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Senate

THE ECONOMY

Mrs. BOXER. Mr. President, I understand both leaders are now talking about doing some important nominations, and some of us are here to make sure that those happen. I will cease and desist from speaking as soon as the leaders return and wish to conduct the business of the Senate. In the meantime, I thought it would be interesting to sum up where we are and try to focus some attention on this economy.

Today, the Senate did take a first step in addressing the economy, and that is by trying to restore some discipline to our budgetary process. Sadly, we had a holdup from the Republican side which delayed us. As a matter of fact, the way we resolved it, as I understand it, is we did not extend these very important budget rules for a year. We just did it until April. They have been extended until April, but at least we have some fiscal discipline until April 15.

It amazes me that our friends on the other side of the aisle talk about how conservative they are. They are certainly not very conservative when it comes to balancing our budget and having some fiscal discipline. What we were able to do today was to at least reach an agreement until April 15 that we will have a 60-vote requirement in order to waive the points of order in the Senate if somebody wants to dip into the Social Security trust fund, tries to increase spending or increase tax cuts, and completely abandon the kind of fiscal discipline we need. So we have kept that 60-vote requirement so we cannot completely destroy the budget, which is what has been happening.

As everyone in America knows, we went from a period of fiscal health under President Clinton to a position now where we are deep in debt. If we do not put some discipline back into our budget, it is only going to get worse.

We also have retained, at least until April, a pay-as-you-go point of order so that if, in fact, spending is increased in any way or the deficit goes up in any way, it can be offset, and that is very important.

Pay-as-you-go is something I have been working on since my days in the House of Representatives, and it makes a lot of sense. Most of our families have to do that. If they decide, for example, that they want to send their son or daughter to an expensive college, they have to find extra money, they have to figure out how they are going to pay for it. All of America does it. We ought to do it here. At least we were able to get that done through April 15.

I want to read what Alan Greenspan, the Federal Reserve Chairman, has said about the importance of putting this discipline back into our budget process. First, I have to compliment Senator CONRAD, who is the chairman of our Budget Committee, for leading us so well, for fighting this battle and for not giving up. It would have been very easy for him to say, ''forget about it,'' and relent. People want to go home, they want to campaign, they want to see their constituents in California, as I want to, or the Dakotas, where Senator CONRAD's people are.

The bottom line is, we said we would stay until we got this done, and at least we got the Republicans to agree to do this through April.

This is what Federal Reserve Chairman Alan Greenspan said about the important rules we passed today:

> The budget enforcement rules are set to expire on September 30. Failing to preserve them would be a grave mistake . . . if we do not preserve the budget rules and reaffirm our commitment to fiscal responsibility, years of hard effort could be squandered.

It is incredible to me that with that kind of endorsement by Alan Greenspan—and all of us know how hard it was to bring the budget into balance, to bring the deficit down, to start to reduce the national debt. It is incredible to me that our Republicans friends, who claim to be fiscal conservatives, were objecting to this. In fairness, we did have some of our friends helping us get this through. There was an objection on that side of the aisle that caused us not to be able to put the budget rules in place until April.

We did take the first step to restore some kind of discipline to our budgeting which is necessary to see an economic recovery. When we are out of control and we are losing control over our budget, it carries over into the private sector. Eventually higher interest rates will come about because there will be a squeeze on lending.

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I will share some situations we are facing with the current economic situation. We have many problems. This is just one of our problems. We are in a recession. We hope it will not be long term. We pray it will not be long term. We know there are a lot of problems. Superimposed over all the economic problems is the fact that our workers are having to pay so much more for their health insurance. By the way, this goes for the small business people as well.

From my family experience, we have seen in small businesses the cost of health insurance rising enormously, and good employers who want to pay the premiums are looking at disastrous increases in the cost of health care for their employees. Family coverage has risen 16 percent and single coverage has risen 27 percent in the year 2002. If you have a good economy and jobs are plentiful, you can absorb this hit, but if you are seeing a recession, maybe your job is not secure, maybe you are working fewer hours, you surely have a problem when you look at your nest egg, which is another problem we are facing in terms of investments for retirement. These increases are hurting our people and hurting them badly.

Now a look at the bigger picture and what has happened under this President's watch. We have two arrows on this chart, an ''up'' arrow and a ''down'' arrow. It is miserable to look at. Everything you want down is up and everything you want up is down. What is up on the economic indicators? Job losses, way up; health care costs, way up; foreclosures, way up. People are losing their homes. In America today, the average American is just a few months away from not being able to make that mortgage payment if they were to lose their job. The national debt, way up. We are seeing the debt grow again after we thought we really had a plan to reverse it. Federal interest costs are going up. Social Security trust fund has been raided. The fact is our interest costs each year are going up, and that means we do not have funds to spend on other things.

What is down in the Bush economic record? Economic growth is down. As a matter of fact, we took a look at the GDP and it looks to us to be the worst in 50 years when compared to other administrations. Business investment is down. We know the stock market is down. It is volatile. I used to be a stockbroker many years ago. I have never seen these gyrations. Where is the bottom? We hope we have seen the bottom. Certainly we have a problem when we have an administration that is talking about privatizing Social Security, when we see what has happened to the stock market. If we had turned away from Social Security and we had invested as a government in the stock market instead of safe government bonds, where would we be with our seniors today? Believe me, it would be a disaster. I hope the American people will think about that as they look at these economic indicators.

