of British goods, carried out the Stamp Act protests, and dumped the British tea into Boston Harbor.

It was these nameless colonial workers who made up that Revolutionary Army, who shivered through the cold winter at Valley Forge, who made that daring crossing over the Delaware River on that frigid Christmas Eve, and who turned the world upside down at Yorktown.

After winning the Revolution, this generation put their vision of America into a workable form, a government that embodied the principles, ideals, and values for which they had fought and died. So many of our Founding Fathers assembled in Philadelphia that hot summer of 1787 and formulated the U.S. Constitution, a copy of which I hold in my hand.

Mr. President, it simply does not get any greater than that when we speak of the greatest generation, but I cannot and I will not say that generation was greater than the generation that prevailed during the Great Depression and saved the world from the tyranny, the Nazi tyranny, nor can I say it was greater than the generation of Americans who experienced the events that led up to the Civil War, who saved the Union, and who ended the ugliest, most tragic chapter of American history: the chapter concerning the institution of human slavery. That generation of American greats included President Abraham Lincoln, Senators Charles Sumner, Henry Clay, John C. Calhoun,

Solomon Foot, and Henry Wilson. It included writers such as Ralph Waldo Emerson and Henry Thoreau, the great contemporary of Emerson, Nathaniel Hawthorne, Herman Melville.

After the Civil War came a collection of extraordinary Americans that included John D. Rockefeller, the great grandfather of my colleague from West Virginia, Commodore Vanderbilt, Leland Stanford, J.P. Morgan, Andrew Carnegie, James Drew, James Hill, and Collis P. Huntington, who founded the city of Huntington, WV. These are just to name a few.

Referred to by such titles as "captains of industry" and "empire builders," this was the generation that industrialized America as the United States soared from fifth in the world in economic productivity to become the world's foremost economic power. With little exaggeration, industrialist Jay Gould stated:

We have made the country rich. We have developed the country.

Mr. President, they certainly made modern industrial America that gave the United States the industrial base that enabled us to win World War I and then World War II. They, too, certainly qualify for having made up a great generation.

Between 1900 and 1920, a period of American history sometimes referred to as the "progressive era," a generation of reformers sought to clean up the mess created by the industrialization and urbanization of the late 19th century, including child labor, sweat shops, corrupt political machines, industrial and banking monopolies, and urban slums. These tenacious progressive reformers broke the control that railroad, lumber, and coal companies possessed over their State legislatures.

These men enacted many of the laws that still regulate and guide us today, including those that established the Federal Reserve System and Federal Trade Commission, as well as antitrust laws and the national income tax. They adopted four constitutional amendments, including the direct election of U.S. Senators, without which amendment I certainly would not be here and perhaps the Senator from Rhode Island, who presently presides over the Senate with such a degree of dignity and skill, aplomb that is so rare as a day in June, JACK REED.

That generation included some of our greatest political leaders, such as President Woodrow Wilson, during whose second administration I was born, and President Theodore Roosevelt and Senators Robert LaFollette, Henry Cabot Lodge, and William E. Borah.

It included some of the greatest journalists in American history, such as Ida Tarbell, David Graham Phillips, and Lincoln Steffens. It included some of the greatest labor leaders in American history, such as Samuel Gompers, and Mother Jones.

Mr. President, rather than pitting one generation of Americans against

another in some sort of intergenerational competition, I like to recognize the greatness of a society, the greatness of a government, the greatness of a culture that is so instrumental in producing one great generation after another great generation and then another great generation.

It is not the singular greatness of any particular generation of Americans that we should recognize and celebrate but the greatness of a way of life that is ours, a way of life that not merely allows but encourages the American people to do our best, and allows and encourages the best to rise to the top, allows the cream of the crop to rise and become its own and fulfill its own talents, to excel, to succeed, and to make us a better Nation.

It is also important and fascinating to recall from where this greatness has come. Some, such as George Washington, the Roosevelts, and the Kennedys, did come from families of wealth, power, and education.

But the leader of the country during its darkest hours was a humble rail splitter who was born in a log cabin in western Kentucky. The leader of American military forces during the invasion of Normandy was a Kansas farm boy.

Look at the great industrialists of the late nineteenth century. John D. Rockefeller was the son of an itinerant patent medicine salesman. Andrew Carnegie was the son of a poor Scottish weaver. Jay Gould, Philip Armour, and Daniel Drew were children of poor farmers. James J. Hill began his career as an office clerk.

I daresay that the vast majority of Americans who have contributed to the greatness of this country, such as those who made up George Washington's motley revolutionary army, were plain, ordinary Americans, from ordinary places, doing ordinary things, until their country needed them. This included the men who fought at San Juan hill. This included the men who fought at Gettysburg. It included the men who stormed the beaches of Normandy, and, who, more recently, won Desert Storm.

Now we are seeing another generation of extraordinary Americans meeting the challenges and demands of our extraordinary times.

I am speaking foremost about the men who exemplified that New York spirit. Most of these were firefighters, policemen, and rescue workers at the World Trade Center and at the Pentagon who rushed in to save other lives, including many who gave their own lives in the process. Then we think of those who have labored so long and so hard, day after day, week after week, digging through the rubble of the worst disasters in American history, seeking to save one more life.

I am also speaking of those countless Americans who have given blood, money, and other forms of assistance to the victims of those disasters.

I am speaking of the men and women who wear our Nation's uniform, and

may soon be put in harm's way to protect our country and defend the liberties and principles that we hold so dear.

I am speaking of the courageous men and women aboard United flight 93, who brought that plane down in the desolate fields of Somerset County, Pennsylvania, and saved the lives of hundreds, perhaps thousands, of their fellow Americans.

It does not get any greater than that. There can be no greater generation than these. All of these Americans qualify for greatness. They have made their generation yet another great generation of Americans.

It was people such as these who won our independence. It was because of people such as these that this country has survived a Civil War, a Great Depression, two world wars, and will now prevail in our current crisis. It is because of people such as these that our country has been, is, and will remain a great country.

I think of some verses from J.G. Holland.

God give us men!

A time like this demands strong minds,
great hearts, true faith, and ready hands.

Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie.
Men who can stand before a demagogue
And brave his treacherous flatteries without winking.

Tall men, sun-crowned;
Who live above the fog.
In public duty and in private thinking.
For while the rabble with its thumbworn creeds,

It's large professions and its little deeds,
mingles in selfish strife,

Lo! Freedom weeps!
Wrong rules the land and waiting justice sleeps.

God give us men!

Men who serve not for selfish booty;
But real men, courageous, who flinch not at duty.

Men of dependable character;
Men of sterling worth;
Then wrongs will be redressed, and right will rule the earth.

God Give us Men!

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I cannot help but comment about the eloquent words we have just heard from the Senator from West Virginia. When I go home, people are quite concerned about our country, the state of our homeland security, the state of our security abroad, the situation with our economy. The eloquent words of the Senator from West Virginia speak to that and underscore the fact that when we have ever been challenged, we have had the people who will rise to the occasion and solve those problems that have been confronting our country.

One of the things I have been really impressed with is how thankful the people are that those of us who are Republicans and Democrats have been

working together and putting aside partisan politics for the benefit of our country. We need to really not forget how important that is to our people at this very critical time. So I thank the Senator from West Virginia for his remarks.

Mr. BYRD. I thank my friend, the Senator from Ohio, for his kind comments.

THE IMPORTANCE OF AN ENERGY POLICY

Mr. VOINOVICH. Mr. President, earlier today I joined colleagues to underscore the importance of an energy policy to our national security. One of the reasons I came to the Senate was to adopt an energy policy. I lived with the lack of one as the mayor of the city of Cleveland and as Governor of the State of Ohio.

An energy policy is needed to secure our national economy and guarantee our competitiveness in the global marketplace and now, more than ever before, to secure our national security. We do indeed have to harmonize our environmental needs and our energy needs to continue to improve the quality of our air and water, public health, and at the same time guarantee we have the resources at reasonable cost to meet our energy needs.

In my opinion, we are in the midst of an energy crisis, one that is having a tremendous influence over the state of our economy and is affecting the quality of life of the American people and their confidence about the economic future of our Nation.

I believe this crisis is caused by several factors. One, as I mentioned, the national energy policy, is faulty. Two, we saw in California a deregulation law which could be looked at in other parts of the country. Three, environmental policies have contributed to a lack of diversity and difficulties in siting new facilities, pipelines, and transmission lines. The definition of something called NSR, new source review, has put utilities and manufacturers in limbo to the extent they are doing nothing to improve the environment, and at the same time doing nothing to improve the availability of energy in our country. Fourth, we are too reliant on foreign sources of oil. Fifth, I think we have had an inappropriate demonizing of nuclear power in this country.

As the Presiding Officer of the Senate knows, in his part of the country, many States rely heavily on nuclear power. Today we are a fossil fuel-based economy. Although there is broad recognition there will eventually be a shift away from primary reliance on fossil fuels and a greater use and emphasis on other resources, there are many people who would argue that alternative fuels are the answer to our energy crisis.

Yes, several alternative energy sources exist today. They are either inexhaustible: solar, wind, nuclear; or renewed through a natural process: hy-

dropower, plant-based fuels such as ethanol and vegetable oils.

Currently, the contribution of alternative energy sources to U.S. needs range from less than one-tenth of 1 percent for wind and solar power, 3 percent from hydroelectric and biofuels each, and 8 percent from nuclear energy. Today, however, fossil fuel reserves appear to be adequate to serve this Nation's current energy needs, with a 70-year reserve for oil and approximately a 250-year reserve for coal at current consumption rates.

One of my colleagues noted that wind power is the fastest growing source of electricity in the world and we should look to it more seriously as an alternative energy source. Another colleague pointed out that solar panels covering 100 by 100 square miles would produce enough solar energy to power this entire Nation.

The truth is, although alternative energy sources are being used in some places across the country, we have been subsidizing solar and wind power for over 25 years. Combined, they make up only one-tenth of 1 percent of the total energy demand today.

Renewables are now generally costlier than fossil fuels. For example, solar power is currently 8 to 10 times more costly. Even assuming an optimistic technology scenario, it will take at least 30 to 40 years before renewables energy infrastructure could be built from its current level to start contributing significantly to our energy supplies.

In this chart we are talking about the impact of the lack of an energy policy. Costs have a disproportionate impact on low-income families. Since the beginning of the 107th Congress, I have been holding hearings across my State. I have asked individuals and business owners to relay their experiences on how the energy crisis has impacted them. In Cleveland, for example, I held a meeting with Catholic Charities, Lutheran Housing, the Salvation Army, senior citizens, low-income parents, and handicapped individuals.

I heard many heartrending stories about their struggles to be able to afford their monthly energy bills. The Catholic diocese said in the year 2000 their help line received 3,400 calls for basic needs, items such as food, utilities, mortgage, and rent. The number of calls the diocese received went up 96 percent from 1999 to 2000, a 194-percent increase from 1998 to 2000. In the first 7 weeks of 2001, the Salvation Army in Cleveland had 559 families seeking assistance with energy costs. In comparison, for all of 2000 they had 330 families.

On this chart, the Department of Energy demonstrates an individual or family making less than \$10,000 a year is going to spend 29 percent of their income on energy. Those making between \$10,000 and \$24,000 spend about 13 percent of their income on energy. Those making over \$50,000 spend 4 percent. It is obvious, for some of our

brothers and sisters, the choice sometimes comes down to paying for heat or paying for food. Because of this, many of them had to rely on hunger centers for their meals and other necessities.

The next chart shows the principal sources of energy today are oil, natural gas, and coal. It goes without saying that these fuels have become essential elements in creating our way of life. Despite the fact that each year we use energy more efficiently, energy demand rises about two-thirds of the rate of economic growth. With the funk we have in the economy, that is a little bit down right now. The chart shows that nuclear, hydropower, and nonhydropower renewables and others make up a very small percentage of production. Any shortfall created between production and consumption of the other three main sources of energy—natural gas, oil, and coal—will be made up from imports. For example, oil imports have risen from 36 percent in 1973 to 56 percent in the year 2001. Refined gasoline net imports have risen from 1 percent in 1980 to approximately 5 percent in 2000. This increase in imports has been necessary to make up the difference from our closed refineries. Oil and natural gas demand is expected to continue to grow for the foreseeable future—oil at about 2 percent a year and gas in excess of 3 percent. Alternative energy sources such as wind and solar power are being pursued but will not alter this outlook for decades to come.

Next, U.S. energy production. Now that we know how much Americans can expect to consume over the next two to three decades—we are talking from 1995 to the year 2020—it is important to see how that expectation will be met, given our current state of resources. This chart shows how much energy we produce domestically by fuel type. We can see the hydropower. We can see the nuclear, nonrenewables. We have petroleum. We have natural gas. We have coal.

According to the Department of Energy, natural gas is expected to be the fastest growing component of world energy consumption. We saw that this winter when gas prices skyrocketed. Gas use is projected almost to double to 162 trillion cubic feet in 2020 from 84 trillion in 1999. If we do not increase infrastructure, installing more pipelines, the increased production will not reach our consumers.

According to a study by the non-profit operator of New England's power grid, New England will be increasing its natural gas demand from 16 percent in 1999 to a projected 45 percent in 2005, but they lack the local pipelines to distribute the gas to its markets.

With that in mind, we also know there is an estimated 40 percent of undiscovered natural gas located on land leased by the Federal and State government. These resources will be needed to be tapped to accommodate the inevitable increase in natural gas consumption. If not, then we face the hardship of increasing dependence on

foreign resources that will have the capacity to cripple our energy economy. The challenge to produce more oil and natural gas is greater because the production of our existing resource base is subject to a natural decline through depletion.

Fuel cells, electric vehicles, hybrids, biomass, solar technology, and wind energy, all represented on this chart as nonhydropower renewables, are all very promising alternative energy sources for the future. But right now there is no suitable infrastructure in place that will allow for these energies—even when combined, as you will see in later charts—to sufficiently supply current needs, much less future demands.

Let's look at U.S. energy consumption. The green line is the consumption of energy in this country. The red line represents the current production. And of the projections, the purple line represents renewables, including hydro and nonhydropower. In other words, the difference between the green and the red line is what we are having to bring in from out of the U.S. sources in order to meet the needs of the United States of America.

Americans do consume more energy than we produce and will continue to consume more energy, especially fossil fuels, for decades to come. Although several sources exist today, the chart reflects, as I said before, that the contribution of renewables and others is very little, if you look down the road.

This means that our President is right. We need more refineries. We need more electric powerplants, more coal, more natural gas pipelines and production. It is plain to see that we will not be able to conserve our way out of this crisis. While conservation helps—and it has rightly made a difference—it is not going to meet our estimated consumption without drastically changing America's standard of living.

The United States of America is the world's largest energy producer, consumer, and net importer. However, it is no secret that the United States is becoming more and more dependent on foreign oil imports.

This chart reflects what we have to look forward to by way of dependence, out through the year 2020. If we look at our petroleum consumption and look at it here on this chart, and this green line is our petroleum production, what we are faced with is, between 2000 and 2020 we will be relying on oil from foreign countries. It is an enormous amount of oil. We will be depending on them for an enormous amount of oil.

Total imports in the month of April, for example, this year, as a percentage of total domestic petroleum deliveries was 62.4 percent. At this time last year, it was about 59 percent. The total petroleum products delivered to the domestic market in April equaled over 19 million barrels per day, while in the same month last year it delivered about 18.5 million barrels per day.

The scarce petroleum resource is not a problem experienced only by the United States; this energy crisis is experienced across the globe, so much so that as foreign countries realize the increase in their own energy needs, they will be far less willing to accommodate the growing export demands our country is going to place upon them. For example, China used to export oil. Today they are a big importer of oil. The demand for oil is growing worldwide.

But even with increased reliance on foreign oil as a country, we are not going to go far if we do not work earnestly to expand the natural gas and oil pipeline system we have in our country. Our Nation's 200,000-mile oil pipeline system is the world's largest. These almost invisible ribbons of steel deliver more than 13.3 billion barrels of crude oil and petroleum products in a typical year. Without them, it would take thousands of trucks and barges clogging the Nation's roads and waterways to do the same. The capacity of the system, however, is being seriously eroded and the future of oil and natural gas transmission does not appear to be promising.

If we refuse to act, the alternative will be a continued capacity squeeze and higher transmission costs passed on to the consumer. And in some areas they are very expensive.

This chart shows what we can expect under three different energy production scenarios through the year 2020. The top line assumes energy use with respect to economic growth. This means that if we as a nation continued along the same lines as we are currently traveling, to the year 2020, with energy demands rising in proportion to economic growth, and there were no further technological advances made, then consumption would increase dramatically.

The bottom line represents energy production growth without significant changes.

The second line is what the Department of Energy predicts will happen if consumers are offered a menu of available technologies to choose from, an example of which would be a family replacing a vehicle after several years of use, with a more fuel-efficient one.

What happens is, if you use this chart, if we use energy production with available technology and conservation, we will bring down the need. Then if we fold in energy production using available technology, we will bring it down some more. So this shows that by using technology and conservation, we can bring down this demand for energy in this country.

But the fact is, we still have a long way to go, if you look at the difference between this green line and this gray line. This is the amount of energy we are going to have to make up for during the years to come.

The third path, as I already mentioned, reflects the impact of conservation at its height.

The point I am trying to make is that we have an enormous gap between what we are going to need, in terms of energy in the United States of America, and our production. That gap will have to be made up by foreign imports if we do not act quickly to accommodate this increased demand with our own resources. There is no guarantee that these foreign imports will be available.

I believe we are more vulnerable today than ever before. Early this year, I visited with President Mubarak, for an hour, with Senator SPECTER. Then we traveled to Israel and met with at that time Prime Minister Barak, Shimon Peres, and now-Prime Minister Sharon, and several Arab leaders. I came back from that trip very concerned in regard to the growing Muslim extreme fundamentalism in that part of the world. The thought I had was that if this continued to grow and they impacted on our allies in that part of the world, we could be brought to our knees in terms of our ability to get oil from that part of the world.

I think most people would agree the situation today is far more scary than it was then. As you know, our major source of oil there is the Saudis—good friends. I am pleased the President and Secretary of State have worked with some of our friends there and they are stepping up to the plate and being responsive to our needs. But there is no guarantee. Osama bin Laden, who has targeted the leadership in Saudi Arabia, could change that situation.

Then the issue is, Where do we find ourselves? If we think about what happened in California this last year, and the urgency, the crisis, and the impact that it had on the rest of the country, it affected businesses in the State of Ohio. But when that happened, we started burning dirty diesel. Environmental restrictions came off, and we just went to town to take care of the problem we had in California.

Can you just imagine what would happen in this country if our oil supply was cut off? It would be Katy bar the door. We would get oil from wherever we could, and environmental concerns would go straight out the window because we would need to keep our country going.

What I am saying is that it is time we adopt an energy policy in this country. It is something that cannot be delayed. This is not a Republican or a Democratic issue. We have a real problem that needs to be solved. Our national security is in jeopardy, and we need to go forward and deal with this problem before we leave the Senate this year.

As far as I am concerned, it is just as important as the proposed legislation we have to stimulate the economy. If we don't have an energy policy as part of that economic stimulus and if we cannot guarantee that the future looks bright in terms of our energy costs, we are in deep trouble.

Part of the recession in the State of Ohio occurred this last winter when

the price of heating oil went up because of the demand for natural gas. It struck a blow to many of the businesses in our State, let alone those people who I talked about before who live in our inner cities and who do not have the kind of furnaces we have, the windows, and all of the other items that are available to those who are a little bit more fortunate.

I am urging my colleagues in the Senate to arrange to work out some agreement where we can bring this energy issue to the floor and debate it. I am sure there are going to be controversial issues, but we have dealt with controversial issues before. Let's get it on the floor. Let's amend it. Let's debate it and get it over with so we can secure our economic future, secure our competitive position in the global marketplace, and, last but not least, secure our national security.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from North Dakota.

Mr. CONRAD. Mr. President, first I rise to compliment my colleague, the Senator from Ohio, on his presentation. I think it was a very useful one. I personally enjoyed it and learned from it. I thank my colleague for the effort that went into that presentation on our energy needs in this country. I thought he did an excellent job of presentation.

FARM POLICY

Mr. CONRAD. Mr. President, I rise today to talk about farm policy. We have just now heard that the administration has endorsed Senator LUGAR's farm plan, which fundamentally, in my judgment, abandons family farms and the rural economy.

The farm plan that the administration is now supportive of is radical and it is ruinous. I don't know how to sugarcoat it. This is an absolute unmitigated disaster for the rural parts of the country.

The President is, in essence, backing a plan that eliminates farm programs—this at a time that our major competitors, the Europeans, are outspending us 10 to 1 in support for farm producers, and in terms of export support they are outdoing us 30 to 1.

It is no wonder that these are hard times in farm country. It is no wonder that when I go home to North Dakota—one of the most agricultural States in the Nation—farm producers tell me they wonder why they should stay in agriculture when there is virtually no financial return. There is enormous risk.

The plan the President has endorsed is an absolute abdication. It says we are going to eliminate AMTA payments immediately. It says we are going to eliminate in just a few years the marketing loan program. It says we are going to eliminate the sugar program, the dairy program, and the

peanut program. For all of that, it substitutes a voucher system that is woefully inadequate, and which will leave tens of thousands of farmers in a position of financial failure.

That is the plan this President has endorsed. That is the plan the President would impose on farm producers across this country.

I cannot say strongly enough what an absolute economic disaster that plan would be for virtually every farm State in the Nation.

What the President is calling for is abandoning of farmers in every part of America. What the President is saying is he doesn't like the previous farm policy. Very few of us do. His answer is a farm policy that signals retreat. His policy would say to our European adversaries and competitors: You take the agricultural markets. You become the dominant producer in the world.

That is a profoundly wrong policy for this country. I am certain the Europeans are taking great comfort today in the announcement by the White House that they back a policy which is a policy of unilateral surrender. I do not know how else to term it.

If this policy were ever to become the law, you would see mass bankruptcy all across the rural parts of this country.

One of the farm group leaders in my State was in my office. I described for him the plan that the administration had endorsed. He thought I was joking. He thought I was putting him on. He could not believe that this would be a farm policy endorsed by this or any administration. In fact, when I asked a group of farm leaders what would happen if we saw the kind of cuts that the President's plan would impose, he said it would mean the race to the auctioneer.

This is a serious matter. The irony is that at the very time this administration is arguing for a stimulus package for the economy, they are proposing a package for agriculture that is the opposite of a stimulus package. It is a package that would destroy many of the farm producers all across this country.

My State is perhaps the most agricultural State in the Nation. This farm policy now endorsed by the Bush administration would be a devastating blow to North Dakota.

A few months ago, the President came to North Dakota and said his administration would be farmer friendly. Now we see a complete abdication on that commitment. Now we see a total reversal with the President proposing a plan that would be an absolute calamity—an economic calamity—not only for North Dakota but for South Dakota, for Nebraska, for Minnesota, for Montana, for Iowa, and for every other farm State in this Nation.

This cannot be.

I hope over the weekend people will reflect on what has happened. I hope all across this country farm group leaders and farm producers will call

the White House, call their representatives, and call their Governors and urge them to tell the White House they have to reverse course. We cannot abandon rural America at a time when the rest of the national economy is already in trouble. We cannot say to America that we are going to provide stimulus to help the economy recover in the urban parts of the country but we are going to abandon the rural parts of our Nation. That cannot be, and it will not be.

I am saying to my colleagues that no stimulus package is going to pass here unless all of America is included—unless the rural parts of this country and the urban parts of the country are treated with respect.

This proposal and this plan is an absolute unmitigated disaster for farm families.

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

Mr. CONRAD. I am happy to yield.

Mr. REID. I asked a number of Senators from farm States today—I read an article in the newspaper. We are not a farm State. We grow alfalfa. Agriculture is a very minor part of Nevada's economic base.

I asked a number of people about this article in the newspaper. Some had not read it yet. I hope the Senator from North Dakota will continue speaking out on this issue because there are not many farm States remaining. We need some leadership because of what we read in the newspaper, which spins pretty well, that they are going to stop all these things that appear bad for farmers.

I have followed the lead of the Senators from the Dakotas and Iowa in what I think is good farm policy because I know it is the lifeblood of the State of North Dakota.

I hope you continue to speak out, just as you have. We need to hear that in the non-farm States. So I ask the Senator a question. I hope you will speak out on this more than just today. Will you?

Mr. CONRAD. You can count on that.

I say to my friend from the State of Nevada how much we appreciate the assistance he has provided on key farm issues over the years. This is a real jolt to the people I represent because agriculture is the dominant part of our economy. I think people in our State recognize very well the devastation a bill such as this would mean. And I tell you, these are hard times already in our State. Just as we have suffered an economic downturn in this country, we have been facing hard times in agriculture the last 4 years.

In fact, the Senator well remembers we have had to write four economic disaster bills for agriculture in the last 4 years. Every year we have had to write an economic disaster rescue package for our farmers. Without it, tens of thousands of farm families would have been forced off the land. That is the hard reality.

Now this administration endorses a plan that would prevent us from having

the kind of rescue packages we have passed in the last 4 years. They are saying to tens of thousands of farm families: What you do has no value, and you might as well give up and give in and get out.

Mr. REID. If the Senator will yield, I have one more question.

Wouldn't it also drive the family farmers further and further away from their farms, where we wind up in America having big corporations doing all the farming?

Mr. CONRAD. Unfortunately, that is the direction. If you will study this farm plan, what it would mean is basically the elimination of farm programs. I know there are people listening who say, gee, maybe that is a good idea. I would say to those people, you need to look at what is happening in other parts of the world that produce agricultural goods because that is not what they are doing.

I indicated our European friends provide over \$300 an acre of support per year. We provide \$38. So already they have an enormous advantage over our producers. And then, when you look at export support, they account for 84 percent of all the world's agricultural export support. We are less than 3 percent. They are outgunning us there 30 to 1.

This administration plan is to wave the white flag of surrender. To all those who seek our markets the old-fashioned way, by buying them, we just say, take them; you can become the dominant player in world agriculture.

That would be a profound mistake for this country. It has been one of the key sources of American strength, that we have been the dominant player in world agriculture.

This plan is a guarantee that the United States would be second class, second rate, and we would have dominance by the Europeans.

I pray that this plan never becomes the law and America never has to experience what this would mean to not just farmers but to the main streets in every city and town all across rural America.

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

Mr. CONRAD. I am happy to yield.

Mr. DORGAN. I appreciate the Senator yielding. I would like to ask a couple of questions, maybe with a comment.

We, of course, have a disagreement with a distinguished colleague of ours who offers a farm bill that really is not much of a farm bill at all and certainly offers no hope to family farmers. But isn't the origin of this idea coming from people who really think the current farm program, which has nearly bankrupted the rest of the family farmers who are still around—they have believed this current farm program has been just dandy, that it works just swell? Isn't the origin of this idea from people who really think the current farm program has worked for family farmers?

Mr. CONRAD. I say to my colleague, it is one of the ironies of this plan. This plan is presented by the architects of the plan under which we are operating now, which has proved itself to be a disaster. That is why we have had to write four economic disaster bills for farmers in the last 4 years. Now they come along with the same chapter, second verse, and this is disaster No. 5. Four years of economic disasters for agriculture, and now they come with a new plan, a plan that is even worse than the plan they imposed on this country in the last farm bill. I do not know what could be more clear.

As I reported to the rest of our colleagues, the President came to our State and said he was going to be farmer friendly. This is a total reversal. I had a group of farmers from our State in my office this week. I gave them the outline of this plan. They were stunned. They were shocked. They could not believe this was a serious plan. When I told them not only was this being proposed by one of our colleagues but that the White House was poised to endorse it, they were nonplussed.

Mr. DORGAN. If the Senator will yield for another question, there is the old saying: There is no education in the second kick of a mule. My expectation is, most of our colleagues will understand that this, as a follow-on to the Freedom to Farm bill, is not progress but in fact it retards the opportunity for family farmers in this country to make a living.

I say to Senator CONRAD, one of the things I want to ask is: Our country now is trying to find out how we provide a lift to the American economy because we had a very soft economy prior to these terrible terrorist acts that occurred on September 11. The economy was very soft and troubled going into that point. But, in fact, the farm economy, the economy in which family farmers live, has been soft and troubled and collapsing for 4, 5 years. So when you talk about giving a lift to the American economy, family farmers out there on the land have been working through a virtual depression for 4, 5 years now.

It is interesting; we are talking about two things in Congress: One is a stimulus plan to try to lift the economy, and the second is security. In both cases, it seems to me, these proposals fail.

Stimulus. This isn't going to be a stimulus. This is going to be a lode-stone. It is going to weigh down further family farmers.

The family farmers have been foot soldiers for this country's economy for a long while. They produce the best food, at the lowest price, for consumers around the world. We are lucky to have them and ought to be proud of them, but they are being bled by an economy that says our food has no value, even as half a billion people around the world are desperately hungry.

But the point I want to make is, the Senator talked about Europe. Europe

understands food. Europe understands it from another point, which is the other thing we are working on: Security. Part of the issue of food is security.

Introduce bioterrorism agents into the food supply and you have really big trouble. How do you do that? Perhaps as a national newscast talked about recently, in a feedlot containing 200,000 cattle. That is why a broad network of family farms, disbursed across our country, represents security of America's food supply.

So there is a significant security interest here that the Europeans have understood for a long while that we ought to start understanding.

Finally, I make the point that the Senator talks about the bill introduction that the President says he now supports. That bill is a bill that offers 5 feet of rope to somebody drowning in 10 feet of water. Thanks for the gesture, but it is really insignificant and does not matter very much.

What we have to do with the leadership of Senator CONRAD, myself, and others who care about the future of family farmers, is to take what the House of Representatives passed—which is better than this, I might say, and better than current law—and then add to it higher loan rates for wheat, higher loan rates for barley, and a series of other things that really make it a bill that is friendly to family farms.

I am talking now about families who produce America's food supply. I was not going to speak to this, but I heard Senator CONRAD make some comments. He is right on the mark; assertive, strong, but right on the mark on these issues. I am proud to work with him on these matters.

This is life or death for the economic and financial future of many families who have invested their hopes and dreams on a farmstead somewhere in the Dakotas or up and down the heartland of the country.

Mr. CONRAD. Mr. President, I thank my colleague from North Dakota.

In response to the remarks of the Senator, we are working on a stimulus package in the Senate to lift the economy because we know this economy is in a weak condition. It has been further weakened by the events of September 11. It needs a stimulus. It is extraordinary that in the middle of that, when, as the Senator from North Dakota described, agriculture has been in a recession for 4 years, you would say to the rural parts of the country, yes, we are going to have a stimulus package to lift the economy but not in the rural areas; you are going to be left out; you are going to be left behind; you don't count. That is profoundly wrong.

On top of that, as the Senator described, the second key issue with which we are dealing is the question of security. The Europeans have made a commitment to grow the food within their own borders because they have been hungry twice. They know what it

is to be without adequate foodstuffs. Can you imagine what it would be like in this current crisis if we were dependent on imported food for our own population's needs? How much more serious would the current crisis be if we did not have a strong agricultural base in America? How much more vulnerable would we be if every day's food supply or some substantial part of it had to be brought in from other countries?

This is serious business. This administration's endorsement of a radical and ruinous farm plan must be resisted, must be defeated. We must do better.

I hope very much that before this year is out, we will have passed a farm program that will make a difference in the lives of the tens of thousands of farm families who are the backbone of the strength of America. Those are the people who are the builders. Those are the people who are right at the heart of making this country strong and great.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before my colleague from North Dakota leaves the floor, there is something worth pointing out. I don't claim to have great knowledge about the farm bill. I am from a consuming State. We have our farmers in Connecticut, not to the extent they do in the Midwest—obviously the Farm Belt of the country—but they play a very important role. As consumers, of course, it is very much in our interest that we encourage domestic production of agricultural products.

Many of us were told the other day something that maybe I had known before, but in the context of September 11 and the events that occurred since then, it surprised me I hadn't thought about it. I must mention it here and ask my friend for a response.

I was stunned to learn, once again, that less than 1 percent of all the food that we import is inspected. Again, we were talking about all the other problems we face, but I was sort of taken aback by the fact that such a tiny percentage of the produce or products we as Americans consume that comes from offshore—and many do, particularly in cold-weather months, particularly we import an awful lot of food from overseas—we are not talking about stopping that, but it seems to me in the context of what the Senator is talking about, a farm bill, it is in all of our interests, whether you are from a farm State or not—putting that issue aside but with that issue in mind—we would not be doing everything we could to encourage domestic production of our food supplies.

I don't know if he had any comments he wanted to make in that regard. It struck me that this would be an important point to raise at this time.

Mr. CONRAD. I thank my colleague from Connecticut for raising the issue. We were in a briefing the other day. Representatives from the administra-

tion were alerting us to a vulnerability of this country. They were making the point the Senator has made, that we are only inspecting about 1 percent of the foodstuffs that come into this country. That represents a vulnerability for America.

I say to my colleagues, if this farm plan were to pass, the vulnerability of America would increase geometrically. This is the most radical farm plan ever endorsed by any administration in my memory. I am 53 years old. I have followed farm policy very closely all of my life, being from a farm State. It is breathtaking what this administration has said we should put in place.

It is absolutely the wrong plan at the wrong time, and we must reject it.

I thank my colleague very much for his input.

Mr. DODD. I thank my colleague. I have found in my years of service with the distinguished Senator from North Dakota, every time he proposes something in the area of agriculture, I follow. I have found myself to have a good record on farm policy because of his leadership. I thank him for his comments today. He not only speaks for his own State and region of the country; he speaks for all Americans who care about this most critical issue.

BEST PHARMACEUTICALS FOR CHILDREN ACT

Mr. DODD. Mr. President, earlier today this body passed, by unanimous vote, the Best Pharmaceuticals for Children Act. This is a bill I authored a number of years ago with my good friend from Ohio, Senator **MIKE DEWINE**. He is presently occupied at a Judiciary Committee hearing, and he will come to the floor and offer his own statement. I ask unanimous consent that whatever time he seeks, the Chair would provide him with an opportunity to be heard on this bill.

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

Mr. DODD. Mr. President, I thank my friend from Ohio. He has been a great partner in numerous efforts we have made together on behalf of children. S. 838 is something for which both of us are tremendously proud, the Best Pharmaceuticals for Children Act.

Let me briefly describe the bill, why it is a bit different than the bill we passed 3 years ago, and why it is important.

This bill would reauthorize the pediatric testing incentive legislation we passed in 1997 as part of the Food and Drug Administration Modernization Act. This important program has gone a long way toward ensuring that doctors and parents have the most up-to-date and critical information on medications for our children. It has been an important achievement.

According to the American Academy of Pediatrics, about 20 percent—I think a little less—of the drugs on the market have been tested and labeled specifically for their safety and effective-

ness for children. Children are simply not smaller versions of adults, as I hope most people are aware.

The bodies of infants, toddlers, and adolescents are very different and react very differently to drugs than adults do. The absence of pediatric labeling poses some very significant risks for children. Without adequate information about how a drug works in children of different ages and sizes, they are more likely to be either underdosed or overdosed or to experience dangerous side effects.

Mr. President, again, years ago—in fact, in fairly recent history—there were a lot of products out there for adults and children, but for many years there were just the basics, and parents, over the years, would take the old family aspirin and the children's dosage was to cut it into quarters or halves and take it. It was pretty safe. Nobody suffered terribly. Trying to calculate a child's dosage of traditional medicines in times past was not that difficult. There were some hazards. But we have seen a wonderful explosion of new products.

I note the Senator from New Jersey is presiding. Both in his State and mine, we have literally thousands of constituents who have dedicated their lives to the research and development of products to make us all healthier, live better lives, and live longer.

In the process, however, only about 20 percent, as I mentioned—a little less—have actually been tested and designed to serve children's needs. Despite the fact that children represent in excess of one-quarter of the population of this country—25 percent—only a tiny fraction of the products on the shelves to be prescribed by doctors are actually labeled and designed to meet their needs. It seems sort of staggering to me that we have waited so long to do this. We have labels on the food that children can eat. We now have labels on the music to which they listen. We have labels that will tell you what movies you ought not to let your child go to. But when it comes to pharmaceutical products, we have very little of that.

With that as a background, Senator **DEWINE** and I, in 1997, as part of the Food and Drug Administration modernization bill, crafted this legislation as a way to see if we could not induce—there was a debate on whether we should mandate it and say you have to do it whether you like it or not, which is one approach, or should we say we will give you a chance to prove to us you can do it by providing 6 months of exclusivity in the marketplace. There was a debate about that.

I had my own doubts about whether or not this was going to work very well. I must say the success of this legislation has been beyond anyone's wildest imagination. If I can, I will share some of the comments made about the success of the 1997 act, which would go out of existence, by the way.

Why did we need to pass this legislation, and why am I so appreciative of

the Members who helped make this happen? It didn't happen just with Senator DEWINE and I. A lot of people were involved, and I am grateful to them all.

The bill would have gone out of existence; it expires at the end of December. The period of exclusivity would be over and the question of whether or not we would be able to see the continued development of children's products in the area of pharmaceuticals would become less attractive.

Look at some of the comments. This is from the Food and Drug Administration status report to Congress in January of this year:

The pediatric exclusivity provision has done more to generate clinical studies and is more useful in prescribing information for the pediatric population than any other regulatory or legislative process to date.

That is a pretty remarkable statement. I am grateful for that. Further down here, this is from the National Association of Children's Hospitals:

This is a remarkable achievement for children's health. We know from talking with pediatric researchers at children's hospitals across the country that the effect of the pediatric exclusivity provision has been very positive for children and their families and their providers of care.

Further down is a letter from the American Academy of Pediatrics. These are the pediatricians across the country:

We cannot overstate how important this legislation has been in advancing children's therapeutics. It is allowing children to have the same kind of drug safety and efficacy information that was only available previously to adults.

There is also a letter from the Elizabeth Glaser Pediatric AIDS Foundation:

Regarding costs, the FDA estimates that consumer prices of drugs have increased by one-half of one percent annually as a result of the initiatives of pediatric testing. As individuals who have fought for decades for better health care for children, we firmly believe this is a legitimate price to pay to ensure our children's well-being.

I don't know of anybody who will argue with that when you consider the difference we can make in children's lives. If I can, let me share with my colleagues more specifically what has happened. In light of the extraordinary times we find ourselves in today, the national debate on how to prepare and protect all Americans from bioterrorism further highlights the importance of drug safety and the efficacy of information when it comes to treating children. Children are especially vulnerable to the release of chemical or biological toxins. As we identify antibiotics or vaccines to prevent or treat illnesses related to bioterrorism, we are going to need to know the proper dosing information, possible side effects or risks of this kind of medicine, and the effectiveness of the various agents children would be ingesting. Any antidotes used for children will be affecting them at critical periods of childhood growth and development. We need to have proper medications to prevent or reduce those risks.

This bill could help ensure that essential treatments for exposure to hazardous materials are studied. I will work with the FDA and my colleagues, Senators CLINTON of New York, KENNEDY, and FRIST. In fact, I thank Senator FRIST and Senator CLINTON for their contribution to this effort today. Our hope is that we will get it done in conference and strengthen some language to require that the industry start developing children's vaccines and antibiotics in the area of bioterrorism.

So this bill is a timely piece of legislation. I am confident the House will act. I urge them to do so quickly, to incorporate some of the changes that we think can make a difference in terms of children's health.

I will say what was going on before we passed this bill. In the 3 years, 36 months, since we passed this legislation—prior to the passage of this bill, there had been a total in the previous 7 years of 11 clinical trials for products designed for children. I think there may have been 2 or 3 products that had come on the market designed specifically for children in 6 or 7 years. In the 36 months, since the bill that Senator DEWINE and I wrote, there have been 400 clinical trials. In 36 months, there have been 400 clinical trials as opposed to 11 in the previous 7 years in children's pharmaceutical products. Today, there are 40 new products in 36 months being prescribed for children. They did not exist 36 months ago.

It occurs specifically because of the legislation we adopted—this body and the other body—in 1997. That bill was about to go out of existence. The bill we passed today—and every Member ought to take pride in it because every Member allowed this bill to go forward. Many, such as my friend from North Dakota, Senator CONRAD, are cosponsors. I will leave the record open for others who would like to be associated with it.

In the midst of all of these terrible events going on—this body is working today, by the way, and we did excellent work today, this body passed a bill that will make a difference in people's lives. So we are not just meeting for the sake of meeting to have a good show, but actually we adopted this legislation by unanimous consent. It would not have occurred without the cooperation of Democrats and Republicans—the 100 Members in this body who allowed this legislation to go forward.

In 36 months, there have been 400 clinical trials and almost 40 new products on the shelves. That is the record of this little bill attached to the FDA Modernization Act.

Let me talk about one product and make this case more clearly. I am talking about a product that, as a result of pediatric studies, would make any parent's heart skip a beat; it is called Versed. Versed is one of the most commonly used sedatives for children undergoing surgery or other hospital procedures.

As a result of these pediatric studies, the label has been changed to indicate a higher risk of serious life-threatening situations in children with congenital heart disease and pulmonary hypertension who need lower doses than predicted to prevent respiratory compromise.

Can you imagine doctors using Versed without knowing that information? Until we got these studies underway, it was unknown. But as a result of 36 months of effort, this product today is being used in a way that is saving lives and making a difference. Maybe it does not get banner headlines and it will not lead the news tonight, but it is something that will make a difference in the lives of children and their parents who care about their health.

I heard from a doctor from Children's Mercy Hospital about a 6-year-old boy, Darryl, who required metal pins to be inserted in his leg after his femur was broken in a bicycling accident. Darryl was prescribed Versed to relieve his anxiety and discomfort when the doctors and nurses each day cleaned the wounds resulting from his injury. This new information on Versed allowed health care providers to treat this young man safely and effectively with this drug.

The second chart is before and after effects of our legislation. It is in small print. I will try to describe it.

We get the products, indications, what labeling was prior to the adoption of this bill 36 months ago, and what has occurred afterwards. I will run down from everything dealing with diabetes, hepatitis, hypertension, juvenile arthritis, seizures, and the like. This is just a partial list to give my colleagues some idea of the drugs to treat hepatitis B, hypertension, diabetes, juvenile rheumatoid arthritis, and epilepsy, just to name a few. They previously had labels that simply read:

Safety and effectiveness in children not established.

That was the guideline a doctor or parent had in these areas.

Now we have dosing information, safety information, and the information on adverse side effects. In fact, in one drug study for epilepsy, Neurontin was found to be most effective in higher doses for children under 5 years of age. I heard from Dr. Philip Walson at Children's Hospital Medical Center in Ohio who told me:

Some children with previously uncontrolled seizures now are controlled with higher doses of this drug than [what] would have been used [prior to pediatric testing] if adult doses were just "scaled down."

In this case, instead of breaking off the aspirin and getting a smaller dose, as a result of the studies, we learned Neurontin, which is a seizure controlling medication—people who have had strokes know about Neurontin—for children makes a difference. Increasing the dosage actually made a difference.

Far more significant than the number of studies and drugs tested are the stories of kids who can be helped by

this increased information. This past June I met with a group of five young children from my State of Connecticut; they were suffering from juvenile diabetes. In fact, almost every office had a visit from kids from their State suffering with juvenile diabetes.

One young man who came to my office was from Bethel, CT, 12-year-old Jason Baron. I put his picture up. I am giving him TV time. He was so eloquent and remarkable. He could run for the Senate. He is a wonderful, eloquent person with juvenile diabetes. He just blew me away. We got to talking. He aspires—and I see my friend from Tennessee, and he will appreciate this—as he told me, without missing a syllable—and I may—that he intends to be a pediatric endocrinologist at 12 years of age. That is his life goal as a young man with juvenile diabetes.

I was amazed and impressed at the maturity and sense of responsibility of this young man who is managing his disease and educating others, as he was doing on Capitol Hill and as he does at school. Part of his civic activity is to teach about juvenile diabetes.

One of the drugs studied and labeled as a result of the bill we passed 3 years ago is Lantus. It is a new and recombinant form of insulin for type I diabetes which requires only once-a-day administration and results in less allergic reactions. This drug, and others similar to it, could help children such as Jason improve the quality of their lives by introducing more flexibility into their treatment regimes.

While tremendous progress has been made, still more needs to be done, obviously, to make sure children are not an afterthought when it comes to pharmaceutical research. Hundreds of drugs are on the market today that are used in children but still have not been tested for pediatric needs.

We reauthorized earlier this morning the pediatric testing incentive, and the explosion of research it has promised, which was set to expire on January 1, 2002. I am very grateful to my colleagues for the bipartisan support we received.

I mentioned the presence of Senator FRIST. I mentioned his name once before, and I will mention it again. He was tremendously helpful 3 years ago when we originally wrote the bill and then when we watched the success of this legislation, which I already described. We inserted some language to encourage the industry to develop the vaccines and antibodies in the bioterrorism field. Senator FRIST is working with the administration and others of us to develop more comprehensive legislation dealing with bioterrorism. We thought this bill was an attractive vehicle to put on something dealing with this issue.

I thank Senator KENNEDY, the chairman of the committee, for his terrific work, Senator FRIST who I mentioned already, Senator WELLSTONE of Minnesota, Senator HATCH who has been tremendously helpful, Senator CLIN-

TON, Senator REID, Senator JEFFORDS, Senator BOND was involved; Senator CORZINE, the Presiding Officer, I know cares about this as well, and Senator BINGAMAN for their important contributions. I thank Senator CONRAD and Senator DOMENICI who were helpful today in moving this bill along. I thank Senator DURBIN who offered some good suggestions on the legislation as well, and I thank him for those thoughts.

If I am leaving someone out, I apologize. I will add the names accordingly at the appropriate time. I also thank Deborah Barrett of my office, who has been a tireless staff person working with the staff of MIKE DEWINE, with Senator CLINTON, Senator FRIST, and so many others, to iron out some of the disagreements we were wrestling with on this legislation.

Lastly, let me tell you some of the improvements we made in the bill.

We ensure that the new safety information for pediatric studies is promptly added to drug labels.

We require that the Food and Drug Administration quickly disseminate information gathered from pediatric studies to pediatricians and parents.

We authorize Federal dollars to study older off-patent drugs which are not eligible for the existing pediatric testing incentive through a new off-patent fund and creating a mechanism for private contributions from manufacturers to support the study of off-patent drugs through an existing NIH foundation.

We request frequent and thorough evaluations of the program so we can monitor our effectiveness in getting the needed drugs studied and, importantly, to have a sense of which needed drugs are not being studied despite FDA requests.

In fact, to ensure that vital drugs are not being left unstudied, the bill includes a mechanism to ensure that if a company declines to study an on-patent drug that is a continuing benefit to children, the Secretary will make public the names of those must-study drugs that have not been picked up and refer them to the NIH foundation for funding. As a backstop, these drugs can also be referred to the off-patent fund.

The bill creates a new Office of Pediatric Therapeutics at the Food and Drug Administration to coordinate activities related to children. It authorizes the existing Pediatric Oncology Subcommittee to provide recommendations and guidance so children with cancer can have timely access to promising new therapies.

Finally, because the bill will lead to increased participation of children in clinical trials—I mentioned 400 already in the last 36 months—we have requested a study of the appropriateness and adequacy of current Federal research protections for children in clinical trials. I will continue to work with Senator DEWINE and my colleagues to ensure the strongest protections are in place for this vulnerable part of our population.

We have relied generously on the expertise and counsel of Elaine Holland Vining of the American Academy of Pediatrics; Mike Isaac and Natasha Bilimoria of the Elizabeth Glaser Pediatric AIDS Foundation, who worked tirelessly on behalf of children; Helen Rhee with Senator FRIST; David Dorsey, David Nexon, and Paul Kim with Senator KENNEDY deserve tremendous thanks for their work in negotiating and working out the fine details of this bill.

I again thank our colleagues for their contribution today. I see the distinguished majority whip in the Chamber. I know the media may report nothing much happened today. Well, maybe it did not get a lot of debate, but we passed this children's bill. And I see my friend from Maine, Senator COLLINS, and I want to thank her as well for her help on this bill.

The distinguished majority leader has arrived. I say to the majority leader, this bill did not generate huge debate. We did it unanimously. This bill has already made a huge difference in the lives of millions of children: 400 clinical trials in 36 months as opposed to 11 in the previous 7 years.

So we think we have done something worthwhile today, in the midst of other news, which will not likely generate a headline. The Senate put it on the agenda and did a good job.

Mr. REID. Will the Senator yield?

Mr. DODD. I will be happy to yield.

Mr. REID. This is another notch in the long line of things the Senator from Connecticut has done for children. Whether it was child care, dealing with the emotional health of children, it is one of many things the Senator from Connecticut has done. I guess this is kind of a celebration of his being a new father. So we congratulate him.

Mr. DODD. I will show pictures, if you like.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I join with my colleague from Nevada in expressing my heartfelt congratulations to the Senator from Connecticut and to others on the committee for their swift action on this bill. This is one of the highlights of the week. I do not know that there could be anything more important than providing good quality health care in all of its iterations to children. That is what this legislation does, and only because of the leadership of Senator DODD. I commend him. There may be a connection between fatherhood and legislative production on children, but whatever the motivation, as the Senator from Nevada has said, no one has put more time and effort and leadership into the issues affecting children than has Senator DODD. So it is a good way to end the week. It is another reason that staying in today was important, and we are grateful to him, grateful to the Members of the committee, Republican and Democrat, for the work done. I thank him.

Mr. DODD. I thank the majority leader.

The PRESIDING OFFICER. The majority leader.

UPDATE ON EVENTS IN THE CAPITOL COMPLEX

Mr. DASCHLE. Mr. President, I noted yesterday I would be coming to this Chamber. I will take a moment, if I may, to provide our colleagues with a short update on the circumstances involving the Senate today.

This has been a trying time for all of us, in particular for my office and staff. I am thankful for the outpouring of concern and support we have received, especially from the family of Senators. I am very grateful for their friendship, for their words of encouragement, for the strength they have given me and my staff over these very difficult days. It has meant a lot.

I wish to thank as well the many experts who have come to investigate and to help. I wish to recognize Secretary Thompson; Dr. Ken Moritsugu, deputy surgeon general; all of the Health and Human Services staff; Dr. John Eisold, our attending physician of the U.S. Capitol, and all the physicians who are working in his office; MG John Parker of the U.S. Army; Dr. Greg Martin, who has been unbelievable, an incredible help to my staff, to me, and to the entire Senate during this time.

There are a number of professionals who work with Dr. Martin at Bethesda Naval Hospital whom I want to recognize as well. Were it not for their effort, we would not be in the position we are today. They have been working around the clock analyzing the thousands of tests that were taken. Though they are not in the Capitol compound, they have had every bit as much to do with our success in dealing with these circumstances as anyone else. So we are extremely grateful to them for their work.

I want to thank as well the Centers for Disease Control, including Rima Khabbaz and Ali Khan; the District of Columbia Department of Public Health. Finally, I thank the members of the Senate family who have been working around the clock to address this situation, to coordinate our response, and see to it that the Senate was able to continue its important work.

Maybe first, among all of those, I thank our Secretary of the Senate and our Sergeant at Arms for their outstanding work. There were several nights where they literally did not go to bed. They stayed up the entire night working to be able to address the many challenges we were facing as we looked at the logistical and health concerns people had.

I also wish to thank Dr. BILL FRIST. He was in this Chamber earlier. He has been an amazing resource. While he is not present now, I know I speak for all of our colleagues in thanking him. He again spoke for all of us in a news con-

ference wherein he was able to answer in very understandable ways many of these complicated questions. So I personally thank him, and I know I speak for everybody in thanking him as well.

The challenge facing all of these people, and all of us, is unprecedented. To a person, every official I have mentioned has responded in the most admirable way. Their poise, their professionalism, their compassion have been a comfort to all of us, especially to my staff and me.

I want to provide an update on where we stand based on Dr. Moritsugu's briefing a few moments ago. It is now 72 hours after this incident occurred, and we now can say we are confident about the health of the public. Beyond the 31 positive nasal swabs I reported yesterday, the results on nasal swabs analyzed to date have all—and let me emphasize all—come back negative. The CDC has determined no further nasal swabs are needed. Tests on all of the nasal swabs collected on Monday will be completed by the end of today, although we may not be in session, so I chose this moment to come and give at least this partial report.

A total of 278 swabs were taken Monday. At this time, there are no further positive results. So the number of positive results to date remains at 31. Everyone who has tested positive has been notified by medical authorities.

Let me put some rumor to rest because it has been circulating all afternoon that some member of the leadership has been provided with a positive test result. The unequivocal clarification in that regard is, that story is not true. There is no positive result among any members of Senate leadership.

Testing also continues on approximately 1,400 swabs collected Tuesday. Of those, preliminary results on approximately 600 have produced no new positives. To this point, the CDC investigation has established the exposure area as the fifth and sixth floors in the southeast wing of the Hart Building. Based on this determination, the CDC has said no further nasal swabs are needed there.

People who were on the fifth and sixth floors in the southeast wing of the Hart Building on Monday are being reminded to complete their full 60-day course of antibiotics, regardless of the results of their nasal swabs. Anyone who entered that area but has not received antibiotics should report to the treatment center at the Architect of the Capitol facility on the southeast corner of 6th and East Capitol Streets.

A thorough environmental sweep of the Capitol complex began last night. It went on throughout the night and continues today. Those sweeps were conducted by the EPA and the National Institute for Occupational Safety and Health. Areas were swept in the Capitol, the Dirksen Senate Office Building, the Ford House Office Building, the Capitol Police offsite delivery center where all Capitol mail and deliveries go through security screening,

and at this time there are no additional results to report.

The sweeps will continue, as we reported yesterday, over the next several days of the other areas of the Capitol complex. The entire Capitol complex will be swept, and so there will not be any area left unattended or unchecked before we are cleared.

Numerous additional samples have been taken of the ventilation systems, and these samples are under evaluation. I think it is important to emphasize, too, at this time there is no evidence of contamination in the ventilation system.

Because of the extensive work being done, it is not clear when the Hart Building will reopen, but it will reopen as soon as we are absolutely confident it is completely safe.

I want to make one final point. The people who work in these buildings, regardless of their political affiliation, have come to the city and to the Congress because they believe in what this Nation represents to its citizens and to the world. Many have made sacrifices to do so. Some are accepting lower pay than they would receive elsewhere. Many are far from their families. All believe that by being here we can improve the lives of Americans and, in the process, make America stronger.

That letter may have been addressed to me, but these attacks didn't strike just my office. They struck at the heart of that belief. In the past couple of days, members of my staff, who have every right to be afraid, who have every right to take some time and be with their loved ones, have come to talk to me. More than one has told me they were more proud than ever to show up for work. This attack was meant to undercut that spirit. What I have seen in the past 3 days is all I need to know that the attack has missed its mark.

I yield the floor.

The PRESIDING OFFICER. (Mr. JOHNSON). The Senator from Nevada.

Mr. REID. Everyone knows the close personal relationship I have with the majority leader. This statement I am making could come from any of the 99 Senators. It doesn't have to come from me.

The leader has gone out of his way to congratulate his staff, to compliment his staff, to talk about the great work the Sergeant at Arms and the Secretary of the Senate have done. They deserve every bit of credit that the leader has given them. Senator FRIST deserves the credit he has been given by the majority leader. But speaking for the whole Senate, there is no one who deserves more credit during this time of strife and trouble and turmoil caused by evil people trying to do bad things than our majority leader. He has stood very tall.

I am speaking for the entire Senate, the people of the State of Nevada, the people of New Jersey, the people of Minnesota, the people of Maine. Everybody in this country is so proud of the

majority leader of the Senate. When the history books are written about people standing tall during a time of crisis, TOM DASCHLE will be at the top of that stack.

Mr. DASCHLE. I thank the distinguished Senator from Nevada for his kind and generous words. This has been a difficult challenge for all of us. I am grateful.

I note that any time somebody gives me credit for "standing tall," I will take that as the highest compliment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I echo the words of the Senator from Nevada. We have all been impressed with the tremendous grace and strength that our Senate majority leader has shown under unbelievable pressure. Our thoughts are with him and with his staff as they continue to go through this ordeal. He has, indeed, made every Member proud by his actions during this difficult time.

BETTER PHARMACEUTICALS FOR CHILDREN ACT

Ms. COLLINS. Mr. President, I commend the Senator from Connecticut, Mr. DODD, and the Senator from Ohio, Mr. DEWINE, for today's passage of the Better Pharmaceuticals for Children Act. I am very pleased to be a cosponsor of this reauthorization. The American Academy of Pediatricians said it best. They saluted this law which we are now extending as being the single most important policy development to improve children's health that this body has ever taken. I am delighted to be a cosponsor of this important legislation.

I believe it will help facilitate breakthroughs in pharmaceutical treatments of children by ensuring proper testing and dosage. I commend the Senator from Connecticut and the Senator from Ohio for their excellent leadership.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 1570 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Ohio.

CONGRATULATING SENATE STAFF

Mr. DEWINE. Mr. President, I rise late in the afternoon today of what has been a highly unusual day in the Senate—in Washington. I want to take a moment to congratulate all the people who are working, all the people who are working in the Senate Chamber, all the Members' staffs who are working. Hearings have been held today. The Senate has been in session and work is continuing. I thank them for their dedication. I thank them for what they mean for our country and what they have done to help our country.

The vast majority of people who work on Capitol Hill, at least from my

perspective in life, are fairly young. They have gone through something that no members of staffs have ever gone through before. They have done very well. I congratulate them and thank them.

I want to pay particular tribute to my staff and thank them. Eight members of my staff have been tested, as have hundreds of other members of other staffs. I also want to pay particular tribute to my State director, Barbara Schenk. Barbara has gone through a very difficult time in the last few weeks. Her brother, Doug Cherry, died in the World Trade Center. So our thoughts and prayers go to her and to her family and the Cherry family.

BEST PHARMACEUTICALS FOR CHILDREN ACT

Mr. DEWINE. One of the things that passed today was a bill that Senator DODD and I have been working on for some time. Senator DODD talked a little bit about it on the Senate floor earlier today. This bill is S. 838, the Best Pharmaceuticals for Children Act.

This is reauthorization legislation which Senator DODD and I wrote to ensure that more medicines are tested for children and that useful prescribing and dosing information appears on labels.

Let me take a moment on a personal note to congratulate my friend, Senator DODD, and his wife Jackie on the recent birth of their daughter Grace. I had the opportunity a couple of days ago when Senator DODD and his wife Jackie brought baby Grace into the Capitol to see baby Grace, a beautiful child—a great joy. So our congratulations go to both of them.

It is appropriate that the first piece of legislation that Senator DODD passed after the birth of his little girl was a bill that will help children, a bill that will make sure that good pharmaceuticals are available for children and that doctors, specifically pediatricians, and parents will know what the dosage for each medicine should be for their particular child, for the age of that child.

Four years ago, Senator DODD and I first learned that the vast majority of drugs in this country that came on the market every week—in fact over 80 percent—had never been formally tested or approved for pediatric use and therefore lacked even the most basic labeling information regarding dosing recommendations for children. When we found that out, we began writing what is now referred to as the pediatric exclusivity law. That bill passed. In the 3 years since that law went into effect, the FDA has issued about 200 written requests for pediatric studies.

Companies have undertaken over 400 pediatric studies, of which over 58 studies have been completed, for a wide range of critical diseases, including juvenile diabetes, the problem of pain, asthma, and hypertension.

Mr. President, 37 drugs have been granted pediatric exclusivity. Some studies generated by this incentive have led to essential dosing information; for example, Luvox. Luvox is a drug prescribed to treat obsessive-compulsive disorder. Pediatric studies performed pursuant to our law have shown inadequate dosing for adolescents, which resulted in ineffective treatment. The studies also have shown that some girls between the ages of 8 and 11 were potentially overdosed, with levels up to 2 to 3 times that which was really needed.

Since our law has been in effect, the private sector has increased its investment in pediatric training and developing a infrastructure to support and expand pediatric research. The FDA stated in a January 2001 report:

The pediatric exclusivity provision has done more to generate clinical studies and useful prescribing information for the pediatric population than any other regulatory or legislative process to date.

The bill this Senate and House passed 3 years ago has done a great deal of good. We are seeing more drugs for children on the market that have a label that tells how they can be used, and more basic information for pediatricians. So when they look at that little child and they know the age of that child and they know the weight of that child, they can look it up and see exactly what the prescription should be, what the dosage should be, what the indicators are. They can do that because we have given the pharmaceutical companies an incentive to do that research, research they were doing prior to passage of this bill in only 20 percent of the cases.

A great deal of progress has been made, but we have further to go. That is what we were about today with the passage of the bill that I am now describing. Senator DODD and I and the other cosponsors knew that the law we passed 3 years ago could be improved. We knew that it had some holes in it. We set out to improve that, to fill the gaps, and address the outstanding issues, such as the testing of off-patent drugs, which the original law was never designed to include. It is understandable why the original law wasn't designed to include off-patent drugs. The original law extended the patent by 6 months. They extend it for 6 months if and only if they tested these drugs for children.

If a drug is not on-patent, if it is off-patent, the patent has basically expired, obviously that incentive doesn't do any good. What we tried to do with this bill that we passed today was to change that and therefore expand it and expand the purpose of this bill to include off-patent drugs as well.

For some products and some age groups, the existing market incentives are simply inadequate to encourage new pediatric research. In the bill we passed several hours ago, we have built upon the existing law's basic incentive structure to further ensure that these

essential products, and young age groups, are included within the scope of the program.

To make perfectly clear the need for additional legislation, I would like to quote a significant passage from the FDA's January 2001 report, which stated the following:

A majority of marketed drugs are not labeled for use in pediatric patients, or are labeled for use only in specific pediatric age groups . . . And many of the drugs most widely used in pediatric patients carry disclaimers in their labeling stating that safety and effectiveness in pediatric patients have not been established. The absence of pediatric labeling information poses significant risks for children. Inadequate dosing information exposes pediatric patients to the risk of adverse reactions, usually age-specific adverse reactions that could be avoided if such information were provided in product labeling. The absence of pediatric testing and labeling may also expose pediatric patients to ineffective treatment through underdosing, or may deny pediatric patients therapeutic advances because physicians choose to prescribe existing, less effective medications in the face of insufficient pediatric information about a new medication.

These facts are very disturbing. Through our bill, we have sought to find a way to improve the labeling process. Since our law has not been implemented for very long, many labels are still in the process of being requested and negotiated by the FDA. In this new bill, the new timeframes established in the bill for labeling negotiations, together with the enforcement authority under the existing misbranding statute, will help to ensure that essential pediatric information generated from studies implemented under this law, will result in necessary and timely labeling changes.

Our bill establishes timeframes for responding to written requests, timeframes and processes for negotiating label changes, and authorizes the federal government to deem a drug misbranded if the company refuses to relabel its drug. The government would then begin an enforcement action under its existing authority to seek a court order regarding the relabeling of the drug.

Through the bill that we are about to pass today, we will ensure that priority drugs which lack patent or other market exclusivity will be tested for children. For example, the Ritalin label states the following:

Precautions: Long-term effects of Ritalin in children have not been well established. Warning: Ritalin should not be used in children under six years since safety and [effectiveness] in this age group has not been established.

The point is that Ritalin is being prescribed off-label for children under six years of age, and yet we do not know the safety and effectiveness, since it has only been tested in children older than six, and we do not know long-term effects on children of any age.

Our bill creates a mechanism to "capture" the off-patent drugs for which the Secretary determines additional studies are needed to assess the

safety and effectiveness of the drug's use in the pediatric population.

In other words, our bill provides for the testing of some cases of these off-patent drugs.

By expanding the mission of the existing NIH Foundation to include collecting and awarding grants for conducting certain pediatric studies, we have provided a funding mechanism for ensuring studies that are completed for both off-patent drugs and those marketed on-patent drugs that a company declines to study—and for which the Secretary determines there is a continuing need for information relating to the use of the drug in the pediatric population.

That is the language in the bill. That is the correct area.

By first seeking funding through the Foundation, we provide a mechanism for drug companies to contribute to the funding of mainly off-patent drugs and also to a narrow group of on-patent drugs, including those for neonates, for which companies have declined to accept the written request to pursue the six month market exclusivity extension.

The Neonates, of course, are young children up to one-month of age.

If the Foundation lacks the funds to study that prioritized drug, the Secretary may then issue a request for proposal—"RFP"—for a third party to study the commercially available drug using money from a Research Fund that we create in this bill. The Secretary may then publish the name of the company that declined to study the drug, the name of the drug, and the indication or use that is being requested to be studied. This would ensure that more data is collected and reported, so that we can better understand which drugs are not being studied.

A condition of the RFP or contract with a third party is that all data and information generated from the pediatric study in the form of a report must be submitted to the NIH and the FDA. The FDA must then review the report and data and negotiate whatever labeling changes the FDA determines is appropriate.

I thank Senator BOND for his determined focus on helping to further ensure that neonates also benefit from this pediatric testing law. I congratulate and thank him. We have included neonates in the definition of "pediatric studies" to which this pediatric exclusivity applies. Throughout the bill we have also encouraged the inclusion of neonates in written requests, when appropriate.

To further ensure that the safety of children in clinical trials is protected, this bill requires that the Institute of Medicine—IOM—conduct a review of federal regulations, reports, and research involving children and provide recommendations on best practices relating to research involving children. The IOM is to consider the results of the study by HHS that Senator DODD and I included as part of the Children's

Health act last year. I look forward to working with Senators DODD, FRIST, and KENNEDY on the issue of human subject protections, especially in focusing on protections of children participating in clinical trials.

I want to thank my friend, Senator DODD for his relentless efforts in making this reauthorization a reality, and for his relentlessness in improving the bill. I look forward to working on many more pediatric initiatives with him in the future.

Let me also thank Senators KENNEDY and CLINTON for their strong support of this bill and of children's health overall. Let me also thank Senator COLLINS for her support and for her work in regard to this bill.

I want to acknowledge and thank Debra Barrett, Jeanne Ireland, Christie Onoda, David Dorsey, David Nexon, Paul Kim, Christina Ho, John Gilman, and Tim Trushel for their hard work in helping us reach agreement on such a well-crafted bill. I cannot think of a bill that took more hard work, more Members and staff than this bill.

I also extend my appreciation to Elaine Holland Vining with the American Academy of Pediatrics for the tenacious effort, technical assistance, and expertise she brought to this bill. She is expecting her first child shortly, and I wish her and her husband, Paul, my very best wishes as they begin their family.

I also appreciate the diligent work of Mark Isaac and Natasha Bilimoria with the Elizabeth Glaser Pediatric AIDS Foundation in helping us negotiate and pass this important reauthorization.

Finally, I must say a very special thanks to a former member of my staff, Helen Rhee, who is now working for Senator FRIST on the HELP Committee. She has been absolutely instrumental in seeing this legislation through from its inception to its passage. Without her tireless efforts, her dogged determination, and a work ethic that is just unsurpassed, we would not be at this point today, we would not have seen this bill pass. Literally, right up until the last moment, literally, before the bill passed, Helen was continuing her work. So I pay tribute to her. This bill is a real tribute to her dedication and to her efforts.

So I thank Helen and all the members of the different staffs who have worked so hard on this bill.

Let me also take a moment to thank Senator HATCH and his staff, Bruce Artim, for their work in drafting language to correct and clarify this bill, specifically to clarify that pediatric exclusivity law is not and was never intended to eliminate incentives granted to generic drug manufacturers that are awarded 180 days of exclusivity under the 1984 Hatch-Waxman law for successfully challenging a patent.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Vermont.

COMPLETING THE WORK OF THE SENATE

Mr. LEAHY. Mr. President, I see my good friend, the deputy majority leader, the senior Senator from Nevada, in the Chamber. I first note my appreciation for the kind words he has said on several occasions about our efforts in the Judiciary Committee. The Senator and I have been friends from the day he came to the Senate. I value that friendship very much.

I also thank our leadership for having us in session today. Let me take a couple moments to say why.

This is a trying time for everybody—for our staffs, for the brave men and women of the Capitol Police, who protect us, for Dr. Eisold, and all those who work with him in the Capitol physician's office—for everybody, whether they are doorkeepers, or anybody else, including the young pages, both the Democratic and Republican pages who are here. The work is being done. It has been a difficult time.

What would have been more difficult for the Nation would have been if we had not been here today. I think it was essential we be here. We have actually accomplished a great deal by being here.

We have held hearings on judges, and voted a number out of committee, as well as a number of U.S. attorneys. We have completed action on an agreement on the counterterrorism bill. It is something that just a few days ago everybody said could not be done. We have done it. We are now at the point simply of drafting, which is not the easiest thing in the world with all the offices closed down. But the staffs of the various committees, including the Judiciary Committee, of course, have been working literally around the clock to get the paperwork done, to get the actual words on paper.

So I feel safe in predicting the House and the Senate will vote on a package on the counterterrorism bill that, interestingly enough, will be improved over what we passed in the Senate and improved over what they passed in the other body.

The sum is greater than the parts. And that shows what happens when we work together—both bodies; both parties—to get something done.

We have actually done the administration a favor by taking time to look at it. The piece of legislation originally proposed by the White House and Attorney General was deeply flawed. Had we accepted their proposal to immediately move forward and pass it, we would have given them a flawed bill which, in the long run, would have hurt their chances to fight terrorism.

The distinguished Presiding Officer, the Senator from Minnesota, was one of those who cautioned and counseled both me and others to go slowly, look at what is here, and make sure we do it right.

The distinguished Senator from Minnesota, as he always does, offered wise counsel. The distinguished Senator

from Nevada, Mr. REID, stood in this Chamber a number of times and said: We want to get it done right. I believe we have.

But lastly, it is important, as a symbol, that we be in session. I feel deeply privileged to be a Member of the Senate. I remember the first day I walked in this Senate Chamber as a Senator-elect. I was a 34-year-old prosecutor from Vermont. I had never been on the floor of the Senate. It was a lameduck session after the elections at the time. We were going to go into the new session, which is when I would be sworn in.

I came in as a Senator-elect. I thought to myself: What a thrill, coming in this Chamber and seeing people, giants of the Senate—in fact, two predecessors from the Presiding Officer's home State: Hubert Humphrey and Fritz Mondale. And I have thought it a privilege every day I have walked in this Chamber, every day I have come to this building.

I have no idea how long I will be a Senator—none of us do—but I know every single day that I am, I will consider it a day that is a great privilege.

And this building, this symbol of democracy, which will be here long after all 100 of us are gone—and I hope for hundreds and hundreds more it will be here—should be open. It should be open. It should tell not just a quarter of a billion Americans that this is the seat of democracy but tell billions of people around the world, especially those who come from countries that are anything but democracies, this symbol stands, this symbol shines, this symbol is open for business.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

JUDICIAL NOMINATIONS

Mr. REID. Mr. President, I want to go over a few facts regarding judicial nominations because that has been the subject of some discussion in this Chamber.

I, first, say that today there was a hearing held down in S-128, the appropriations room. It was held in spite of all that is going on around here. I want to tell Senator LEAHY how much I appreciate that, and also Senator SCHUMER, who chaired the subcommittee.

I say that because Senator ENSIGN nominated Larry Hicks. He did it. And I appreciate very much JOHN ENSIGN allowing me to approve of his nomination.

JOHN has been very good about that. Every fourth nomination I get. He told me if there is somebody I really don't like, he said, yes, he wouldn't put them

forward. But the first person he put forward is a man by the name of Larry Hicks, eminently qualified, a good lawyer and a good person. It would have been a terrible shame for him and his family to have traveled back here yesterday to be told the hearing has been canceled, the Senate is not in session. So they were able to go into that crowded room and proudly be there when their husband, their father, their brother was given this most important hearing that will make him a Federal judge. He is extremely well qualified.

I wish to tell the Senator from Vermont how much I personally appreciate that. He is chairman of the committee. He is the one who arranged that. He is a member of the Appropriations Committee, one of the senior members. That is why we were able to use S-128.

Not only did he hold the hearing in S-128, but there was an emergency meeting held today to mark up people who had had hearings previously. Thirteen U.S. attorneys were reported out of the Judiciary Committee today, including a person who is going to be an assistant Attorney General, Jay Bybee from Nevada, a person also very well qualified, a professor at the University of Nevada Law School.

In addition to the U.S. attorneys and the Assistant Attorney General, we have four district court judges who were reported out of committee. Right back here it was done. It was difficult to get a quorum. People were pulled off the floor to do that. The Senator from Vermont, chairman of the committee, did that. There was a judge from Oklahoma, a judge from Kentucky, a judge from Nebraska, and a judge from Oklahoma—four district court judges.

In S-128 today, there was not a single member of the minority at that committee hearing—not a single one. The makeup of the committee was Senator SCHUMER, Senator LEAHY, and Senator KENNEDY. I may be missing someone but they were all Democrats. So I say to my friends, if these judicial nominations are that important, couldn't they attend a hearing? Remember, these were all Republican nominations—not a single Democratic nomination, all Republicans.

Let me also say this to boast—it is a pure, unadulterated boast; I am bragging about Chairman PAT LEAHY—confirmations under Chairman LEAHY have been faster than in the other first years. Fair comparisons show that by October 15 of the first year of President Clinton's administration, the Senate had only confirmed four judges, four fewer than by the same time this year. By October 15 of the first year of the first Bush administration, the number was the same; only four judges had been confirmed. This year, 2001, in the fewer than 4 months since the reorganization of the Senate, when we had Chairman LEAHY of the Judiciary Committee, and we had to spend some time organizing, too—you don't just hit the ground running—twice as many judges

have been confirmed as during the first 9 months of the first Bush administration and the Clinton administration. Remember, 4 months.

Chairman LEAHY and the Senate are ahead of the confirmation pace for judicial nominations for the first year of the Bush administration and the first year of the Clinton administration.

Since July of this year, the Senate has already confirmed four court of appeals judges and a fifth has already had a hearing and is being scheduled for committee consideration as soon as the followup questions are answered. That judge would have been reported out today had the questions been answered of one of the Senators, I believe from Wisconsin. Senator FEINGOLD had some questions that had not been answered. Because of that and Senate tradition, you can't report out nominations if questions of members of the committee have not been answered.

In 1989, five court of appeals judges were confirmed for the entire year. We are on a pace to confirm between six and eight this year.

Chairman LEAHY has already held six hearings involving judicial nominees since July 10, including two in July and two unprecedented hearings during the August recess. Most of us were out doing other things. I am not afraid to acknowledge, I took a vacation for several weeks in August. When PAT LEAHY was here holding hearings, I was vacationing. Unprecedented hearings, two hearings during August, a hearing in September in the aftermath of the September 11 terrorist attack, a hearing on October 4, and, of course, the hearing today about which I have talked.

By contrast, in the 6½ years the Republicans chaired the Judiciary Committee from 1995 to 2001, in 34 months, they held no confirmation hearings for judicial nominations, 34 months. In 30 months, they held a single confirmation hearing. And in only 12 months did they hold at least two hearings involving judicial nominees.

You can bring charts on the floor, as was done earlier saying, Senator LEAHY, when he holds a hearing, doesn't do as many as we did. As I have said, I am happy to play this statistics game. I am happy to do that. Anyone who wants to do that, I can do it. As everyone knows, you can do whatever you want with statistics. But I am giving the Senate the statistics. Let someone come and disagree if they want. I am telling you this will be on the record of the Senate forever.

If the Senate adjourns, let's say, by the Thanksgiving recess, which probably will be the case, as it did in 1989 and 1993, Chairman LEAHY intends to hold additional hearings for judicial nominees. That would bring the total of the year to maybe as many as 10 hearings. The Senate could be in a position to confirm between 25 and 30 judges in this very short session during which the chairman of the Judiciary Committee took over this summer.

During the entire first year of the Clinton administration, the Judiciary

Committee held only six hearings. During the entire first year of the first Bush administration, the committee held seven hearings.

Chairman LEAHY will hold as many as 10, even though he has not had the whole year. I remind everybody, during the first 6 months of this year, not a single confirmation hearing was held and not a single confirmation took place. Those are the facts.

The comparisons of the minority are simply unfair. Chairman LEAHY and the Democratic Senate have been criticized for only having confirmed eight judicial nominations so far this year. That number has been compared to totals from the end of previous years: In 1989, 15 judges were confirmed; in 1993, 27. This year's number was achieved between July 10 and October 15, and it is still growing. The totals against which it is being compared counts confirmations through late November in both years.

Now, as a result of the "unprecedented"—I use the word again—hearing in the President's room, we are going to, on Tuesday or Wednesday, vote out four more judges or several more judges. I think it is four. We are going to do these U.S. attorneys. We are going to do Mr. Bybee.

Mr. LEAHY. Mr. President, if the Senator will yield.

Mr. REID. Mr. President, I didn't know Senator LEAHY was here. I am glad to see the chairman.

Mr. LEAHY. I don't always enjoy the statements I hear on the floor, but I must admit, I was relishing this one.

Mr. REID. If I had known you were here, I would have been more effusive.

Mr. LEAHY. I think it was bad enough. But if my wife is watching this, she is going to wonder who this person is and who is coming home tonight with all these nice things you have said about me. I thank the Senator from Nevada who has helped make it possible.

He and Senator DASCHLE helped us get the rooms under difficult circumstances so we could have this hearing. I had the markup this morning, where we sent out, between judges and U.S. attorneys, about 18 people, virtually all of whom were there on the recommendation of Republican Senators. Because of his help, we were able to get a hearing room for this afternoon.

The point the Senator made was a good point. He mentioned the judicial nominee for Nevada. He traveled 3,000 miles to be here for a hearing, assuming, of course, we were going to have the hearing today. Those plans came before the anthrax scare and, all of a sudden, everything shut down. The Senator from Nevada, in his usual way, where he worries about everybody, it seems, came to me and said: People came this distance; can we do something to help them out? Of course, we can. We have been trying to do that to accommodate everybody.

There is one thing I find with great amusement, and that is when people

say "look at the vacancies." Well, that is right, Mr. President, there are vacancies. President Clinton nominated people for virtually all of those vacancies, and they were not even allowed to have a hearing, to say nothing about a vote.

It reminds me of when the same people blocked President Clinton's nominees from having a hearing or a vote, and now they say we have all these vacancies. That is like the kid who killed his parents. When he was brought into court, he said, "Your Honor, have mercy on me, I am an orphan."

What can we say about these vacancies? Lordy, lordy, I wish they said that last year when we had the nominees ready to go.

Having said that, I don't intend to play that kind of game. We are moving as fast as we can. I point out to Senators that we have had a few problems. The Senator from Nevada pointed out that when the Republicans controlled the Senate, they didn't hold a single hearing or confirm a single judge. They have all been done since we took over, and they are all President Bush's nominees. We have had a few things going. I wasn't given a committee until July, about 2 or 3 weeks before the August recess. That is why I had staff stay here—to hold hearings during August. We have had a couple of things going on before that committee.

I am sure nobody has forgotten what happened 5 weeks ago in this country, on September 11, with the Pentagon and the World Trade Towers. We have been drafting a massive antiterrorism bill. We were given a deeply flawed piece of legislation by the Attorney General and the White House. I have worked with them and have tried to improve it, and we have done that. So now we have something both Republicans and Democrats can support, and we are going to pass it next week. That has taken a great deal of time.

As the Senator from Nevada has pointed out several times on the floor, speaking of the various Members and staff who have worked on it, I can go home at night, but most of them stay and spend the rest of the night working on it. So a lot has been done.

My earlier reason for coming to the Chamber was to thank the Senator from Nevada, and the Senator from South Dakota, Mr. DASCHLE, for keeping us in today. We accomplished an enormous amount. We accomplished more than any piece of legislation written today, more than any nominee, more than anything we voted on: we demonstrated to the United States of America that the Senate is open for business. Senators are here doing their duty.

Again, I thank the Senator from Nevada for his long-term friendship and for his kind words.

I yield the floor.

Mr. REID. Mr. President, this says it all: The average time between nomination and confirmation for court of appeals judges this year has been approximately 100 days, which includes the

delay and reorganization of the Senate and the wait for the ABA peer reviews, which cannot begin now until after the nomination. The average length of time between nomination and confirmation of those circuit court nominees approved during President Clinton's most recent term was 343 days. That is a year—average.

Accordingly, even with all the delays caused by Republicans, this Senate is acting on court of appeals nominees, on average, 8 months faster than the Republican Senate acted on Clinton nominations during the last 4 years—when they acted at all.

More than half—56 percent—of President Clinton's court of appeals nominations in 1999–2000 were not confirmed. More than one-fifth of President Clinton's judicial nominees—68—never got a committee hearing, and certainly not a committee vote from the Republican majority. No one on the Republican side has conceded that the Republican Senate did anything wrong over the last 6 years in its handling of the judicial nominations. I guess they accept 343 days as being fairly good.

Chairman LEAHY and the majority now are ahead of the pace of the Republican Senate—it is not even a close race—and we should not be criticized for doing far better than our predecessors. Of the 31 district court nominees pending, 14 do not have completed paperwork with ABA ratings, 5 had hearings, 4 are scheduled for hearings this week—and I talked about those—and 10 or more will be included the rest of this month and next month.

Mr. President, having made this case, hopefully showing that the effort to have Senator DASCHLE change what we are doing on the floor as a result of Chairman LEAHY not doing what he is supposed to do is not going to work. Having laid this out, this is not pay-back time. We are not going to use their model. They should use it when they are trying to make apples out of oranges, but we are not going to go for that. We are going to treat the Republicans like they did not treat us. We are going to do everything we can to get every judicial nomination completed as quickly as we can. That is our responsibility, and we are going to live up to it. It would be easy to do what was done to us—that is, hold them, hold them, until the very last, and then let some go—not very many but a few. We have not done that.

We have approved scores of ambassadors. Chairman BIDEN has been exemplary. All the other committees have voted out people as quickly as they could. I had a hold on someone in the Environmental Protection Agency. I got a call from Governor Whitman. I had questions. She answered them on the phone and we did it within a day or two. It would have been easy to say, well, that is what they did to us. But we are not doing that, Mr. President. We are getting these judges out as quickly as we can.

All the screaming and yelling and saying we are not going to let the ap-

propriations bills move—they can do that. We are doing the best we can.

Someone on the other side said we are going to have some meetings. We are going to have meetings, but not on that, Mr. President. I have spoken to the majority leader, and he recognizes these appropriations bills are very important. But they are the President's bills, not our bills. If he wants these lumped into some big thing—and he is over in China now. We have the foreign operations bill being held up, and he is meeting with 21 other world leaders there, many of whom get benefits from the bill we are trying to pass. But we can't because there is a filibuster.

I practiced law. I argued cases in the Ninth Circuit. I tried lots and lots of cases. I know how important it is to have judges—good judges—as many as you can get. Justice delayed is justice denied, and we know that. We are going to do the best we can to make sure there is no justice delayed. But let's use common sense.

Why hold up these appropriations bills? It is not going to speed things up. Now we are going into the third week with a filibuster. It is wrong, and I am very sorry it is happening. But no one is going to denigrate PAT LEAHY while I still have an ounce of breath left in my body.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

BASE CLOSURES

Mr. LEVIN. Mr. President, on Tuesday, I received a letter on a very important subject that I wish to bring to the attention of my colleagues.

The House of Representatives and the Senate are currently meeting in joint conference committee on the National Defense Authorization Act for Fiscal Year 2002. This bill has many provisions that are very important to our military and to our Nation, but one of the most important of these is a provision authorizing the President to conduct a new round of base closures in 2003.

The Senate voted to support the request of the administration and of our military leaders to allow the Department of Defense, DOD, to rationalize, and where necessary reduce, their infrastructure. Allowing DOD to conduct a new round of base realignment and closures is necessary to stop wasting taxpayer money, to redirect funds to higher national security priorities, and to allow the transformation of our military. Transformation has never meant just buying new weapons.

The letter I received is signed by eight former Secretaries of Defense.

They write to tell the Congress that we must act to allow DOD to ensure our base structure supports for our forces and our war fighting plans. They warn us that forces tied up defending unneeded bases "are forces unavailable for the campaign on terrorism" and that resources devoted to unneeded facilities cannot be spent on the tools we will need to win this war.

This letter is signed by Robert McNamara, Mel Laird, Jim Schlesinger, Harold Brown, Caspar Weinberger, Frank Carlucci, Bill Perry, and our former colleague Bill Cohen. I might add that two other former Secretaries of Defense, Vice President CHENEY and our current Secretary Donald Rumsfeld, have asked the Congress for this authority on behalf of this administration.

Every living current or former Secretary of Defense is telling us it is essential that we act to reduce our excess infrastructure. The Congress should listen to the voice of experience on this matter. These are the men who have had the awesome responsibility of protecting our Nation's security and running one of the world's largest, most complex organizations. These are the men who have been in the chain of command, who have had to make life and death decisions. When they tell us we need to act, we should listen, and we should act.

I ask unanimous consent that this letter be printed in the RECORD.

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

OCTOBER 15, 2001.

Hon. CARL LEVIN,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter underscores the need for the Congress to approve an additional round of base realignment and closure. While we understand the sensitivity of this effort, our support for another round is unequivocal in light of the terrorist attacks of September 11, 2001. The Defense Department must be allowed to review its existing infrastructure to ensure it is positioned to support our current and evolving force structure and our war fighting plans.

We are concerned that the reluctance to close unneeded facilities is a drag on our military forces, particularly in an era when homeland security is being discussed as never before. The forces needed to defend bases that would perhaps otherwise be closed are forces unavailable for the campaign on terrorism. Further, money spent on a redundant facility is money not spent on the latest technology we'll need to win this campaign.

We thank you for all you have done to provide for our military forces, the finest in the world. We know closing or realigning bases will be difficult, but we expect you will face many difficult decisions in the coming weeks and months. With the support of Secretary Rumsfeld, together we stand ready to assist in any we can.

Sincerely,
William J. Perry, Casper W. Weinberger,
James Schlesinger, Robert S. McNamara, William S. Cohen, Frank C. Carlucci, Harold Brown, Melvin Laird.

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 this 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 January 19, 2000 in Columbus, OH. Scott Roberts, a gay man, told the Columbus Dispatch that he believes he and his partner of six years, Bill Camelin, were attacked because they are gay. After being lured to a remote location, Camelin was shot to death and Roberts was wounded in the knee.

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, we can change hearts and minds as well.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker of the House, was signed by the President pro tempore (Mr. BYRD) on October 18, 2001:

S. 1465. An act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 18, 2001, she had presented to the President of the United States the following enrolled bill:

S. 1465. An act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

James H. Payne, of Oklahoma, to be United States District Judge for the Northern, Eastern and Western Districts of Oklahoma.

Karen K. Caldwell, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

Laurie Smith Camp, of Nebraska, to be United States District Judge for the District of Nebraska.

Claire V. Eagan, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma.

Anna Mills S. Wagoner, of North Carolina, to be United States Attorney for the Middle District of North Carolina for the term of four years.

Margaret M. Chiara, of Michigan, to be United States Attorney for the Western District of Michigan for the term of four years.

Robert J. Conrad, Jr., of North Carolina, to be United States Attorney for the Western District of North Carolina for the term of four years.

Thomas C. Gean, of Arkansas, to be United States Attorney for the Western District of Arkansas for the term of four years.

James Ming Greenlee, of Mississippi, to be United States Attorney for the Northern District of Mississippi for the term of four years.

Raymond W. Gruender, of Missouri, to be United States Attorney for the Eastern District of Missouri for the term of four years.

Jay S. Bybee, of Nevada, to be an Assistant Attorney General.

Daniel G. Bogden, of Nevada, to be United States Attorney for the District of Nevada for the term of four years.

Thomas M. DiBiagio, of Maryland, to be United States Attorney for the District of Maryland for the term of four years.

Thomas E. Johnston, of West Virginia, to be United States Attorney for the Northern District of West Virginia for the term of four years.

Donald W. Washington, of Louisiana, to be United States Attorney for the Western District of Louisiana for the term of four years.

Patrick J. Fitzgerald, of Illinois, to be United States Attorney for the Northern District of Illinois for the term of four years.

John McKay, of Washington, to be United States Attorney for the Western District of Washington for the term of four years.

Karl K. Warner, II, of West Virginia, to be United States Attorney for the Southern District of West Virginia for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REID:

S. 1564. A bill to convey land to the University of Nevada at Las Vegas Research Foundation for a research park and technology center; read the first time.

By Mrs. FEINSTEIN (for herself, Mr. WYDEN, Mr. FEINGOLD, Mr. CORZINE, Mr. HARKIN, and Mr. LEAHY):

S. 1565. A bill relating to United States adherence to the ABM Treaty; to the Committee on Armed Services.

By Mr. REID (for himself and Mr. SMITH of Oregon):

S. 1566. A bill to amend the Internal Revenue Code of 1986 to modify and expand the

credit for electricity produced from renewable resources and waste products, and for other purposes; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. DORGAN, Mrs. HUTCHISON, Mr. KERRY, Mr. THOMAS, Mr. GRAHAM, Mr. VOINOVICH, and Mr. HUTCHINSON):

S. 1567. A bill to foster innovation and technological advancement in the development of the Internet and electronic commerce, and to assist the States in simplifying their sales and use taxes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 1568. A bill to prevent cyberterrorism; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1569. A bill to amend title 49, United States Code, to regulate the issuance of licenses to operate motor vehicles transporting hazardous material, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. COLLINS (for herself, Mr. GREGG, Mr. REED, Mr. JOHNSON, Mr. SESSIONS, and Mr. WARNER):

S. 1570. A bill to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR:

S. 1571. A bill to provide for the continuation of agricultural programs through fiscal year 2006; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WELLSTONE:

S. Res. 172. A resolution expressing the sense of the Senate regarding the urgent need to provide emergency humanitarian assistance and development assistance to civilians in Afghanistan, including Afghan refugees in surrounding countries; to the Committee on Foreign Relations.

By Mr. HATCH:

S. Res. 173. A resolution condemning violence and discrimination against Iranian-Americans in the wake of the September 11, 2001 terrorist attacks; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1504

At the request of Mr. DORGAN, the name of the Senator from Nebraska (Mr. NELSON of Nebraska) was added as a cosponsor of S. 1504, a bill to extend the moratorium enacted by the Internet Tax Freedom Act through June 30, 2002.

S. 1552

At the request of Mr. HARKIN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Idaho (Mr. CRAPO), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 1552, a bill to provide for grants through the Small Business Administration for losses suffered by general aviation small business concerns as a result of the terrorist attacks of September 11, 2001.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 1564. A bill to convey land to the University of Nevada at Las Vegas Research Foundation for a research park and technology center; read the first time.

Mr. REID. 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. 1564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the University of Nevada, Las Vegas, needs land in the greater Las Vegas area to provide for the future growth of the university;

(2) the proposal by the University of Nevada, Las Vegas, for construction of a research park and technology center in the greater Las Vegas area would enhance the high tech industry and entrepreneurship in the State of Nevada; and

(3) the land transferred to the Clark County Department of Aviation under section 4(g) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2346) is the best location for the research park and technology center.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide a suitable location for the construction of a research park and technology center in the greater Las Vegas area;

(2) to provide the public with opportunities for education and research in the field of high technology; and

(3) to provide the State of Nevada with opportunities for competition and economic development in the field of high technology.

SEC. 2. CONVEYANCE TO THE UNIVERSITY OF NEVADA AT LAS VEGAS RESEARCH FOUNDATION.

(a) CONVEYANCE.—Notwithstanding section 4(g)(4) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2347), the Clark County Department of Aviation may convey, without consideration, all right, title, and interest in and to the parcel of land described in subsection (b) to the University of Nevada at Las Vegas Research Foundation for the development of a technology research center.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of Clark County Department of Aviation land—

(1) consisting of approximately 115 acres;

(2) located in the SW ¼ of section 33, T. 21 S., R. 60 E., Mount Diablo Base and Meridian; and

(3) identified in the agreement entitled "Interim Cooperative Management Agreement Between the United States Department of the Interior—Bureau of Land Management and Clark County", dated November 4, 1992.

By Mrs. FEINSTEIN (for herself, Mr. WYDEN, Mr. FEINGOLD, Mr. CORZINE, Mr. HARKIN, and Mr. LEAHY):

S. 1565. A bill relating to United States adherence to the ABM Treaty; to the Committee on Armed Services.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation regarding the testing, development, and

possible deployment of a National Missile Defense system. This legislation is cosponsored by Senators WYDEN, FEINGOLD, CORZINE, HARKIN, and LEAHY.

I share the concern of many of my colleagues that, in the aftermath of the horrific events of September 11, this is not the appropriate time or place for a divisive debate on the Senate floor on missile defense.

That is why I did not offer this legislation as an amendment on the Defense authorization bill, do not intend to offer it as an amendment on other legislation before the Senate at this time, and do not intend to push this legislation for a vote at this point in time. This is not the time for Senate consideration of this legislation or for a divisive debate on this issue.

But I also believe that it is critical that at the appropriate time, and in the appropriate way, a full public and congressional debate on missile defense must occur. It is simply too an important a decision, and too important an issue, to be treated in any other way.

Indeed, National Missile Defense is one of the most serious foreign policy and national security issue that we will face in the coming decades. The administration's decisions on this issue should be made deliberately, in consultation with our allies, and, most importantly, in consultation with the United States Congress.

As one Senator, I myself have spent considerable time over the past several years in meetings, briefings, and discussions on this issue. Earlier this year I had the opportunity to discuss missile defense issues at length with former Secretary Perry.

He suggested to me that the proliferation of nuclear, chemical, and biological weapons of mass destruction, and the increasing availability to other nations as well as transnational groups such as terrorist organizations, of the technology and material necessary to develop and deliver WMD is perhaps the most serious threat to U.S. national security today.

Secretary Perry went on to argue, however, that National Missile Defense is not and should not be seen as a one-size-fits-all substitute for an effective non-proliferation strategy, and that the United States must have a balanced program to effectively safeguard our interests. This includes effective strategies for the prevention of proliferation, deterrence, homeland defense, and counter-proliferation, and clearly calibrating and allocating resources to meet the real challenges that face U.S. national security interests.

I believe that the approach suggested by Secretary Perry makes a good deal of sense.

Based on this approach, I believe that it is therefore important for Congress to ask a number of questions with regard to NMD. Questions such as:

Would missile defense have helped to prevent the events of September 11?

Are there more immediate security needs, such as homeland defense, which

demand priority on our scarce national defense and national security resources?

Is NMD an appropriate to serve as the central axle around which U.S. national security rotates, given the nature of the threats we now face?

Would unilateral U.S. withdrawal from the ABM Treaty hurt U.S. efforts to get international cooperation in the battle against terrorism?

Will acquiring NMD make the United States, and the world, safer and more secure? Or will unilateral U.S. development and deployment of NMD, and unilateral violation, abrogation, or withdrawal from the Anti-Ballistic Missile Treaty, make us less safe and secure?

I am also concerned that with what appears to be a rush toward construction at Fort Greely, AK, the administration has already made a decision on deployment, without having yet answered these bottom line questions.

The legislation that I and my colleagues introduce today seeks to address these questions, and to suggest that the balanced approach suggested by Secretary Perry to safeguarding the United States from the threat of WMD attack might be a wiser policy for Congress to consider, rather than merely rubber-stamping the administration's missile defense policy.

This legislation would: express the Sense of the Senate that U.S. research and development of missile defense remain consistent with the ABM treaty, that the U.S. should pursue good faith negotiations with Russia to make such modifications to the ABM as may be necessary, but that the U.S. should not unilaterally opt-out of the treaty and not deploy a missile defense system that has not met the basic research, testing, and evaluation standards to prove its operational effectiveness.

Place a limitation on funding available for missile defense testing, evaluation, or deployment that would unilaterally abrogate or violate the ABM treaty.

Call on the Secretary of State to report to Congress, if a decision on deployment is made, regarding the nature of the threat that triggered the deployment decision and the likely impact that the deployment decision will have on U.S. national security interests.

Call on the Secretary of Defense to report to Congress, if a decision on deployment is made, on the operational effectiveness of the missile defense system.

Call on the President to make an annual report to Congress on the nature of the WMD threat faced by the U.S. and its allies, evaluate the threat posed by different means of delivery, ranging from ballistic missiles to suitcase bombs, provide an estimation for the total cost of development and deployment of missile defense, and make a determination whether missile defense spending adversely impacts other priority national security programs of the Department of Defense.

I have previously stated that my concerns about NMD revolve largely around four issues: The nature of the threat; the implications for arms control and the international security environment; the feasibility of the technology; and the cost. I would like to address each of these in turn.

The bottom line of these concerns is simply this: Will a unilateralist missile defense deployment decision become the basis for a new arms race, leading to a world with more ballistic missiles and WMD pointed at the United States, not less? Would the United States be more secure, or less?

We also must ask where does the long range missile threat to the U.S. stand?

Russia for all its problems, remains the only nation possessing enough Intercontinental Ballistic Missiles, ICBMs, and submarine launched ballistic missiles, SLBMs, to overwhelm the proposed U.S. defensive umbrella. China has only a small number of ICBMs. No other nation has operational ICBMs and only two, France and the United Kingdom, have SLBMs.

Other countries, such as North Korea, Iran, Iraq, do not today have ballistic missile capabilities that are a threat to the United States. We should not act in ways to encourage them to develop these capabilities or, just as troubling, to develop alternate means to attack the United States which NMD is powerless to counter.

Looking ahead, however, George Tenet, Director of the Central Intelligence Agency, testified before Congress last year that "over the next 15 years, our cities will face ballistic missile threats from a variety of actors." He pointed to North Korea which, he said, could further develop its Taepo Dong 2 missile, noting that it "might be capable of delivering a nuclear payload to the United States."

Other nations which have or are pursuing ballistic missile programs include Iran and Iraq. Neither of these countries have succeeded in developing ballistic missile capabilities, however, and unless they make a concerted effort to do so, neither appears likely to develop capabilities within the next 10 years.

As we consider U.S. missile defense policy, I believe it is a fair question to ask what sort of developments in the international security environment might lead them, or others, to make that sort of concerted effort?

As the past two weeks have too well illustrated, the world is not a static place. International security relationships are fluid and dynamic. The United States today is the world's sole superpower, and although that gives us great strategic flexibility and maneuverability, it would be naive for us to believe that other nations and transnational groups do not and will not react to the strategic choices the United States makes, and how they perceive those choices affecting their own interests.

In other words, how might the rest of the world react to a unilateral U.S. de-

cision to deploy NMD? What would other countries do to protect what they perceive as their national security interests in the face of a U.S. NMD?

The National Intelligence Estimate prepared last year, "Foreign Responses to U.S. National Missile Deployment," suggests that in reaction to U.S. NMD deployment:

Russia could opt to deploy shorter-range missiles along its borders and resume adding multiple warheads to its ballistic missiles.

China would most likely seek to deploy additional missiles with MIRVed warheads if the U.S. went ahead with NMD. This would mean that China may attempt a strategy of "breaking out," giving them the capability to "overwhelm" a U.S. NMD system.

North Korea could resume its missile flight test program and cooperate with other countries, such as Iran or Iraq, in helping them develop missile capabilities.

Iran and Iraq might well redouble their efforts to develop their own missile programs, including decoys and countermeasures that would allow them to bypass a U.S. missile shield.

The NIE report also concluded that if China sought to deploy additional missiles and warheads in response to NMD, this might prompt India to respond by building up its own nuclear arsenals and missile arsenal, which would in turn prompt Pakistan to seek to develop additional nuclear weapons and advanced missiles, unleashing a South Asian nuclear arms race.

I do not believe I need to comment further, given recent events, just how dangerous that would be.

Such a destabilized environment, with Russia, China, North Korea, India, Pakistan, Iran, Iraq, and possibly others adding to their nuclear arsenals or missile capabilities does not strike me as a more stable world, or one in which the U.S. is more secure from the threat of WMD or missile attack.

In addition, many analysts believe that if the United States were to go ahead with NMD, rogue states and terrorists groups would simply shift their focus from developing missile technology to delivering weapons of mass destruction by ship, plane, or cruise missile, methods that are both more reliable, provide no "return address," and can't be countered by NMD.

I do not even want to contemplate what September 11 would have been like had one or more of those hijacked planes contained even a small, primitive, "dirty" nuclear device.

The second issue I would like to address today is the implication of a rush to deploy NMD for the Anti-Ballistic Missile Treaty.

Today the ABM Treaty is the keystone of a number of interlinked nuclear arms control agreements, including the START I and START II treaties with Russia. Although the ABM Treaty may require some modifications to take into account the realities of the new security environment, and this

legislation urges the Administration to pursue such negotiations, to just cast it aside risks undermining the very foundations of strategic stability and U.S. national security.

The United States has long been at the forefront of the international community in trying to inculcate respect for international law and treaty obligations.

In fact, one of the ways in which the United States identifies so-called rogue states is that these are states that do not respect their obligations to other members of the international community; states who walk away from, ignore, or cheat on their treaty obligations.

And so it is deeply troubling to me that the United States may now be telling the rest of the world, through its own actions, that it is accepted behavior to break your treaty obligations.

Indeed, with this approach I am particularly concerned that the United States may, in fact, be sending precisely the wrong message on international arms control to China: That only the weak must respect other nations and international law. If you are strong enough, you can do as you please.

If the United States seeks to unilaterally abrogate the Anti-Ballistic Missile Treaty, and in general treat international treaty commitments as mere pieces of paper to be disregarded if they prove inconvenient, how can we expect to hold China accountable to live up to its international agreements, or to the commitment it has made to the Missile Technology Control Regime?

As reported in the press accounts earlier this summer, the Department of Defense ABM Compliance Review Group, the Pentagon lawyers tasked to identify potential ABM Treaty issues raised by the testing schedule, have determined that some elements of the administration's plan for developing missile defenses may conflict with the ABM Treaty by 2002.

Indeed, a July 30, 2001 letter from Undersecretary Paul Wolfowitz to me stated that the "Department has neither designed the missile defense program to intentionally impact the ABM treaty sooner rather than later, nor have we designed it to avoid the treaty." That is good as far as it goes. But is also avoids the real question:

Has the Department of Defense made an effort to develop a missile defense testing program which is, by intent, consistent with the ABM? So long as the treaty is in force and is the supreme law of the land that seems to me to be a reasonable requirement.

Moreover, as Philip Coyle, the former director of Operational Test and Evaluation at the Pentagon, wrote in a recent issue of *The Defense Monitor*, the ABM treaty "is not holding back the design and development of the technology needed for National Missile Defense, NMD, nor is the treaty slowing the tests of an NMD system. Development of NMD will take a decade or

more for technical and budgetary reasons, but not due to the impediments caused by the ABM treaty."

In other words, the United States can continue with an aggressive NMD development and testing program for the foreseeable future, should the Administration and Congress choose to, without the need to abandon the ABM.

I do not believe that arms control treaties and agreements are a panacea that, by themselves, secure U.S. national security interests or those of our friends and allies.

But surely the constraints that these treaties and agreements impose can play a valuable role in constricting the development of weapons of mass destruction and their proliferation around the globe.

They are a useful tool in a fully articulated foreign policy and national security toolbox, and it is short-sighted, to say the least, to throw the tool out. Especially if one does not replace it with something of equal or greater value.

Although the technical challenges of developing missile defense technology are great, I believe that the United States, if we choose to pursue it, is equal to the task.

But that we can develop a missile defense system should not be confused by anyone to mean that we have the capabilities now, or will possess them, even with an aggressive testing and development program, anytime soon.

Effective missile defense is an enormous technical challenge. Commonly compared to "hitting a bullet with a bullet," missile defense requires interceptors to find and hit the warheads of long-range missiles traveling at speeds of 15,000 mph or more. Although two of the four tests thus far have failed, and serious questions have been raised about the degree of success of the other two, these tests have indicated that it may indeed be possible to "hit a bullet with a bullet."

But it is still far from clear if it can be done reliably in a real-world setting, where decoys and countermeasures will complicate the system's ability to determine what targets need to be hit. A global system of satellites, radars, communications relays, booster rockets and interceptors all must work with each other almost perfectly for the defense to have a chance of success.

There are also concerns, first raised by the November 1999 Welch Report, that political pressure to deploy a system regardless of whether the science works or not may lead to a "rush to failure." However, it must be a scientific determination, not a political determination, that decides how far and how fast we go forward with missile defense.

If the United States goes forward with development and deployment of a missile defense system, it must be one that is fully tested and deemed operationally effective in a real world setting. Anything less would be an invitation to disaster.

My final concern about missile defense relates to the potential costs of development and deployment.

As Congress considers this issue it is critical that it is able to clearly prioritize missile defense programs and spending, within the context of our larger national security needs. Funds that are spent on national missile defense are, in effect, funds that can not be spent on other priority programs, such as homeland defense. I do not propose that the United States spends all on one or the other. Rather, Congress must play a responsible role in making sure that sufficient funds are available to meet the threats to national security that exist today, while planning prudently for threats that will emerge tomorrow.

To allocate a disproportionate share of defense spending on a threat that does not exist at all, or which will not be real until much further off in the future creates a very real risk to those programs that need to be funded today. This means that immediate and concrete threats we face today may not be addressed with potentially disastrous results.

There has never been a consensus cost figure for deploying an NMD system. For several years, the Clinton administration estimated that a limited NMD system would cost \$9 to \$11 billion to develop, test, and deploy. In January 1999, the administration estimated that an initial system of 20 interceptors would cost about \$10.6 billion. In February 2000, the administration provided a "life-cycle" cost estimate of \$26.6 billion for an initial system of 100 ground-based interceptors in Alaska.

An April 2000 study by the Congressional Budget Office (CBO), however, estimated that it would cost about \$29.5 billion to develop, build, and operate an initial NMD system through 2015. CBO estimates it will cost another \$19 billion through 2015 to expand the initial system of 100 interceptors and build what was called a Capability 2 and Capability 3 system designed for greater numbers of more sophisticated potential missile threats. According to CBO, additional space-based sensors would bring the total costs for NMD to around \$60 billion through 2015.

Several reports issued by outside groups, however, suggest that the real costs of missile defense deployment could be much higher, perhaps as \$300 billion if such elements as space-based and naval-based NMD interceptors are included.

Trying to put a price tag on missile defense costs is all the more difficult at present because the current administration has not yet determined what sort of missile defense architecture they want to develop. Put simply, they have asked for the credit card to go to the store, but have not told us if they will be buying jeans or a tuxedo, or anything in between.

The question of cost should not be a determining factor in and of itself. If

the international security environment demands development and deployment of missile defenses, the U.S. must go forward regardless of the cost.

But as Congress considers the elements of U.S. national security strategy in the years ahead, it must do so mindful that devoting resources to one area likely means depriving them from another. We must be careful, therefore, to make sure that our national security needs are properly prioritized. To move forward with missile defense, if it is not at the top of the list or immediately needed, and in so doing place in jeopardy other higher and more immediate needs and priorities, such as homeland defense, risks creating an unbalanced and ineffective national security strategy.

The administration's current plans, of what we know about them, seem to suggest that the United States will abandon the Anti-Ballistic Missile treaty before we even know if the deployment of NMD is even feasible. And that it would abandon the ABM in pursuit of what can only be considered "unbalanced" national security strategy, one that places too much weight on the development of missile defense, and too little on the other areas, such as prevention, intelligence, rollback, and management, that are equally, or more, important.

The United States must respond to new threats, and defenses can play an important role. But the question is not whether we deploy defenses, as missile defense advocates like to paint it, but what, when, and, most importantly, how.

As I stated earlier, the threat of the proliferation of WMD is real and growing, and how the United States manages this threat should be an overriding security priority. Management requires a comprehensive approach that strikes the right balance between prevention, deterrence, and defense, and the emphasis placed on missile defense must be balanced against other national security priorities. An effective WMD national security strategy must emphasize:

Prevention, through preventive defense and preventive diplomacy, including export controls, regional security commitments, on-going threat reduction programs, and arms control regimes;

Intelligence, including those efforts that show promise for penetrating transnational and terrorist groups that may be planning attacks against the United States or our allies and that illuminate the nature of the proliferation threat;

Rollback of WMD and missile programs that have been developed by other countries, such as the intense diplomacy such as has met with some success on the Korean Peninsula, and a mixture of economic and political incentives; and,

Management of the consequences of proliferation by better protecting our forces, holding open the possibility of pre-emption, and active defenses.

And our defensive programs must also recognize that as the horrific events of September 11 too well illustrated, missile defense is a response to but one of the WMD threats that the United States faces in today's world—and perhaps the least of these threats at that.

Indeed, a breakdown of the "threat spectrum" produced by the Joint Chiefs of Staff earlier this year lists a missile attack as having the lowest "probability of occurrence" in the threat spectrum.

In fact, as a member of the Senate Committee on Intelligence, I have had an opportunity to discuss WMD threat assessments with members of our intelligence community. Although the threat of a ballistic missile attack from a rogue nation is certainly a concern, they are far more concerned about the threat that a "suitcase" bomb or a bomb hidden on a ship may pose. Needless to say, NMD does nothing to address these threats.

A balanced approach to national security therefore suggests that it is only prudent for the United States to conduct a limited testing program to develop missile defense technology so that if, at some point in the future, it is necessary we will have appropriate options. And yes, the ABM Treaty may need to be modified or amended to enable us to respond to new threats.

But it would be folly to place too much of an emphasis on missile defense, to simply and unilaterally develop and deploy NMD, and to abandon the treaty, before we even know what defensive systems are feasible, which systems best meet our needs, and well before any sensible development or testing program needs to bump up to treaty limits.

The unilateral U.S. pursuit of NMD is likely to create a less stable world, with more nations pursuing weapons of mass destruction, and without the constraints of international arms control agreement.

It strikes me as a big gamble to develop a national security strategy on one hand which seems intent on cultivating a missile defense system of unknown effectiveness, and a less stable and less secure world on the other.

I look forward to the opportunity to debate these issues on the floor with my colleagues at an appropriate time.

By Mr. ENZI (for himself, Mr. DORGAN, Mrs. HUTCHISON, Mr. KERRY, Mr. THOMAS, Mr. GRAHAM, Mr. VOINOVICH, and Mr. HUTCHINSON):

S. 1567. A bill to foster innovation and technological advancement in the development of the Internet and electronic commerce, and to assist the States in simplifying their sales and use taxes; to the Committee on Commerce, Science, and Transportation.

Mr. ENZI. 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. 1567

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 "Internet Tax Moratorium and Equity Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The moratorium of the Internet Tax Freedom Act on new taxes on Internet access and on multiple and discriminatory taxes on electronic commerce should be extended.

(2) States should be encouraged to simplify their sales and use tax systems.

(3) As a matter of economic policy and basic fairness, similar sales transactions should be treated equally, without regard to the manner in which sales are transacted, whether in person, through the mails, over the telephone, on the Internet, or by other means.

(4) Congress may facilitate such equal taxation consistent with the United States Supreme Court's decision in *Quill Corp. v. North Dakota*.

(5) States that adequately simplify their tax systems should be authorized to correct the present inequities in taxation through requiring sellers to collect taxes on sales of goods or services delivered in-state, without regard to the location of the seller.

(6) The States have experience, expertise, and a vital interest in the collection of sales and use taxes, and thus should take the lead in developing and implementing sales and use tax collection systems that are fair, efficient, and non-discriminatory in their application and that will simplify the process for both sellers and buyers.

(7) Online consumer privacy is of paramount importance to the growth of electronic commerce and must be protected.

SEC. 3. EXTENSION OF INTERNET TAX FREEDOM ACT MORATORIUM.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

"(a) MORATORIUM.—No State or political subdivision thereof shall impose—

"(1) any taxes on Internet access during the period beginning after September 30, 1998, unless such a tax was generally imposed and actually enforced prior to October 1, 1998; and

"(2) multiple or discriminatory taxes on electronic commerce during the period beginning on October 1, 1998, and ending on December 31, 2005."

SEC. 4. INTERNET TAX FREEDOM ACT DEFINITIONS.

(a) INTERNET ACCESS SERVICES.—Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following new paragraph:

"(11) INTERNET ACCESS SERVICES.—The term 'Internet access services' means services that combine computer processing, information storage, protocol conversion, and routing with transmission to enable users to access Internet content and services. Such term does not include receipt of such content or services."

(b) INTERNET ACCESS.—Section 1104(5) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking "telecommunications services" and inserting "telecommunications services generally, but does include wireless web access services used to enable users to access content, information, electronic mail, or other services offered over the Internet, including any comparable package of services offered to users."

(c) TELECOMMUNICATIONS SERVICES.—Section 1104(9) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking "and includes communications services (as

defined in section 4251 of the Internal Revenue Code of 1986)".

(d) WIRELESS WEB ACCESS SERVICES.—Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(12) WIRELESS WEB ACCESS SERVICES.—The term 'wireless web access services' means commercial mobile services (as defined in section 332(d)(1) of Communications Act of 1934 (47 U.S.C. 332(d)(1)), multi-channel, multi-point distribution services, or any wireless telecommunications services used to access the Internet."

SEC. 5. STREAMLINED SALES AND USE TAX SYSTEM.

(a) DEVELOPMENT OF STREAMLINED SYSTEM.—It is the sense of Congress that States and localities should work together to develop a streamlined sales and use tax system that addresses the following in the context of remote sales:

(1) A centralized, one-stop, multi-state reporting, submission, and payment system for sellers.

(2) Uniform definitions for goods or services, the sale of which may, by State action, be included in the tax base.

(3) Uniform rules for attributing transactions to particular taxing jurisdictions.

(4) Uniform procedures for—

(A) the treatment of purchasers exempt from sales and use taxes; and

(B) relief from liability for sellers that rely on such State procedures.

(5) Uniform procedures for the certification of software that sellers rely on to determine sales and use tax rates and taxability.

(6) A uniform format for tax returns and remittance forms.

(7) Consistent electronic filing and remittance methods.

(8) State administration of all State and local sales and use taxes.

(9) Uniform audit procedures, including a provision giving a seller the option to be subject to no more than a single audit per year using those procedures; except that if the seller does not comply with the procedures to elect a single audit, any State can conduct an audit using those procedures.

(10) Reasonable compensation for tax collection by sellers.

(11) Exemption from use tax collection requirements for remote sellers falling below a de minimis threshold of \$5,000,000 in gross annual sales.

(12) Appropriate protections for consumer privacy.

(13) Such other features that the States deem warranted to promote simplicity, uniformity, neutrality, efficiency, and fairness.

(b) STUDY.—It is the sense of Congress that a joint, comprehensive study should be commissioned by State and local governments and the business community to determine the cost to all sellers of collecting and remitting State and local sales and use taxes on sales made by sellers under the law as in effect on the date of enactment of this Act and under the system described in subsection (a) to assist in determining what constitutes reasonable compensation.

SEC. 6. INTERSTATE SALES AND USE TAX COMPACT.

(a) AUTHORIZATION.—In general, the States are authorized to enter into an Interstate Sales and Use Tax Compact. The Compact shall describe a uniform, streamlined sales and use tax system consistent with section 5(a), and shall provide that States joining the Compact must adopt that system.

(b) EXPIRATION.—The authorization in subsection (a) shall expire if the Compact has not been formed before January 1, 2005.

(c) CONGRESSIONAL APPROVAL OF COMPACT.—

(1) ADOPTING STATES TO TRANSMIT.—Upon the 20th State becoming a signatory to the Compact, the adopting States shall transmit a copy of the Compact to Congress.

(2) CONGRESSIONAL ACTION.—

(A) IN GENERAL.—If a joint resolution described in subparagraph (B) is enacted into law within 120 calendar days, excluding congressional recess period days, of Congress receiving the Compact under paragraph (1), then sections 7 and 8 shall apply to the adopting States, and any other State that subsequently adopts the Compact.

(B) JOINT RESOLUTION.—A joint resolution described in this subparagraph is a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That Congress—

"(1) agrees that the uniform, streamlined sales and use tax system described in the Compact transmitted to Congress by the States pursuant to section 6(c)(1) of the Internet Tax Moratorium and Equity Act does not create an undue burden on interstate commerce; and

"(2) authorizes any State that adopts such Compact to require remote sellers to collect and remit sales and use taxes in accordance with such system."

(C) EXPEDITED PROCEDURE FOR APPROVAL.—

(i) RULES OF HOUSE AND SENATE.—This paragraph is enacted—

(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of the joint resolution described in subparagraph (B), and they supersede other rules only to the extent that they are inconsistent therewith, and

(II) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(ii) APPLICABLE PROCEDURAL PROVISIONS.—Except as otherwise provided in this paragraph, the procedures set forth in section 152 (other than subsection (a) thereof) of the Trade Act of 1974 (19 U.S.C. 2192) shall apply to the joint resolution described in subparagraph (B) by substituting the "Committee on the Judiciary" for the "Committee on Ways and Means" and the "Committee on Commerce, Science, and Transportation" for the "Committee on Finance" in subsection (b) thereof.

(iii) INTRODUCTION OF JOINT RESOLUTION AFTER COMPACT RECEIVED.—Until Congress receives the Compact described in paragraph (1), it shall not be in order in either House to introduce the joint resolution described in subparagraph (B).

(iv) CONSIDERATION OF JOINT RESOLUTION.—No amendment to the joint resolution described in subparagraph (B) shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House. Within 120 calendar days, excluding congressional recess period days, after the date on which a joint resolution described in subparagraph (B) is introduced in either House, that House shall proceed to a final vote on the joint resolution without intervening action. If either House approves the resolution, it shall be placed on the calendar in the other House, which shall proceed immediately to a final vote on the joint resolution without intervening action.

SEC. 7. AUTHORIZATION TO SIMPLIFY STATE USE-TAX RATES THROUGH AVERAGING.

(a) IN GENERAL.—Subject to the exception in subsection (c), a State that adopts the

Compact authorized and approved under section 6 and that levies a use tax shall impose a single, uniform State-wide use-tax rate on all remote sales on which it assesses a use tax for any calendar year for which the State meets the requirements of subsection (b).

(b) AVERAGING REQUIREMENT.—A State meets the requirements of this subsection for any calendar year in which the single, uniform State-wide use-tax rate is in effect if such rate is no greater than the weighted average of the sales tax rates actually imposed by the State and its local jurisdictions during the 12-month period ending on June 30 prior to such calendar year.

(c) ANNUAL OPTION TO COLLECT ACTUAL TAX.—Notwithstanding subsection (a), a remote seller may elect annually to collect the actual applicable State and local use taxes on each sale made in the State.

(d) ALTERNATIVE SYSTEM.—A State that adopts the uniform, streamlined sales and use tax system described in the Compact authorized and approved under section 6 so that remote sellers can use information provided by the State to identify the single applicable rate for each sale, may require a remote seller to collect the actual applicable State and local sales or use tax due on each sale made in the State if the State provides such seller relief from liability to the State for relying on such information provided by the State.

SEC. 8. AUTHORIZATION TO REQUIRE COLLECTION OF USE TAXES.

(a) GRANT OF AUTHORITY.—

(1) STATES THAT ADOPT THE SYSTEM MAY REQUIRE COLLECTION.—Any State that has adopted the system described in the Compact authorized and approved under section 6 is authorized, notwithstanding any other provision of law, to require all sellers not qualifying for the de minimis exception to collect and remit sales and use taxes on remote sales to purchasers located in such State.

(2) STATES THAT DO NOT ADOPT THE SYSTEM MAY NOT REQUIRE COLLECTION.—Paragraph (1) does not extend to any State that does not adopt the system described in the Compact.

(b) NO EFFECT ON NEXUS, ETC.—No obligation imposed by virtue of authority granted by subsection (a)(1) or denied by subsection (a)(2) shall be considered in determining whether a seller has a nexus with any State for any other tax purpose. Except as provided in subsection (a), nothing in this Act permits or prohibits a State—

(1) to license or regulate any person;

(2) to require any person to qualify to transact intrastate business; or

(3) to subject any person to State taxes not related to the sale of goods or services.

SEC. 9. NEXUS FOR STATE BUSINESS ACTIVITY TAXES.

It is the sense of Congress that before the conclusion of the 107th Congress, legislation should be enacted to determine the appropriate factors to be considered in establishing whether nexus exists for State business activity tax purposes.

SEC. 10. LIMITATION.

In general, nothing in this Act shall be construed as subjecting sellers to franchise taxes, income taxes, or licensing requirements of a State or political subdivision thereof, nor shall anything in this Act be construed as affecting the application of such taxes or requirements or enlarging or reducing the authority of any State or political subdivision to impose such taxes or requirements.

SEC. 11. DEFINITIONS.

In this Act:

(1) STATE.—The term "State" means any State of the United States of America and includes the District of Columbia.

(2) GOODS OR SERVICES.—The term "goods or services" includes tangible and intangible personal property and services.

(3) REMOTE SALE.—The term "remote sale" means a sale in interstate commerce of goods or services attributed, under the rules established pursuant to section 5(a)(3), to a particular taxing jurisdiction that could not, except for the authority granted by this Act, require that the seller of such goods or services collect and remit sales or use taxes on such sale.

(4) LOCUS OF REMOTE SALE.—The term "particular taxing jurisdiction", when used with respect to the location of a remote sale, means a remote sale of goods or services attributed, under the rules established pursuant to section 5(a)(3), to a particular taxing jurisdiction.

By Mr. REID (for himself and Mr. SMITH of Oregon):

S. 1566. A bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes; to the Committee on Finance.

Mr. REID. Mr. President, perhaps at no other time in our history is the energy security of the United States more vital to this nation's well being.

We all agree that the United States needs to reduce its dependence on fossil fuels that pollute the environment and undermine our national security interests and balance of trade. Nevadans understand that any responsible energy strategy must encompass conservation, efficiency, and an expanded generating capacity. Developing renewable energy resources represents a responsible way to expand our power capacity without compromising air or water quality. These renewable energy sources can enhance America's energy supply on a time scale of 1-3 years, considerably shorter than times required for fossil-fuel power plants.

I rise today to introduce a bill that expands the existing production tax credit for renewable energy technologies to cover all renewable energy technologies. I want to thank Senator GORDON SMITH for joining me in the introduction of this bill, which sets America on a steady path toward energy independence.

Our legislation will renew the wind power production tax credit and expand the credit to additional renewable resources, including solar power, open-loop biomass, poultry and animal waste, landfill gas, geothermal, incremental geothermal, and incremental hydropower facilities.

The proposed production tax credit for all these renewable energy sources would be made permanent to signal America's long-term commitment to renewable energy resources.

One example that illustrates the need for a permanent tax credit is what I recently learned about a major wind farm project at the Nevada Test Site. It is experiencing delays. The production of electricity in rapidly growing Nevada and the whole western part of the country is important. We need to do something to develop new sources of electricity.

But I found that this project, which is set to go on line, is having difficulty

because in the law we have an expiring tax credit for wind. Not only that, but to do it for 1 year really doesn't help that much. People are unwilling to lend money on a 1-year tax credit. It is possible this project may be canceled due to the uncertain nature of the production tax credit for wind energy. This would be a terrible disappointment. Within 3 to 5 years they can produce enough electricity by wind to supply energy to 260,000 people. That is a lot of people. That would be that much less coal we would have to burn, or natural gas, or fuel oil.

The Department of Energy estimates that we could increase our geothermal energy production almost ten fold, supplying ten percent of the energy needs of the West, and expand wind energy production to serve the electricity needs of ten million homes.

The Nevada Public Utilities Commission estimates 500 megawatts of wind energy and 500 megawatts of geothermal should be online in the state by 2013, supplying the energy needs of one million Nevadans. That is 1,000 megawatts.

But we need a permanent production tax credit to make these estimates a reality.

The bill Senator SMITH and I have introduced this afternoon allows for co-production credits to encourage blending of renewable energy with traditional fuels and provides a credit for renewable facilities on native American and native Alaskan lands.

It also provides production incentives to not-for-profit public power utilities and rural electric cooperatives, which serve 25 percent of the nation's power customers, by allowing them to transfer of their credits to taxable entities.

Fossil fuel plants pump over 11 million tons of pollutants into our air each year. Eleven million tons—it is hard to comprehend that—every year. What we are doing is building more powerplants to pump more pollution into the air. By including landfill gas in this legislation, we systematically reduce the largest single human source of methane emissions in the United States, effectively eliminating the greenhouse gas equivalent of 233 million tons of carbon dioxide. These figures are staggering, but they are realistic.

There is a compelling need for our legislation because the existing production tax credit for electricity produced from wind energy and closed-loop biomass renewable resources expires at the end of this year.

In the past year alone, \$1.3 billion in capital investment in wind energy projects has been made in the U.S.

As I indicated, at the Nevada Test Site, a new wind farm will provide 260 megawatts to meet the needs of 260,000 people.

Growing renewable energy industries in the U.S. will also help provide growing employment opportunities in the U.S., and help U.S. renewable technologies compete in world markets.

In States like Nevada, expanded renewable energy production will provide jobs in rural areas—areas that have been largely left out of America's recent economic boom during the past several years. Rural Nevada hasn't done well at all. Renewable energy is poised to make major contributions to our Nation's energy needs over the next decade.

As fantastic as it sounds, enough sunlight falls on a 100-mile-by-100-mile area of southern Nevada that, if covered with solar panels, could power the entire Nation.

I am proud to say that Nevada has adopted the most aggressive Renewable Portfolio Standard in the nation, requiring that 5 percent of the state's electricity needs be met by renewable energy resources in 2003, which then grows to 15 percent by 2013.

We are mandating in the State of Nevada that 15 percent of the energy resources must be produced by alternative energy. That is really a step forward, and I applaud the Nevada State Legislature.

The citizens of Nevada deserve a national energy strategy that ensures their economic well being and security, and provides for a secure quality of life. That should also apply to the whole United States.

Our legislation encourages the use of renewable energy and signals America's long-term commitment to clean energy, a healthy environment, and energy independence.

Renewable energy—as an alternative and successor to traditional energy sources—is a common sense way to ensure the American people have a reliable source of power at an affordable price.

The United States needs to move away from its dependence on fossil fuels that pollute the environment and undermine our national security interests and balance of trade.

We must accept this commitment for the energy security of the U.S., for the protection of our environment, and for the health and security of the American people.

I hope this legislation is allowed to move forward as quickly as possible.

By Mr. HATCH:

S. 1568. A bill to prevent cyberterrorism; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce the Cyberterrorism Prevention Act of 2001, an important piece of legislation to prevent terrorists from hijacking our computer system to wreak havoc with our essential infrastructure.

This bill provides law enforcement with critical tools to combat cyberterrorism. I urge my colleagues to support this important piece of legislation.

By Ms. COLLINS (for herself, Mr. GREGG, Mr. REED, Mr. JOHNSON, Mr. SESSIONS, and Mr. WARNER):

S. 1570. A bill to provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President on September 14, 2001; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, every American is struggling to cope with the terrorist attacks of September 11 and subsequent events. Among those on the front lines in addressing these disasters are our military Reservists and members of our National Guard. Not only are these men and women grappling with the consequences of the catastrophe and the rigors of being mobilized for active duty, but many of them are also forced to worry about leaving college in the middle of their courses and making continued payments on their student loans. Will their tuition be reimbursed for courses that are interrupted? How will they keep up with their student loan payments while they are on active duty?

In my State of Maine, more than 10 percent of our National Guard members are making payments on their student loans and are faced with these very questions. As these Guard members and Reservists prepare to serve their country, the least we can do is alleviate their concerns about making payments on their student loans while they are on active duty.

Some of the families directly affected by the tragedies of September 11 are facing similar dilemmas. The dislocation in New York City and elsewhere caused by the terrorist attacks has jeopardized the ability of some individuals to meet their payment schedules on their student loans.

Lending institutions located in New York City are encountering yet another set of difficulties. A number of lenders are headquartered within a few blocks of ground zero. They, understandably, have been unable to meet the due diligence requirements set forth by the Department of Education. Several firms, in fact, were not even able to access their office buildings for many days after the attacks, let alone meet filing deadlines.

With those Guard members, Reservists, affected families, and lending institutions in mind, I am pleased today to introduce the Higher Education Relief Opportunities for Students Act of 2001. My colleagues, Senators GREGG, REED, WARNER, and SESSIONS, as well as the Presiding Officer, Senator JOHNSON, whose support and leadership I value greatly, have signed on as original cosponsors. The HEROS Act grants the Secretary of Education specific waiver authority under the Higher Education Act to provide relief to those affected by the recent attacks on America. The Secretary would be empowered to assist Reservists and Guard members who are being called up for active duty as well as others directly affected by the attacks.

The Secretary's new authority would be limited to ensuring that military

personnel and civilians are in the same financial position as they were prior to the terrorist attacks with respect to their student loans. And it has been drafted so as to not impair the integrity of the student loan programs.

The Secretary of Education is given some discretion under the Higher Education Act to defer payments on student loans. But this authority does not go far enough. The HEROS Act would empower the Secretary to take several additional steps to provide needed relief to help those directly affected by the terrorist attacks.

Specifically, the Higher Education Relief Opportunities for Students Act authorizes the Secretary of Education to relax repayment obligations for Guard members and Reservists called up to active duty, to provide a period of time during which the victims and their families may reduce or delay monthly student loan payments, and to assist educational institutions and lenders with reporting requirements.

All of these steps can be taken while still ensuring the integrity of our student loan programs.

This legislation is modeled on a previous law that was enacted during the Gulf War to provide relief for our men and women in the military. In short, there is precedent for authorizing the Secretary of Education to provide these kinds of relief.

I am pleased to be joined by five of my colleagues in introducing this bill, and I thank them all for their support. I also commend Representative McKEON for his leadership on the House version of the HEROS Act. His initiative will help ensure that we provide adequate student loan relief to Reservists, Guard members, and victims' families.

I look forward to the swift passage of this legislation.

Mr. President, I send the bill to the desk and ask it be appropriately referred at this time.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 172—EX- PRESSING THE SENSE OF THE SENATE REGARDING THE UR- GENT NEED TO PROVIDE EMER- GENCY HUMANITARIAN ASSIST- ANCE AND DEVELOPMENT AS- SISTANCE TO CIVILIANS IN AF- GHANISTAN, INCLUDING AFGHAN REFUGEES IN SURROUNDING COUNTRIES

Mr. WELLSTONE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 172

Whereas, well before the terrorist attacks on September 11, 2001, Afghanistan was the site of the greatest crisis of hunger and displacement in the world;

Whereas, after more than 20 years of conflict, 3 years of severe drought, and the repressive policies of the Taliban regime, 4,000,000 Afghans had sought refuge in neighboring countries, and Afghan women have one of the highest maternal mortality rates in the world, and one in four children dies before the child's fifth birthday;

Whereas the United Nations High Commissioner for Refugees estimates that 1,500,000 additional Afghans could seek to flee the country in coming months due to the ongoing military conflict;

Whereas all 6 countries neighboring Afghanistan have closed their borders to refugees both on security grounds and citing an inability to economically provide for more refugees, and thousands have been trapped at borders with no food, shelter, water, or medical care;

Whereas 7,500,000 people inside Afghanistan face critical food shortages or risk starvation by winter's end, and are partially or fully dependent on outside assistance for survival, and of these people, 70 percent are women and children;

Whereas the United Nations World Food Program (WFP), which distributes most of the food within Afghanistan, estimates that food stocks in the country are critically short, and WFP overland food shipments inside and outside the border of Afghanistan have been disrupted due to security concerns over United States military strikes;

Whereas airdrops of food by the United States military cannot by itself meet the enormous humanitarian needs of the Afghan people, and cannot replace the most effective delivery method of overland truck convoys of food, nor can it replace access to affected populations by humanitarian agencies;

Whereas the President has announced a \$320,000,000 initiative to respond to the humanitarian needs in Afghanistan and for Afghan refugees in neighboring countries, and much more international assistance is clearly needed; and

Whereas the United States is the single largest donor of humanitarian assistance to the Afghan people, totaling more than \$185,000,000 in fiscal year 2001: Now, therefore, be it

Resolved, **SECTION 1. SENSE OF THE SENATE ON HUMANITARIAN AND DEVELOPMENT ASSISTANCE FOR THE PEOPLE OF AFGHANISTAN.**

It is the sense of the Senate that—

(1) Afghanistan's neighbors should reopen their borders to allow for the safe passage of refugees, and the international community must be prepared to contribute to the economic costs incurred by the flight of desperate Afghan civilians;

(2) as the United States engages in military action in Afghanistan, it must work to deliver assistance, particularly through overland truck convoys, and safe humanitarian access to affected populations, in partnership with humanitarian agencies in quantities sufficient to alleviate a large scale humanitarian catastrophe; and

(3) the United States should contribute to efforts by the international community to provide long-term, sustainable reconstruction and development assistance for the people of Afghanistan, including efforts to protect the basic human rights of women and children.

Mr. WELLSTONE. Mr. President, even before the world focused on it as a sanctuary for Osama bin Laden and other terrorists, Afghanistan was on the brink of a humanitarian catastrophe, the site of the greatest crisis in hunger and refugee displacement in the world. Now the worsening situation on

the ground is almost unimaginable. After 4 years of relentless drought, the worst in three decades, and the total failure of the Taliban government in administering the country, 4 million people have abandoned their homes in search of food in Pakistan, Iran, Tajikistan, and elsewhere, while those left behind eat meals of locusts and animal fodder.

Mr. President, 7.5 million people inside the country are threatened by famine or severe hunger as cold weather approaches, according to the United Nations.

As President Bush made clear, we are waging a campaign against terrorists, not ordinary Afghans, who are some of the poorest and most beleaguered people on the planet and were our allies during the cold war.

Yet, the current military air strikes and the disintegration of security is worsening the humanitarian situation on the ground.

Aid organizations are increasingly concerned about their ability to deliver aid to Afghanistan while the United States continues its bombing campaign. Several aid organizations have been accidentally bombed by the United States in the last week. In addition to these accidental bombings, law and order are breaking down inside Afghanistan. Reports indicate that thieves have broken into several aid organization offices, beat up the Afghan staff and stolen vehicles, spare parts, and other equipment.

Warehouses of the International Red Cross in Kabul were bombed yesterday. The ICRC says that the warehouses were clearly marked white with a large red cross visible from the air. One worker was wounded and is now in stable condition. One warehouse suffered a direct hit, which destroyed tarpaulins, plastic sheeting, and blankets, while another containing food caught on fire and was partially destroyed. The Pentagon claimed responsibility for the bombing later in the day, adding that they "regret any innocent casualties," and that the ICRC warehouses were part of a series of warehouses that the United States believed were used to store military equipment. "There are huge needs for the civilian population, and definitely it will hamper our operations," Robert Monin, head of the International Red Cross' Afghanistan delegation, said on Islamabad, Pakistan.

Another missile struck near a World Food Program warehouse in Afsotar, wounding one laborer. The missile struck as trucks were being loaded for an Oxfam convoy to the Hazarajat region, where winter will begin closing off the passes in the next two weeks. Loading was suspended and the warehouse remains closed today.

Last week, four U.N. workers for a demining operation were accidentally killed when a bomb struck their office in Kabul.

In response to the dangers threatening humanitarian operations, the

Oxfam America President said, "It is now evident that we cannot, in reasonable safety, get food to hungry Afghan people. We've reached the point where it is simply unrealistic for us to do our job in Afghanistan. We've run out of food, the borders are closed, we can't reach our staff, and time's running out."

The World Food Program was feeding 3.8 million people a day in Afghanistan even before the bombing campaign began. These included 900,000 internally displaced people at camps. Although the United States military has dropped thousands of ready to eat meals, everyone agrees that only truck convoys can move sufficient food into Afghanistan before winter. As of last Friday, there were only two convoys confirmed to have gotten through. WFP announced that two more convoys since the bombing campaign started were nearing Kabul.

Complications and delays in delivering emergency food supplies to Afghanistan could cause rising death rates from starvation and illness as winter sets in. Many of the high mountain passes will be closed by mid-November due to 20–30 foot snows.

Aid agencies are falling behind in their efforts to deliver enough emergency relief to Afghans to avoid a large loss of life this winter. UNICEF estimates that, in addition to the total of 300,000 Afghan children who die of "preventable causes" each year, 100,000 more children might die this winter from hunger and disease.

The main reasons for this shortfall in aid are related to security concerns. Aid agencies have withdrawn their international staff, and local staff have attempted to continue the aid programs but have been subjected to intimidation, theft, and harassment. As the United States continues to pound Taliban targets, law and order in some cities is reportedly also breaking down. Truck drivers are unwilling to deliver supplies to some areas for fear of being bombed by the United States, or being attacked by one faction or another. Taliban supporters have obstructed aid deliveries on some occasions.

Despite these nightmares, shipment of food and nonfood emergency items arrive in Afghanistan daily—but the total shipped is only about one-half of what is needed. The situation is particularly urgent as some of the poorest and most needy areas will be cut off from overland routes by mid-November. An estimated 600,000 people in the Central Highlands are dependent upon international food aid, and little is on hand for them now.

The food shortfall in Afghanistan may result in an increased flow of refugees to the borders. A flood of refugees to the border would present a different but also challenging set of problems. Clearly, as everyone has said, it is better for them to remain at home than flee to neighboring countries out of hunger.

There is no easy solution to this humanitarian crisis. It is complex and re-

quires the international community to take urgent and imaginative action to boost the flow of food inside. The United States should take the lead in helping to devise aggressive and imaginative ways to expand the delivery of food. These could include the creation of humanitarian corridors, the use of existing commercial trading companies and air deliveries to airports that have not yet been bombed.

The establishment of humanitarian ground and air corridors should be considered for the secure transportation and distribution of emergency aid. The administration should push to have some roads or air routes in areas of limited conflict be designated as protected humanitarian routes. Such possible ground and air corridors include Northern Alliance held territory along the border of Tajikistan, and Northern Alliance airfields which have not been bombed. These airfields could be used for a Berlin style airlift to get massive amounts of aid into the country quickly.

The United Nations High Commissioner for Refugees estimates that 1.5 million additional Afghans could seek to flee the country in coming months due to the ongoing military conflict.

All six countries neighboring Afghanistan have closed their borders to refugees both on security grounds and citing an inability to economically provide for more refugees. Thousands have been trapped at borders with no food, shelter, water, or medical care.

I am introducing a resolution today which addresses this crisis. The text of the resolution states the following:

Afghanistan's neighbors should reopen their borders to allow for the safe passage of refugees, and the international community must be prepared to contribute to the economic costs incurred by the flight of desperate Afghan civilians;

As the United States engages in military action in Afghanistan, it must work to deliver assistance, particularly through overland truck convoys, and safe humanitarian access to affected populations, in partnership with humanitarian agencies in quantities sufficient to alleviate a large scale humanitarian catastrophe;

The United States should contribute to efforts by the international community to provide long-term, sustainable reconstruction and development assistance for the people of Afghanistan, including efforts to protect the basic human rights of women and children.

I urge my colleagues to support this measure.

Mr. President, I spoke yesterday in this Chamber in relation to this resolution I am submitting today. I will offer this as an amendment on legislation to have a vote.

I think we in America are probably as united as we can be as a people, especially when it comes to our horror and sadness, indignation and anger at the innocent slaughter of so many people, so many Americans.

In response to that, a resolution was passed authorizing the use of force, targeted on those who committed this act, hopefully drawing a distinction between justice and vengeance.

I think most of us also believe—and certainly Secretary Powell has said this more than once, as it is terribly important—that the use of force, the military action, must be as targeted as possible; that every step be taken that is humanly possible to avoid innocent people being killed, innocent Afghans who had nothing to do with the murders in our country.

I worry to the extent that there are reports that innocent people have been killed in the bombing. I certainly worry about that. Our country wants to avoid that. Moreover, there is also the whole question of the Islamic world and how people respond to this. So, again, I will make the point that this has to be as carefully targeted as possible.

But the other issue, which I do not think we have paid enough attention to—and I had a chance to write a piece for the Boston Globe a couple weeks ago, and I am going to start speaking about this in the Chamber more, and I think there is a lot of strong bipartisan interest and support for this—is the whole question of this humanitarian crisis in Afghanistan.

The reports are there are about 7.5 million people who go hungry. We do not know how many hundreds of thousands could starve to death this winter if we do not get food to people.

The problem is, though there has been a lot of discussion about the air-drops, maybe a half of 1 percent, maybe 1 percent at best, doesn't do the job. The only way we can get the food to people is through the truck convoys, and now not nearly enough of this is happening.

Different organizations, the NGOs, the nongovernment organizations, food relief organizations, are all saying on present course they may be able to get enough food for half the people who need it at best. In 3 or 4 weeks there will be cold winter weather, and we will see pictures of innocent, starving Afghan children. That is a fact.

The resolution calls upon our Government to take stronger measures, with a more focused effort to get the food to people. That will be complicated. Part of it involves people who will still be trying to leave Afghanistan. Some of the neighboring countries have to open up their borders. Those people have been stopped at the borders. Then there are the people who don't leave. And the conditions in the refugee camps have to be dramatically improved.

The fact is, the people who don't leave are the poorest of the poor. They are the elderly, the infirmed; they are the children. They are the ones about whom we all worry. There have been intermittent reports—quite often when you try to confirm it, it is not clear what happened—that the Taliban itself

has taken some of the food. Many organizations are saying with the bombing the truck convoys can't go through.

I am not making an argument for cessation of bombing. I argue it be as targeted as possible and to avoid in every way possible bombing innocent people. There has to be a way, whether it is the creation of safe corridors, coordinated with military activity or whatever to get these truck convoys in to get the food to people. Time is not neutral. We are going to deeply regret if we don't take these steps.

The resolution expresses the sense of the Senate regarding the urgent need to provide humanitarian assistance to the civilians of Afghanistan. Well before the terrorist attack of September 11, this was the site of great hunger and displacement in the world.

Whereas, after more than 20 years of conflict, 3 years of severe drought and the repressive policies of the Taliban regime, 4 million Afghans have sought refuge in neighboring countries, and Afghan women have one of the highest maternal mortality rates in the world, and one in four children dies before the child's fifth birthday; whereas the United Nations High Commissioner for Refugees estimates that 1,500,000 additional Afghans could seek to flee the country in the coming months due to the military conflict; whereas all six countries neighboring Afghanistan have closed their borders to refugees both on security grounds and are also saying they can't provide for the refugees economically; whereas 7,500,000 people inside Afghanistan face critical food shortages or risk starvation by winter's end and are partially or fully dependent on outside assistance for survival, and of these people 70 percent are women and children; whereas the United Nations World Food Program, which we commonly call the WFP, which distributes most of the food within Afghanistan, estimates that food stocks in the country are critically short and WFP overland food shipments inside and outside the border of Afghanistan have been disrupted due to security concerns over United States military strikes; whereas the airdrops of food cannot meet the humanitarian needs of the Afghan people—and there is more to it, but I do not have the time—and that the most effective delivery is the overland convoys of food; whereas the President has announced a \$320 million initiative to respond to the humanitarian needs in Afghanistan and for Afghan refugees in neighboring countries; whereas the United States is the largest donor of humanitarian assistance, be it resolved—and this is what I am hoping to get a strong vote on—it is the sense of the Senate that, A, Afghanistan's neighbors should reopen their borders to allow for safe passage of refugees, and the international community must be prepared to contribute to the economic costs incurred by the flight of desperate Afghan civilians; B, as the United States engages in military ac-

tion in Afghanistan, it must work to deliver assistance particularly through overland truck convoys and safe humanitarian access to affected populations in partnership with humanitarian agencies—that is critical—and C, the United States should contribute to efforts by the international community to provide long-term sustainable reconstruction and development assistance for the people of Afghanistan, including efforts to protect the basic human rights of women and children.

I announce this resolution today, which will be in the form of an amendment on the first vehicle for a vote, because it is critically important for the Senate to go on record with an intense and focused effort because it is who we are. It is our values to make sure these truck convoys can go forward and we can get the food to people.

A, it is who we are as a nation. It is about the values we live by and, frankly, B, it is national interest. If you have juxtaposed with military actions pictures of starving Afghan children in the winter to come, that will be used against us. We know it will be used against us. We do not want to see that happen.

I am hoping there will be a strong message from the Senate to work with the administration, to work with the NGOs, to work with the food relief organizations. We have to put a focus on this.

SENATE RESOLUTION 173—CONDEMNING VIOLENCE AND DISCRIMINATION AGAINST IRANIAN-AMERICANS IN THE WAKE OF THE SEPTEMBER 11, 2001 TERRORIST ATTACKS

Mr. HATCH submitted the following resolution; which was considered and agreed to:

S. RES. 173

Whereas all Americans are united in condemning, in the strongest possible terms, the terrorists who planned and carried out the attacks against the United States on September 11, 2001, and in pursuing all those responsible for those attacks and their sponsors until they are brought to justice;

Whereas Iranian-Americans form a vibrant, peaceful, and law-abiding part of America's people;

Whereas Iranian-Americans stand resolutely in support of the commitment of our Government to bring the terrorists and those that harbor them to justice;

Whereas Iranian-Americans, as do all Americans, condemn acts of violence and prejudice against any American; and

Whereas the Senate is seriously concerned by the number of crimes against Americans of Middle Eastern descent, including Iranian-Americans, all across the Nation that have been reported in the wake of the tragic events that unfolded on September 11, 2001: Now, therefore, be it

Resolved, That the Senate—

(1) declares that, in the quest to identify, locate, and bring to justice the perpetrators and sponsors of the terrorist attacks on the United States on September 11, 2001, the civil rights and civil liberties of all Americans, including Iranian-Americans, should be protected;

(2) condemns bigotry and any acts of violence or discrimination against any Americans, including Iranian-Americans;

(3) calls upon local and Federal law enforcement authorities to work to prevent and prosecute crimes against all Americans, including Iranian-Americans.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1905. Mr. DODD (for himself and Mr. DEWINE) proposed an amendment to the bill S. 838, to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children.

SA 1906. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 838, supra; which was ordered to lie on the table.

SA 1907. Mr. REID (for Mr. DURBIN) proposed an amendment to the concurrent resolution S. Con. Res. 74, condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, D.C. on September 11, 2001.

SA 1908. Mr. REID (for Mr. DURBIN) proposed an amendment to the concurrent resolution S. Con. Res. 74, supra.

TEXT OF AMENDMENTS

SA 1905. Mr. DODD (for himself and Mr. DEWINE) proposed an amendment to the bill S. 838, to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Best Pharmaceuticals for Children Act".

SEC. 2. PEDIATRIC STUDIES OF ALREADY-MARKETED DRUGS.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) by striking subsection (b); and

(2) in subsection (c)—

(A) by inserting after "the Secretary" the following: "determines that information relating to the use of an approved drug in the pediatric population may produce health benefits in that population and"; and

(B) by striking "concerning a drug identified in the list described in subsection (b)".

SEC. 3. RESEARCH FUND FOR THE STUDY OF DRUGS LACKING EXCLUSIVITY.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended—

(1) by redesignating the second section 409C, relating to clinical research (42 U.S.C. 284k), as section 409G;

(2) by redesignating the second section 409D, relating to enhancement awards (42 U.S.C. 284l), as section 409H; and

(3) by adding at the end the following:

"SEC. 409I. PROGRAM FOR PEDIATRIC STUDIES OF DRUGS.

"(a) LIST OF DRUGS FOR WHICH PEDIATRIC STUDIES ARE NEEDED.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs and experts in pediatric research, shall develop, prioritize, and publish an annual list of approved drugs for which—

"(A)(i) there is an approved application under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j));

“(ii) there is a submitted application that could be approved under the criteria of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j));

“(iii) there is no patent protection or market exclusivity protection under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

“(iv) there is a referral for inclusion on the list under section 505A(d)(4)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(d)(4)(C)); and

“(B) in the case of a drug referred to in clause (i), (ii), or (iii) of subparagraph (A), additional studies are needed to assess the safety and effectiveness of the use of the drug in the pediatric population.

“(2) CONSIDERATION OF AVAILABLE INFORMATION.—In developing and prioritizing the list under paragraph (1), the Secretary shall consider, for each drug on the list—

“(A) the availability of information concerning the safe and effective use of the drug in the pediatric population;

“(B) whether additional information is needed;

“(C) whether new pediatric studies concerning the drug may produce health benefits in the pediatric population; and

“(D) whether reformulation of the drug is necessary;

“(b) CONTRACTS FOR PEDIATRIC STUDIES.—The Secretary shall award contracts to entities that have the expertise to conduct pediatric clinical trials (including qualified universities, hospitals, laboratories, contract research organizations, federally funded programs such as pediatric pharmacology research units, other public or private institutions, or individuals) to enable the entities to conduct pediatric studies concerning one or more drugs identified in the list described in subsection (a).

“(c) PROCESS FOR CONTRACTS AND LABELING CHANGES.—

“(1) WRITTEN REQUEST TO HOLDERS OF APPROVED APPLICATIONS FOR DRUGS LACKING EXCLUSIVITY.—The Commissioner of Food and Drugs, in consultation with the Director of the National Institutes of Health, may issue a written request (which shall include a timeframe for negotiations for an agreement) for pediatric studies concerning a drug identified in the list described in subsection (a)(1)(A) (except clause (iv)) to all holders of an approved application for the drug under section 505 of the Federal Food, Drug, and Cosmetic Act. Such a request shall be made in accordance with section 505A of the Federal Food, Drug, and Cosmetic Act.

“(2) REQUESTS FOR CONTRACT PROPOSALS.—If the Commissioner of Food and Drugs does not receive a response to a written request issued under paragraph (1) within 30 days of the date on which a request was issued, or if a referral described in subsection (a)(1)(A)(iv) is made, the Secretary, acting through the Director of the National Institutes of Health and in consultation with the Commissioner of Food and Drugs, shall publish a request for contract proposals to conduct the pediatric studies described in the written request.

“(3) DISQUALIFICATION.—A holder that receives a first right of refusal shall not be entitled to respond to a request for contract proposals under paragraph (2).

“(4) GUIDANCE.—Not later than 270 days after the date of enactment of this section, the Commissioner of Food and Drugs shall promulgate guidance to establish the process for the submission of responses to written requests under paragraph (1).

“(5) CONTRACTS.—A contract under this section may be awarded only if a proposal for the contract is submitted to the Secretary in such form and manner, and containing such agreements, assurances, and information as

the Secretary determines to be necessary to carry out this section.

“(6) REPORTING OF STUDIES.—

“(A) IN GENERAL.—On completion of a pediatric study in accordance with a contract awarded under this section, a report concerning the study shall be submitted to the Director of the National Institutes of Health and the Commissioner of Food and Drugs. The report shall include all data generated in connection with the study.

“(B) AVAILABILITY OF REPORTS.—Each report submitted under subparagraph (A) shall be considered to be in the public domain (subject to section 505A(d)(4)(D)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(d)(4)(D)) and shall be assigned a docket number by the Commissioner of Food and Drugs. An interested person may submit written comments concerning such pediatric studies to the Commissioner of Food and Drugs, and the written comments shall become part of the docket file with respect to each of the drugs.

“(C) ACTION BY COMMISSIONER.—The Commissioner of Food and Drugs shall take appropriate action in response to the reports submitted under subparagraph (A) in accordance with paragraph (7).

“(7) REQUESTS FOR LABELING CHANGE.—During the 180-day period after the date on which a report is submitted under paragraph (6)(A), the Commissioner of Food and Drugs shall—

“(A) review the report and such other data as are available concerning the safe and effective use in the pediatric population of the drug studied;

“(B) negotiate with the holders of approved applications for the drug studied for any labeling changes that the Commissioner of Food and Drugs determines to be appropriate and requests the holders to make; and

“(C)(i) place in the public docket file a copy of the report and of any requested labeling changes; and

“(ii) publish in the Federal Register a summary of the report and a copy of any requested labeling changes.

“(8) DISPUTE RESOLUTION.—

“(A) REFERRAL TO PEDIATRIC ADVISORY COMMITTEE.—If, not later than the end of the 180-day period specified in paragraph (7), the holder of an approved application for the drug involved does not agree to any labeling change requested by the Commissioner of Food and Drugs under that paragraph, the Commissioner of Food and Drugs may refer the request to the Pediatric Advisory Committee.

“(B) ACTION BY THE PEDIATRIC ADVISORY COMMITTEE.—Not later than 90 days after receiving a referral under subparagraph (A), the Pediatric Advisory Committee shall—

“(i) review the available information on the safe and effective use of the drug in the pediatric population, including study reports submitted under this section; and

“(ii) make a recommendation to the Commissioner of Food and Drugs as to appropriate labeling changes, if any.

“(9) FDA DETERMINATION.—Not later than 30 days after receiving a recommendation from the Pediatric Advisory Committee under paragraph (8)(B)(ii) with respect to a drug, the Commissioner of Food and Drugs shall consider the recommendation and, if appropriate, make a request to the holders of approved applications for the drug to make any labeling change that the Commissioner of Food and Drugs determines to be appropriate.

“(10) FAILURE TO AGREE.—If a holder of an approved application for a drug, within 30 days after receiving a request to make a labeling change under paragraph (9), does not agree to make a requested labeling change, the Commissioner may deem the drug to be

misbranded under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

“(11) NO EFFECT ON AUTHORITY.—Nothing in this subsection limits the authority of the United States to bring an enforcement action under section 502 when a drug lacks appropriate pediatric labeling.

“(12) RECOMMENDATION FOR FORMULATION CHANGES.—If a pediatric study completed under public contract indicates that a formulation change is necessary and the Secretary agrees, the Secretary shall send a nonbinding letter of recommendation regarding that change to each holder of an approved application.

“(d) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

“(A) \$200,000,000 for fiscal year 2002; and

“(B) such sums as are necessary for each of the 5 succeeding fiscal years.

“(2) AVAILABILITY.—Any amount appropriated under paragraph (1) shall remain available to carry out this section until expended.”.

SEC. 4. WRITTEN REQUEST TO HOLDERS OF APPROVED APPLICATIONS FOR DRUGS THAT HAVE MARKET EXCLUSIVITY.

Section 505A(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(d)) is amended by adding at the end the following:

“(4) WRITTEN REQUEST TO HOLDERS OF APPROVED APPLICATIONS FOR DRUGS THAT HAVE MARKET EXCLUSIVITY.—

“(A) REQUEST AND RESPONSE.—If the Secretary makes a written request for pediatric studies (including neonates, as appropriate) under subsection (c) to the holder of an application approved under section 505(b)(1), the holder, not later than 180 days after receiving the written request, shall respond to the Secretary as to the intention of the holder to act on the request by—

“(i) indicating when the pediatric studies will be initiated, if the holder agrees to the request; or

“(ii) indicating that the holder does not agree to the request.

“(B) NO AGREEMENT TO REQUEST.—

“(i) REFERRAL.—If the holder does not agree to a written request within the time period specified in subparagraph (A), and if the Secretary determines that there is a continuing need for information relating to the use of the drug in the pediatric population (including neonates, as appropriate), the Secretary shall refer the drug to the Foundation for the National Institutes of Health established under section 499 of the Public Health Service Act (42 U.S.C. 290b) (referred to in this paragraph as the ‘Foundation’) for the conduct of the pediatric studies described in the written request.

“(ii) PUBLIC NOTICE.—The Secretary shall give public notice of the name of the drug, the name of the manufacturer, and the indications to be studied made in a referral under clause (i).

“(C) LACK OF FUNDS.—On referral of a drug under subparagraph (B)(i), the Foundation shall issue a proposal to award a grant to conduct the requested studies unless the Foundation certifies to the Secretary, within a timeframe that the Secretary determines is appropriate through guidance, that the Foundation does not have funds available to conduct the requested studies. If the Foundation so certifies, the Secretary shall refer the drug for inclusion on the list established under section 409I of the Public Health Service Act for the conduct of the studies.

“(D) EFFECT OF SUBSECTION.—Nothing in this subsection (including with respect to referrals from the Secretary to the Foundation) alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.

“(E) NO REQUIREMENT TO REFER.—Nothing in this subsection shall be construed to require that every declined written request shall be referred to the Foundation.

“(F) USE OF DRUG.—Research conducted under this paragraph using a commercially available drug shall be considered to be an activity conducted for the purpose of development and submission of information to the Secretary under this Act.

“(G) WRITTEN REQUESTS UNDER SUBSECTION (b).—For drugs under subsection (b) for which written requests have not been accepted, if the Secretary determines that there is a continuing need for information relating to the use of the drug in the pediatric population (including neonates, as appropriate), the Secretary shall issue a written request under subsection (c) after the date of approval of the drug.”

SEC. 5. TIMELY LABELING CHANGES FOR DRUGS GRANTED EXCLUSIVITY; DRUG FEES.

(a) **ELIMINATION OF USER FEE WAIVER FOR PEDIATRIC SUPPLEMENTS.**—Section 736(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(a)(1)) is amended—

- (1) by striking subparagraph (F); and
- (2) by redesignating subparagraph (G) as subparagraph (F).

(b) **LABELING CHANGES.**—

(1) **DEFINITION OF PRIORITY SUPPLEMENT.**—Section 201 of the Federal Food Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(kk) **PRIORITY SUPPLEMENT.**—The term ‘priority supplement’ means a drug application referred to in section 101(4) of the Food and Drug Administration Modernization Act of 1997 (111 Stat. 2298).”

(2) **TREATMENT AS PRIORITY SUPPLEMENTS.**—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended by adding at the end the following:

“(l) **LABELING SUPPLEMENTS.**—

“(1) **PRIORITY STATUS FOR PEDIATRIC SUPPLEMENTS.**—Any supplement to an application under section 505 proposing a labeling change pursuant to a report on a pediatric study under this section—

“(A) shall be considered to be a priority supplement; and

“(B) shall be subject to the performance goals established by the Commissioner for priority drugs.

“(2) **DISPUTE RESOLUTION.**—

“(A) **REQUEST FOR LABELING CHANGE AND FAILURE TO AGREE.**—If the Commissioner determines that an application with respect to which a pediatric study is conducted under this section is approvable and that the only open issue for final action on the application is the reaching of an agreement between the sponsor of the application and the Commissioner on appropriate changes to the labeling for the drug that is the subject of the application, not later than 180 days after the date of submission of the application—

“(i) the Commissioner shall request that the sponsor of the application make any labeling change that the Commissioner determines to be appropriate; and

“(ii) if the sponsor of the application does not agree to make a labeling change requested by the Commissioner, the Commissioner may refer the matter to the Pediatric Advisory Committee.

“(B) **ACTION BY THE PEDIATRIC ADVISORY COMMITTEE.**—Not later than 90 days after receiving a referral under subparagraph (A)(ii), the Pediatric Advisory Committee shall—

“(i) review the pediatric study reports; and

“(ii) make a recommendation to the Commissioner concerning appropriate labeling changes, if any.

“(C) **CONSIDERATION OF RECOMMENDATIONS.**—The Commissioner shall consider the recommendations of the Pediatric Advisory Committee and, if appropriate, not later

than 30 days after receiving the recommendation, make a request to the sponsor of the application to make any labeling change that the Commissioner determines to be appropriate.

“(D) **MISBRANDING.**—If the sponsor of the application, within 30 days after receiving a request under subparagraph (C), does not agree to make a labeling change requested by the Commissioner, the Commissioner may deem the drug that is the subject of the application to be misbranded.

“(E) **NO EFFECT ON AUTHORITY.**—Nothing in this subsection limits the authority of the United States to bring an enforcement action under section 502 when a drug lacks appropriate pediatric labeling.”

SEC. 6. OFFICE OF PEDIATRIC THERAPEUTICS.

(a) **ESTABLISHMENT.**—The Secretary of Health and Human Services shall establish an Office of Pediatric Therapeutics within the Office of the Commissioner of Food and Drugs.

(b) **DUTIES.**—The Office of Pediatric Therapeutics shall be responsible for oversight and coordination of all activities of the Food and Drug Administration that may have any effect on a pediatric population or the practice of pediatrics or may in any other way involve pediatric issues.

(c) **STAFF.**—The staff of the Office of Pediatric Therapeutics shall include—

(1) employees of the Department of Health and Human Services who, as of the date of enactment of this Act, exercise responsibilities relating to pediatric therapeutics;

(2) 1 or more additional individuals with expertise concerning ethical issues presented by the conduct of clinical research in the pediatric population; and

(3) 1 or more additional individuals with expertise in pediatrics who shall consult and collaborate with all components of the Food and Drug Administration concerning activities described in subsection (b).

SEC. 7. NEONATES.

Section 505A(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(g)) is amended by inserting “(including neonates in appropriate cases)” after “pediatric age groups”.

SEC. 8. SUNSET.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended by striking subsection (j) and inserting the following:

“(j) **SUNSET.**—A drug may not receive any 6-month period under subsection (a) or (c) unless—

“(1) on or before October 1, 2007, the Secretary makes a written request for pediatric studies of the drug;

“(2) on or before October 1, 2007, an application for the drug is submitted under section 505(b)(1); and

“(3) all requirements of this section are met.”

SEC. 9. DISSEMINATION OF PEDIATRIC INFORMATION.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) (as amended by section 5(b)(2)) is amended by adding at the end the following:

“(m) **DISSEMINATION OF PEDIATRIC INFORMATION.**—

“(1) **IN GENERAL.**—Not later than 180 days after the date of submission of a report on a pediatric study under this section, the Commissioner shall make available to the public a summary of the medical and clinical pharmacology reviews of pediatric studies conducted for the supplement, including by publication in the Federal Register.

“(2) **EFFECT OF SUBSECTION.**—Nothing in this subsection alters or amends section 301(j) of this Act or section 552 of title 5 or section 1905 of title 18, United States Code.”

SEC. 10. CLARIFICATION OF INTERACTION OF PEDIATRIC EXCLUSIVITY UNDER SECTION 505A OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND 180-DAY EXCLUSIVITY AWARDED TO AN APPLICANT FOR APPROVAL OF A DRUG UNDER SECTION 505(j) OF THAT ACT.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) (as amended by section 9) is amended by adding at the end the following:

“(n) **CLARIFICATION OF INTERACTION OF MARKET EXCLUSIVITY UNDER THIS SECTION AND MARKET EXCLUSIVITY AWARDED TO AN APPLICANT FOR APPROVAL OF A DRUG UNDER SECTION 505(j).**—

“(1) **IN GENERAL.**—If a 180-day period under section 505(j)(5)(B)(iv) overlaps with a 6-month extension under this section, so that the applicant for approval of a drug under section 505(j) entitled to the 180-day period under that section loses a portion of the 180-day period to which the applicant is entitled for the drug, the 180-day period shall be extended—

“(A) if the 180-day period would, but for this subsection, expire after the 6-month extension, by the number of days of the overlap; or

“(B) if the 180-day period would, but for this subsection, expire during the 6-month extension, by 6 months.

“(2) **EFFECT OF SUBSECTION.**—Under no circumstances shall application of this section result in an applicant for approval of a drug under section 505(j) being enabled to commercially market the drug to the exclusion of a subsequent applicant for approval of a drug under section 505(j) for more than 180 days.”

SEC. 11. PROMPT APPROVAL OF DRUGS UNDER SECTION 505(j) WHEN PEDIATRIC INFORMATION IS ADDED TO LABELING.

(a) **IN GENERAL.**—Section 505A of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 355a) (as amended by section 10) is amended by adding at the end the following:

“(o) **PROMPT APPROVAL OF DRUGS UNDER SECTION 505(j) WHEN PEDIATRIC INFORMATION IS ADDED TO LABELING.**—

“(1) **GENERAL RULE.**—A drug for which an application has been submitted or approved under section 505(j) shall not be considered ineligible for approval under that section or misbranded under section 502 on the basis that the labeling of the drug omits a pediatric indication or any other aspect of labeling pertaining to pediatric use when the omitted indication or other aspect is protected by patent or by exclusivity under clause (iii) or (iv) of section 505(j)(5)(D).

“(2) **LABELING.**—Notwithstanding clauses (iii) and (iv) of section 505(j)(5)(D), the Secretary may require that the labeling of a drug approved under section 505(j) that omits a pediatric indication or other aspect of labeling as described in paragraph (1) include—

“(A) a statement that, because of marketing exclusivity for the manufacturer—

“(i) the drug is not labeled for pediatric use; or

“(ii) in the case of a drug for which there is an additional pediatric use not referred to in paragraph (1), the drug is not labeled for the pediatric use under paragraph (1); and

“(B) a statement of any appropriate pediatric contraindications, warnings, or precautions that the Secretary considers necessary.

“(3) **PRESERVATION OF PEDIATRIC EXCLUSIVITY AND OTHER PROVISIONS.**—This subsection does not affect—

“(A) the availability or scope of exclusivity under this section;

“(B) the availability or scope of exclusivity under section 505 for pediatric formulations;

“(C) the question of the eligibility for approval of any application under section 505(j) that omits any other conditions of approval entitled to exclusivity under clause (iii) or (iv) of section 505(j)(5)(D); or

“(D) except as expressly provided in paragraphs (1) and (2), the operation of section 505.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on the date of enactment of this Act, including with respect to applications under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) that are approved or pending on that date.

SEC. 12. STUDY CONCERNING RESEARCH INVOLVING CHILDREN.

(a) **CONTRACT WITH INSTITUTE OF MEDICINE.**—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for—

(1) the conduct, in accordance with subsection (b), of a review of—

(A) Federal regulations in effect on the date of the enactment of this Act relating to research involving children;

(B) federally prepared or supported reports relating to research involving children; and

(C) federally supported evidence-based research involving children; and

(2) the submission to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, not later than 2 years after the date of enactment of this Act, of a report concerning the review conducted under paragraph (1) that includes recommendations on best practices relating to research involving children.

(b) **AREAS OF REVIEW.**—In conducting the review under subsection (a)(1), the Institute of Medicine shall consider the following:

(1) The written and oral process of obtaining and defining “assent”, “permission” and “informed consent” with respect to child clinical research participants and the parents, guardians, and the individuals who may serve as the legally authorized representatives of such children (as defined in subpart A of part 46 of title 45, Code of Federal Regulations).

(2) The expectations and comprehension of child research participants and the parents, guardians, or legally authorized representatives of such children, for the direct benefits and risks of the child’s research involvement, particularly in terms of research versus therapeutic treatment.

(3) The definition of “minimal risk” with respect to a healthy child or a child with an illness.

(4) The appropriateness of the regulations applicable to children of differing ages and maturity levels, including regulations relating to legal status.

(5) Whether payment (financial or otherwise) may be provided to a child or his or her parent, guardian, or legally authorized representative for the participation of the child in research, and if so, the amount and type of payment that may be made.

(6) Compliance with the regulations referred to in subsection (a)(1)(A), the monitoring of such compliance (including the role of institutional review boards), and the enforcement actions taken for violations of such regulations.

(7) The unique roles and responsibilities of institutional review boards in reviewing research involving children, including composition of membership on institutional review boards.

(c) **REQUIREMENTS OF EXPERTISE.**—The Institute of Medicine shall conduct the review under subsection (a)(1) and make recommendations under subsection (a)(2) in conjunction with experts in pediatric medi-

cine, pediatric research, and the ethical conduct of research involving children.

SEC. 13. FOUNDATION FOR THE NATIONAL INSTITUTES OF HEALTH.

Section 499 of the Public Health Service Act (42 U.S.C. 290b) is amended—

(1) in subsection (b), by inserting “(including collection of funds and awarding of grants for pediatric research and studies on drugs)” after “mission”;

(2) in subsection (c)(1)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following:

“(C) A program to collect funds and award grants for pediatric research and studies listed by the Secretary pursuant to section 409I(a)(1)(A) of this Act and referred under section 505A(d)(4)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(d)(4)(C)).”;

(3) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (B)—

(I) in clause (ii), by striking “and” at the end;

(II) in clause (iii), by striking the period and inserting “; and”;

(III) by adding at the end the following:

“(iv) the Commissioner of Food and Drugs.”; and

(ii) by striking subparagraph (C) and inserting the following:

“(C) The ex officio members of the Board under subparagraph (B) shall appoint to the Board individuals from among a list of candidates to be provided by the National Academy of Science. Such appointed members shall include—

“(i) representatives of the general biomedical field;

“(ii) representatives of experts in pediatric medicine and research;

“(iii) representatives of the general biobehavioral field, which may include experts in biomedical ethics; and

“(iv) representatives of the general public, which may include representatives of affected industries.”; and

(B) in paragraph (2), by realigning the margin of subparagraph (B) to align with subparagraph (A);

(4) in subsection (k)(9)—

(A) by striking “The Foundation” and inserting the following:

“(A) IN GENERAL.—The Foundation”; and

(B) by adding at the end the following:

“(B) GIFTS, GRANTS, AND OTHER DONATIONS.—

“(i) IN GENERAL.—Gifts, grants, and other donations to the Foundation may be designated for pediatric research and studies on drugs, and funds so designated shall be used solely for grants for research and studies under subsection (c)(1)(C). Other gifts, grants, or donations received by the Foundation may also be used to support such pediatric research and studies.

“(ii) REPORT.—The recipient of a grant for research and studies shall agree to provide the Director of the National Institutes of Health and the Commissioner of Food and Drugs, at the conclusion of the research and studies—

“(I) a report describing the results of the research and studies; and

“(II) all data generated in connection with the research and studies.

“(iii) ACTION BY THE COMMISSIONER OF FOOD AND DRUGS.—The Commissioner of Food and Drugs shall take appropriate action in response to a report received under clause (ii) in accordance with section 409I(c)(7), including negotiating with the holders of approved applications for the drugs studied for any labeling changes that the Commissioner deter-

mines to be appropriate and requests the holders to make.

“(C) **APPLICABILITY.**—Subparagraph (A) does not apply to the program described in subsection (c)(1)(C).”;

(5) by redesignating subsections (f) through (m) as subsections (e) through (l), respectively;

(6) in subsection (h)(11) (as so redesignated), by striking “solicit” and inserting “solicit.”; and

(7) in paragraphs (1) and (2) of subsection (j) (as so redesignated), by striking “(including those developed under subsection (d)(2)(B)(i)(II))” each place it appears.

SEC. 14. PEDIATRIC ADVISORY COMMITTEE.

(a) **IN GENERAL.**—The Secretary of Health and Human Services shall, under section 222 of the Public Health Service Act (42 U.S.C. 217a), convene and consult an advisory committee on pediatrics (referred to in this section as the “advisory committee”).

(b) **PURPOSE.**—

(1) **IN GENERAL.**—The advisory committee shall advise and make recommendations to the Secretary, through the Commissioner of Food and Drugs and in consultation with the Director of the National Institute of Health, on all matters relating to pediatrics, including pediatric therapeutics.

(2) **MATTERS INCLUDED.**—The matters referred to in paragraph (1) include—

(A) pediatric research conducted under sections 351, 409I, and 499 of the Public Health Service Act and sections 501, 502, 505, and 505A of the Federal Food, Drug, and Cosmetic Act;

(B) identification of pediatric research priorities and the need for additional treatments of specific pediatric diseases or conditions; and

(C) the ethics, design, and analysis of pediatric clinical trials.

(c) **COMPOSITION.**—The advisory committee shall include representatives of pediatric health organizations, pediatric researchers, relevant patient and patient-family organizations, and other experts selected by the Secretary.

(d) **CLARIFICATION OF AUTHORITIES.**—

(1) **IN GENERAL.**—The Pediatric Subcommittee of the Oncologic Drugs Advisory Committee (referred to in this subsection as the “Subcommittee”), in carrying out the mission of reviewing and evaluating the data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of pediatric cancers, shall—

(A) evaluate and, to the extent practicable, prioritize new and emerging therapeutic alternatives available to treat pediatric cancer;

(B) provide recommendations and guidance to help ensure that children with cancer have timely access to the most promising new cancer therapies; and

(C) advise on ways to improve consistency in the availability of new therapeutic agents.

(2) **MEMBERSHIP.**—

(A) **IN GENERAL.**—The Secretary shall appoint at least 13 voting members to the Pediatric Subcommittee.

(B) **REQUEST FOR PARTICIPATION.**—The Subcommittee shall request participation of the following members in the scientific and ethical consideration of topics of pediatric cancer, as necessary:

(i) At least 2 pediatric oncology specialists from the National Cancer Institute.

(ii) At least 6 pediatric oncology specialists from—

(I) the Children’s Oncology Group;

(II) other pediatric experts with an established history of conducting clinical trials in children; or

(III) consortia sponsored by the National Cancer Institute, such as the Pediatric Brain

Tumor Consortium, the New Approaches to Neuroblastoma Therapy or other pediatric oncology consortia.

(iii) At least 2 representatives of the pediatric cancer patient and patient-family community.

(iv) 1 representative of the nursing community.

(v) At least 1 statistician.

(vi) At least 1 representative of the pharmaceutical industry.

(e) PRE-CLINICAL MODELS TO EVALUATE PROMISING PEDIATRIC CANCER THERAPIES.—Section 413 of the Public Health Service Act (42 U.S.C. 285a-2) is amended by adding at the end the following:

“(c) PRE-CLINICAL MODELS TO EVALUATE PROMISING PEDIATRIC CANCER THERAPIES.—

“(1) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the National Cancer Institute shall expand, intensify, and coordinate the activities of the Institute with respect to research on the development of preclinical models to evaluate which therapies are likely to be effective for treating pediatric cancer.

“(2) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities under paragraph (1) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that those Institutes and agencies have responsibilities that are related to pediatric cancer.”

(f) CLARIFICATION OF AVAILABILITY OF INVESTIGATIONAL NEW DRUGS FOR PEDIATRIC STUDY AND USE.—

(1) AMENDMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 505(i)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(1)) is amended—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(D) the submission to the Secretary by the manufacturer or the sponsor of the investigation of a new drug of a statement of intent regarding whether the manufacturer or sponsor has plans for assessing pediatric safety and efficacy.”

(2) AMENDMENT OF THE PUBLIC HEALTH SERVICE ACT.—Section 402(j)(3)(A) of the Public Health Service Act (42 U.S.C. 282(j)(3)(A)) is amended in the first sentence—

(A) by striking “trial sites, and” and inserting “trial sites.”; and

(B) by striking “in the trial,” and inserting “in the trial, and a description of whether, and through what procedure, the manufacturer or sponsor of the investigation of a new drug will respond to requests for protocol exception, with appropriate safeguards, for single-patient and expanded protocol use of the new drug, particularly in children.”

(g) REPORT.—Not later than January 31, 2003, the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs and in consultation with the Director of the National Institutes of Health, shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on patient access to new therapeutic agents for pediatric cancer, including access to single patient use of new therapeutic agents.

SEC. 15. REPORT ON PEDIATRIC EXCLUSIVITY PROGRAM.

(a) IN GENERAL.—Not later than January 31, 2007, the Secretary of Health and Human Services, in consultation with the Comptroller General of the United States, shall submit to Congress a report that addresses the following issues, using publicly available

data or data otherwise available to the Government that may be used and disclosed under applicable law:

(1) The effectiveness of this Act and the amendments made by this Act in ensuring that medicines used by children are tested and properly labeled, including—

(A) the number and importance of drugs for children that are being tested as a result of this legislation and the importance for children, health care providers, parents, and others of labeling changes made as a result of such testing;

(B) the number and importance of drugs for children that are not being tested for their use notwithstanding the provisions of this legislation, and possible reasons for the lack of testing; and

(C) the number of drugs for which testing is being done, exclusivity granted, and labeling changes required, including the date pediatric exclusivity is granted and the date labeling changes are made (noting whether or not labeling changes were requested by the Food and Drug Administration and what, if any, recommendation was made by the Pediatric Advisory Committee).

(2) The economic impact of this Act and the amendments made by this Act, including an estimate of—

(A) the costs to taxpayers in the form of higher expenditures by medicaid and other Government programs;

(B) increased sales for each drug during the 6-month period for which exclusivity is granted;

(C) costs to consumers and private insurers as a result of any delay in the availability of lower cost generic equivalents of drugs tested and granted exclusivity under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), and loss of revenue by the generic drug industry as a result of any such delay; and

(D) savings to taxpayers (in the form of lower expenditures by medicaid and other Government programs), private insurers, and consumers due to more appropriate and more effective use of medications in children as a result of testing and relabeling, including savings from fewer hospitalizations and fewer medical errors.

(3) The nature and type of studies in children for each drug granted exclusivity under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), including—

(A) a description of the complexity of the studies;

(B) the number of study sites necessary to obtain appropriate data;

(C) the numbers of children involved in any clinical studies; and

(D) the estimated cost of each of the studies.

(4) Any recommendations for modifications to the programs established under section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) and section 409I of the Public Health Service Act this Act (as added by section 3) that the Secretary determines to be appropriate, including a detailed rationale for each recommendation.

(5) The increased private and Government-funded pediatric research capability associated with this Act and the amendments made by this Act.

(6) The number of written requests and additional letters of recommendation that the Secretary issues.

(7) The prioritized list of off-patent drugs for which the Secretary issues written requests.

(8)(A) The efforts made by Secretary to increase the number of studies conducted in the neonate population; and

(B) the results of those efforts, including efforts made to encourage the conduct of appropriate studies in neonates by companies

with products that have sufficient safety and other information to make the conduct of studies ethical and safe.

(b) TIMING.—

(1) REPORT ON METHODOLOGY.—Not later than January 31, 2004, the Secretary shall submit to Congress a report explaining the methodology that the Secretary intends to use to prepare the report under subsection (a).

(2) INTERIM REPORTS.—Before submission of a final report under subsection (a), the Secretary shall periodically make publicly available information on the matters described in paragraphs (1), (3), (6), and (7) of subsection (a).

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) (as amended by sections 2(1), 5(b)(2), 9, 10, and (11)) is amended—

(1)(A) by striking “(j)(4)(D)(ii)” each place it appears and inserting “(j)(5)(D)(ii)”;

(B) by striking “(j)(4)(D)” each place it appears and inserting “(j)(5)(D)”;

(C) by striking “505(j)(4)(D)” each place it appears and inserting “505(j)(5)(D)”;

(2) by redesignating subsections (a), (g), (h), (i), (j), (k), (l), (m), (n), and (o) as subsections (b), (a), (g), (h), (n), (m), (i), (j), (k), and (1) respectively;

(3) by moving the subsections so as to appear in alphabetical order;

(4) in paragraphs (1), (2), and (3) of subsection (d), subsection (e), and subsection (m) (as redesignated by paragraph (2)), by striking “subsection (a) or (c)” and inserting “subsection (b) or (c)”;

(5) in subsection (g) (as redesignated by paragraph (2)), by striking “subsection (a) or (b)” and inserting “subsection (b) or (c)”.

SA 1906. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 838, to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children; which was ordered to lie on the table; as follows:

Amend section 10 to read as follows:

“(n)(1)(B). If the 180-day period would, but for this subsection, expire after the 6-month extension, by the period of overlap.”

“(n)(2). Under no circumstances shall application of this section result in an applicant for approval of a drug under section 505(j) being entitled to an exclusivity period that (aside from the 6-month pediatric exclusivity period) prohibits the approval of a subsequent application under 505(j) for more than 180 days.”

SA 1907. Mr. REID (for Mr. DURBIN) proposed an amendment to the concurrent resolution S. Con. Res. 74, condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, D.C. on September 11, 2001; as follows:

Strike all after the resolving clause and insert the following:

That Congress—

(1) declares that, in the quest to identify, locate, and bring to justice the perpetrators and sponsors of the terrorist attacks on the United States on September 11, 2001, the civil rights and civil liberties of all Americans, including Sikh-Americans, should be protected;

(2) condemns bigotry and any acts of violence or discrimination against any Americans, including Sikh-Americans;

(3) calls upon local and Federal law enforcement authorities to work to prevent

crimes against all Americans, including Sikh-Americans; and

(4) calls upon local and Federal law enforcement authorities to prosecute to the fullest extent of the law all those who commit crimes.

SA 1908. Mr. REID (for Mr. DURBIN) proposed an amendment to the concurrent resolution S. Con. Res. 74, condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, D.C. on September 11, 2001; as follows:

Strike the preamble and insert the following:

"Whereas all Americans are united in condemning, in the strongest possible terms, the terrorists who planned and carried out the attacks against the United States on September 11, 2001, and in pursuing all those responsible for those attacks and their sponsors until they are brought to justice;

"Whereas Sikh-Americans form a vibrant, peaceful, and law-abiding part of America's people;

"Whereas approximately 500,000 Sikhs reside in the United States and are a vital part of the Nation;

"Whereas Sikh-Americans stand resolutely in support of the commitment of our Government to bring the terrorists and those that harbor them to justice;

"Whereas the Sikh faith is a distinct religion with a distinct religious and ethnic identity that has its own places of worship and a distinct holy text and religious tenets;

"Whereas many Sikh-Americans, who are easily recognizable by their turbans and beards, which are required articles of their faith, have suffered both verbal and physical assaults as a result of misguided anger toward Arab-Americans and Muslim-Americans in the wake of the September 11, 2001 terrorist attack;

"Whereas Sikh-Americans, as do all Americans, condemn acts of hate and prejudice against any American; and

"Whereas Congress is seriously concerned by the number of crimes against Sikh-Americans and other Americans all across the Nation that have been reported in the wake of the tragic events that unfolded on September 11, 2001: Now, therefore, be it".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to conduct a markup meeting beginning at 11:05 a.m., in the President's Room, S-216, the Capitol.

I. Unfinished Business

S. 1319/H.R. 2215, the Department of Justice fiscal year 2002 authorization bill [Leahy/Hatch]; S. 754, the Drug Competition Act of 2001 [Leahy / Kohl / Schumer / Durbin / Feingold / Cantwell]; and S. 1140, the Motor Vehicle Franchise Contract Arbitration Fairness Act of 2001 [Hatch/Feingold/Grassley/Leahy].

II. Nominations

Karen K. Caldwell to be United States District Judge for the Eastern District of Kentucky; Laurie Smith Camp to be United States District

Judge for the District of Nebraska; Claire V. Eagan to be United States District Judge for the Northern District of Oklahoma; James H. Payne to be United States District Judge for the Northern, Eastern and Western Districts of Oklahoma; and Jay S. Bybee to be Assistant Attorney General for the Office of Legal Counsel.

To Be United States Attorney: Daniel G. Bogden for the District of Nevada; Margaret M. Chiara for the Western District of Michigan; Robert C. Conrad for the Western District of North Carolina; Thomas M. DiBiagio for the District of Maryland; Patrick J. Fitzgerald for the Northern District of Illinois; Thomas C. Gean for the Western District of Arkansas; James Ming Greenlee for the Northern District of Mississippi; Raymond W. Greunder for the Eastern District of Missouri; Thomas E. Johnston for the Northern District of West Virginia; John McKay for the Western District of Washington; Anna Mills S. Wagoner for the Middle District of North Carolina; Karl K. Warner, II for the Southern District of West Virginia; and Donald W. Washington for the Western District of Louisiana.

III. Resolutions

S.J. Res. 12, a joint resolution granting the consent of Congress to the International Emergency Management Assistance Memorandum of Understanding. [Smith/Leahy/Jeffords/Chafee/Lieberman/Gregg] and an unnumbered resolution by Senator SPECTER.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to conduct a nominations hearing beginning at 2 p.m., in S-128, the Capitol.

Nominees: Charles W. Pickering, Sr. to the United States Court of Appeals for the Fifth Circuit; M. Christina Armijo to the United States District Court for the District of New Mexico; Karon O. Bowdre to the United States District Court for the Northern District of Alabama; Stephen P. Priot to the United States District Court for the Western District of Oklahoma; and Larry R. Hicks to the United States District Court for the District of Nevada.

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

PRIVILEGES OF THE FLOOR

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

Mr. REID. Mr. President, I ask unanimous consent that a fellow in my office, Peter Winokur, be entitled to privileges of the floor today.

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

CONDEMNING VIOLENCE AND DISCRIMINATION AGAINST IRANIAN-AMERICANS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 173, which is now at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 173) condemning violence and discrimination against Iranian-Americans in the wake of the September 11, 2001, terrorist attacks.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 173) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Statements on Submitted Resolutions.")

CONDEMNING BIGOTRY AND VIOLENCE AGAINST SIKH-AMERICANS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 183, S. Con. Res. 74.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 74) condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, DC, on September 11, 2001.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the amendment to the concurrent resolution be agreed to, the concurrent resolution, as amended, be agreed to, the amendment to the preamble be agreed to, the preamble, as amended, be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

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

The amendments (Nos. 1907 and 1908) were agreed to, as follows:

AMENDMENT NO. 1907

Strike all after the resolving clause and insert the following:

That Congress—

(1) declares that, in the quest to identify, locate, and bring to justice the perpetrators and sponsors of the terrorist attacks on the United States on September 11, 2001, the civil rights and civil liberties of all Americans,

including Sikh-Americans, should be protected;

(2) condemns bigotry and any acts of violence or discrimination against any Americans, including Sikh-Americans;

(3) calls upon local and Federal law enforcement authorities to work to prevent crimes against all Americans, including Sikh-Americans; and

(4) calls upon local and Federal law enforcement authorities to prosecute to the fullest extent of the law all those who commit crimes.

AMENDMENT NO. 108

(Purpose: To clarify Congress' concern over the number of crimes against Sikh-Americans and other Americans across the Nation since the tragic events of September 11, 2001)

Strike the preamble and insert the following:

"Whereas all Americans are united in condemning, in the strongest possible terms, the terrorists who planned and carried out the attacks against the United States on September 11, 2001, and in pursuing all those responsible for those attacks and their sponsors until they are brought to justice;

"Whereas Sikh-Americans form a vibrant, peaceful, and law-abiding part of America's people;

"Whereas approximately 500,000 Sikhs reside in the United States and are a vital part of the Nation;

"Whereas Sikh-Americans stand resolutely in support of the commitment of our Government to bring the terrorists and those that harbor them to justice;

"Whereas the Sikh faith is a distinct religion with a distinct religious and ethnic identity that has its own places of worship and a distinct holy text and religious tenets;

"Whereas many Sikh-Americans, who are easily recognizable by their turbans and beards, which are required articles of their faith, have suffered both verbal and physical assaults as a result of misguided anger toward Arab-Americans and Muslim-Americans in the wake of the September 11, 2001 terrorist attack;

"Whereas Sikh-Americans, as do all Americans, condemn acts of hate and prejudice against any American; and

"Whereas Congress is seriously concerned by the number of crimes against Sikh-Americans and other Americans all across the Nation that have been reported in the wake of the tragic events that unfolded on September 11, 2001: Now, therefore, be it"

The concurrent resolution (S. Con. Res. 74), as amended, was agreed to.

The preamble, as amended, was agreed to.

MEASURE READ THE FIRST TIME—S. 1564

Mr. REID. Mr. President, I understand that S. 1564, introduced earlier today by Senator REID of Nevada, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 1564) to convey land to the University of Nevada at Las Vegas Research Foundation for a research park and technology center.

Mr. REID. Mr. President, I now ask for its second reading and object to my own request on behalf of the minority.

The PRESIDING OFFICER. The bill will remain at the desk.

ORDERS FOR TUESDAY, OCTOBER 23, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Tuesday, October 23; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the motion to proceed to the Foreign Operations Appropriations Act, with 30 minutes of debate equally divided between the chairman and ranking member, or their designees, prior to a 10 a.m. cloture vote on the motion to proceed.

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

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of the Senator from Missouri, Mr. BOND.

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

The Senator from Missouri.

THE WORK OF THE SENATE MUST CONTINUE

Mr. BOND. Mr. President, I thank the majority whip for his kindness in allowing me to express my appreciation and admiration for Senator DASCHLE and Senator LOTT keeping us in session today. Today's statement is very important: That the work of the Senate is going on and will continue.

Certainly, it was a very troubling thing to learn anthrax had been delivered to a Senate office building and 300 more people may have been exposed. We know the good news is exposure does not mean infection, and we also know from the public health professionals that this form of anthrax is easily treatable with all forms of antibiotics, from penicillin to the new Cipro. Really, this is not a threat to those people because our public health people moved very quickly. The medical teams were there, and we have taken the necessary steps.

What the terrorists want to do is not necessarily kill anybody with anthrax because they are not going to do it, but they want to spread fear. The terrorists win if they cripple us psychologically, if they destroy our economy, if they turn us against ourselves, or if they interfere with the workings of our Government and our economy.

We will not let them win if we do not give in to our fears. The medical experts tell us that anthrax is not con-

tagious; but panic is. The message to our people, our bosses, the good people of America, is that they have been strong and their Government is going to continue to function.

There will be more letters. Since we made the decision to stay in, there were letters that were delivered to Governor Pataki's security office, to the media. These will continue, and, unfortunately, there may be other evidence of bioterrorism or physical violence visited on us by terrorists, but we have strong leadership.

On a bipartisan basis, we support the President. Most of all, we support the brave fighting men and women of America whose lives are on the line to limit the terrorists, to run them back into their holes, to destroy their safe havens, to take away their financial resources, and to terminate them.

We will continue this fight, and the American people have responded marvelously. There has been a tremendous outpouring of charity, with billions of dollars that Americans have contributed to aid those who are victims. I urge we continue to support those organizations, from the Salvation Army to the Red Cross, and all of the other groups that are providing vitally needed services and who must continue to serve in our community.

Continuing to support our local United Way is as important as helping to combat the direct impact of the terrorist activities. We are going to win this fight. The terrorists are not going to destroy us. We have seen the example of the brave people of London who survived and flourished when London was under fierce bombing attacks in World War II. We have seen the people in Israel who live with terrorism every day, and they are not deterred. They will continue their lives, and we as Americans must continue our lives.

We are the bright and shining beacon for the world. We are the ones who inspire jealousy and inspire envy and inspire fear in others, but we have reached out the hand of friendship. The President has urged American children to contribute a dollar to help the children in Afghanistan, and that is the American way.

We will fight against those who seek to rain violence down upon us, who seek to spread fear and concern among our citizens. We will be strong, but we will be humanitarian and we will take care of those in need. We will show people there is a better way. We will show people freedom and democracy can flourish in the face of terrorist activities. That is the strength of America.

We are being tested today, and by having the Senate in session today we have shown that Government will go on.

I urge my colleagues to continue their steadfast resolve. To our staffs and others who are frightened, be not afraid. You are not on the front lines where our young men and women are in danger of bullets and anti-aircraft missiles every day. They are showing the bravery. With their resolute

strength and with our commitment to continue our jobs, terrorism will not win. We all in America can once again say, God bless America.

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

ORDER FOR PARTY CONFERENCES TO MEET

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, October 23, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. for the party conferences.

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

ADJOURNMENT UNTIL TUESDAY,
OCTOBER 23, 2001, AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

There being no objection, the Senate, at 5:10 p.m., adjourned until Tuesday, October 23, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 18, 2001:

DEPARTMENT OF DEFENSE

DALE KLEIN, OF TEXAS, TO BE ASSISTANT TO THE SECRETARY OF DEFENSE FOR NUCLEAR AND CHEMICAL AND BIOLOGICAL DEFENSE PROGRAMS, VICE HAROLD P. SMITH, JR., RESIGNED.

DEPARTMENT OF TRANSPORTATION

WILLIAM SCHUBERT, OF TEXAS, TO BE ADMINISTRATOR OF THE MARITIME ADMINISTRATION, VICE CLYDE J. HART, JR.

DEPARTMENT OF THE INTERIOR

KATHLEEN BURTON CLARKE, OF UTAH, TO BE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT, VICE THOMAS A. FRY, III, RESIGNED.

DEPARTMENT OF STATE

JAMES DAVID MCGEE, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SWAZILAND.

SICHAN SIV, OF TEXAS, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE

UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

DEPARTMENT OF LABOR

W. MICHAEL COX, OF GEORGIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE JOHN MARTIN MANLEY, RESIGNED.

SAMUEL T. MOK, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF LABOR, VICE KENNETH M. BRESNAHAN.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS 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

BRIGADIER GENERAL JAMES P. CZEKANSKI, 0000
BRIGADIER GENERAL HUGH H. FORSYTHE, 0000
BRIGADIER GENERAL DOUGLAS S. METCALF, 0000
BRIGADIER GENERAL BETTY L. MULLIS, 0000

To be brigadier general

COLONEL MARK W. ANDERSON, 0000
COLONEL JOHN H. BORDELON JR., 0000
COLONEL ROBERT L. CORLEY, 0000
COLONEL DAVID L. FROSTMAN, 0000
COLONEL LINDA S. HEMMINGER, 0000
COLONEL ROBERT W. MARCOTT, 0000
COLONEL CLAY T. MCCUTCHAN, 0000
COLONEL HAROLD L. MITCHELL, 0000
COLONEL JAMES M. SLUDER III, 0000
COLONEL ERIKA C. STEUTERMAN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., UNDER 601:

To be lieutenant general

MAJ. GEN. DENNIS D. CAVIN, 0000

Daily Digest

HIGHLIGHTS

Senate agreed to Military Construction Appropriations Conference Report.

Senate

Chamber Action

Routine Proceedings, pages S10805–S10851

Measures Introduced: Eight bills and two resolutions were introduced, as follows: S. 1564–1571, and S. Res. 172–173. **Page S10835**

Measures Passed:

Pharmaceuticals for Children: Senate passed S. 838, to amend the Federal Food, Drug, and Cosmetic Act to improve the safety and efficacy of pharmaceuticals for children, after agreeing to a committee amendment in the nature of a substitute, and the following amendment proposed thereto:

Pages S10816–19

Dodd/DeWine Amendment No. 1905, in the nature of a substitute. **Page S10819**

Iranian-American Discrimination Condemnation: Senate agreed to S. Res. 173, condemning violence and discrimination against Iranian-Americans in the wake of the September 11, 2001 terrorist attacks. **Page S10844**

Sikh-American Bigotry Condemnation: Senate agreed to S. Con. Res. 74, condemning bigotry and violence against Sikh-Americans in the wake of terrorist attacks in New York City and Washington, D.C. on September 11, 2001, after agreeing to the following amendments proposed thereto:

Pages S10849–50

Reid (for Durbin) Amendment No. 1907, in the nature of a substitute. **Pages S10849–50**

Reid (for Durbin) Amendment No. 1908, to clarify Congress' concern over the number of crimes against Sikh-Americans and other Americans across the Nation since the tragic events of September 11, 2001. **Page S10850**

Military Construction Appropriations—Conference Report: By 96 yeas to 1 nay (Vote No. 305), Senate agreed to the conference report on H.R. 2904, making appropriations for military construc-

tion, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, clearing the measure for the President. **Pages S10807–10**

Foreign Operations Appropriations—Agreement: A unanimous-consent-time agreement was reached providing for further consideration of the motion to proceed to consideration of H.R. 2506, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, at 9:30 a.m., on Tuesday, October 23, 2001, with a vote on a second motion to close further debate on the motion to proceed to consideration of the bill to occur at 10 a.m. **Page S10850**

Nominations Received: Senate received the following nominations:

Dale Klein, of Texas, to be Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

William Schubert, of Texas, to be Administrator of the Maritime Administration.

Kathleen Burton Clarke, of Utah, to be Director of the Bureau of Land Management.

James David McGee, of Florida, to be Ambassador to the Kingdom of Swaziland.

Sichan Siv, of Texas, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during his tenure of service as Representative of the United States of America on the Economic and Social Council of the United Nations.

W. Michael Cox, of Georgia, to be an Assistant Secretary of Labor.

Samuel T. Mok, of Maryland, to be Chief Financial Officer, Department of Labor.

14 Air Force nominations in the rank of general.

1 Army nomination in the rank of general.

Page S10851

Enrolled Bills Presented:

Page S10835

Executive Reports of Committees:	Page S10835
Additional Cosponsors:	Page S10835
Statements on Introduced Bills/Resolutions:	Pages S10835–44
Amendments Submitted:	Pages S10844–49
Authority for Committees to Meet:	Page S10849
Privilege of the Floor:	Page S10849
Record Votes: One record vote was taken today. (Total—305)	Page S10810

Adjournment: Senate met at 10 a.m., and adjourned at 5:10 p.m., until 9:30 a.m., on Tuesday, October 23, 2001. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S10851.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 1319, to authorize appropriations for the Department of Justice for fiscal year 2002, with an amendment in the nature of a substitute;

S. 754, to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs, with an amendment in the nature of a substitute;

S. 1140, to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts;

S.J. Res. 12, granting the consent of Congress to the International Emergency Management Assistance Memorandum of Understanding; and

The nominations of Karen K. Caldwell, to be United States District Judge for the Eastern District of Kentucky; Laurie Smith Camp, to be United States District Judge for the District of Nebraska, Claire V. Eagan, to be United States District Judge for the Northern District of Oklahoma, James H. Payne, to be United States District Judge for the Northern, Eastern and Western Districts of Oklahoma, Jay S. Bybee, of Nevada, to be an Assistant Attorney General for the Office of Legal Counsel,

Daniel G. Bogden, to be United States Attorney for the District of Nevada, Margaret M. Chiara, to be United States Attorney for the Western District of Michigan, Robert J. Conrad, Jr., to be United States Attorney for the Western District of North Carolina, Thomas M. DiBiagio, to be United States Attorney for the District of Maryland, Patrick J. Fitzgerald, to be United States Attorney for the Northern District of Illinois; Thomas C. Gean, to be United States Attorney for the Western District of Arkansas, James Ming Greenlee, to be United States Attorney for the Northern District of Mississippi, Raymond W. Gruender, to be United States Attorney for the Eastern District of Missouri, Thomas E. Johnston, to be United States Attorney for the Northern District of West Virginia, John McKay, to be United States Attorney for the Western District of Washington, Anna Mills S. Wagoner, to be United States Attorney for the Middle District of North Carolina, Karl K. Warner II, to be United States Attorney for the Southern District of West Virginia, and Donald W. Washington, to be United States Attorney for the Western District of Louisiana.

Also, committee failed to approve proposed legislation, to urge the Senate, prior to the end of the first session of the 107th Congress, to vote on at least the judicial nominations sent to the Senate by the President prior to August 4, 2001.

NOMINATIONS

Committee on the Judiciary: Committee held hearings on the nominations of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit, M. Christina Armijo, to be United States District Judge for the District of New Mexico, Karon O. Bowdre, to be United States District Judge for the Northern District of Alabama, Stephen P. Friot, to be United States District Judge for the Western District of Oklahoma, and Larry R. Hicks, to be United States District Judge for the District of Nevada, where the nominees testified and answered questions in their own behalf. Mr. Pickering was introduced by Senators Lott and Cochran, and Representative Pickering, Ms. Armijo was introduced by Senators Domenici and Bingaman, Ms. Bowdre was introduced by Senator Shelby, Mr. Friot was introduced by Senator Nickles, and Mr. Hicks was introduced by Senator Reid.

Hearings recessed subject to call.

House of Representatives

Chamber Action

The House was not in session today.

Committee Meetings

No committee meetings were held.

Next Meeting of the SENATE

9:30 a.m., Tuesday, October 23

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Tuesday, October 23

Senate Chamber

Program for Tuesday: Senate will resume consideration of the motion to proceed to consideration of H.R. 2506, Foreign Operations Appropriations, with a vote on a motion to close further debate on the motion to proceed to consideration of the bill to occur at 10 a.m.

(Senate will recess from 12:30 p.m. until 2:15 p.m., for their respective party conferences.)

House Chamber

Program for Tuesday: To be announced.



Congressional Record

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