Retirement accounts are down, 401(k) plans. Everyone—I have spoken to so many people—is afraid to open up their mail to see what has happened to their 401(k)'s. They believe in this country. We all know we will come back. But right now it is a problem.

If you are at retirement age right now and you do not have the luxury to say, as a lot of people tell me, ''Senator, I will just work another 5 years,'' that is all well and good if you are healthy and can work another 5 years. But what is the ramification of that? Not only are you delaying this time of your life you wanted to enjoy your family, perhaps take a trip, you are staying in the job market. That means younger people do not have the opportunity to move in. There are a lot of ramifications when we see the stock market down and the retirement accounts down. That may not hit you at first glance.

Consumer confidence is down. The minimum wage, when you take inflation into account, is way down. On the other side of the aisle, my Republican friends do not want to raise the minimum wage. I ask how they can live on $10,600 a year? They know it would be very difficult. The minimum wage has not been raised in years. I don't understand their opposition. It is not only the right thing to do for our people, but we know people at that scale of the economic ladder will spend. That will help restore this economy. They will go down to the local store. They will spend that increase in the minimum wage.

This administration believes you give tax cuts to the wealthiest and you will solve all the problems of the world. The fact is the wealthy people do not spend it. If they earn over a million a year, they do not need it; they will not necessarily spend it. Therefore, the economy does not get a benefit; whereas, if you direct those tax cuts to the middle class, say the people even earning $40,000, $50,000 or $60,000 a year or lower, you will have an immediate impact. That is why I never understood the ''economic plan'' of this administration with all its tax breaks for the richest of the richest of the rich. It does not help our economy. We know it does not. Look at our economy. This administration has been in for a couple of years now, and we have never had a worse economy. Their plan for everything is cut taxes for the wealthiest people. It doesn't work. Every indicator you want to see down is up, and the opposite is true.

John Adams said: Facts are stubborn things. They are stubborn, but they are facts. And the American people have to look at the facts and look them in the eye and think about them.

The Bush economic record: Record job losses; weak economic growth; declining business investment; falling stock market; shrinking retirement accounts; eroding consumer confidence; rising health care costs; escalating foreclosures; vanishing surpluses and higher interest costs for the government. We have to borrow now to pay for the daily operations of the government. We pay interest for that—billions of dollars of interest that we cannot spend investing in education, investing in our people, investing to clean up our environment. Raiding Social Security.

We see record executive pay. That is not healthy for our country to have that great disparity. I am all for success. But I saw this runaway corporate irresponsibility in my State perhaps before others, a little company called Enron. Finally we are getting justice. Today we have the first news of a guilty plea of a fellow very high up in the chain. What did he admit to? Creating these scams to defraud the people, making phony electricity shortages. He admitted to conspiracy, wire fraud. The bottom line is, names will be named. These people receive record executive pay.

A stagnating minimum wage. I see my friend from Massachusetts, who has been a lion on this point. Every day he is here, calling for our friends on the other side to let us pass a minimum wage increase. I thank him for that because we need his voice. We need it all the time. The fact is, people are suffering out there and our economy is suffering because the people at the minimum wage have nothing to spend. If they got a little increase, it would go right into those local stores. So we are very hopeful that maybe there will be a change around here and maybe my friend from Massachusetts will hear the echoes from the other side of the aisle, and maybe there will be more on this side. We don't know what is going to happen.

Mr. KENNEDY. Will the Senator yield?

Mrs. BOXER. I will be happy to yield to my friend.

Mr. KENNEDY. When we think of the minimum wage, we too infrequently think of the people who are earning that minimum wage. It has always been interesting to me that we are willing to have those who are earning the minimum wage take care of some of those individuals who are the most precious to us and the most fragile.

Many of the minimum-wage workers work in child care settings and are taking care of the children while workers are out there working, trying to provide for their families. Many of them are working in schools with teachers. We know how important education is, and these minimum-wage workers are working to assist teachers. Many of them are working in nursing homes, to try to help take care of parents and grandparents who have made such a difference to this country. They have fought in the wars and brought the country out of the Great Depression.

These are men and women of great dignity. Even though these jobs are difficult and they are tough, they are prepared to do them because they take pride in their work. They are trying to

provide for their families. All they are looking for is to be treated fairly.

I thank the good Senator from California for being such a strong supporter of the increase in the minimum wage. This is an issue I think all Americans can understand. People who work hard, 40 hours a week, 52 weeks a year, should not continue to live in poverty for themselves and their children in this country of ours. Americans understand that. Why are we constantly denied the opportunity to bring that measure up here on the floor of the Senate, to permit the Senate of the United States to at least vote on it?

We are facing Republican opposition here, we were facing Republican opposition in the House of Representatives, and in the White House. This is something I find extraordinary. For years the increase in the minimum wage, as the good Senator understands, was never a partisan issue. It really only became a partisan issue after the 1980 election. Prior to that time, we had bipartisan support for it.

I thank the Senator for including that in the Senator's evaluation of the economic record of this administration. The failure to provide that not only denies us the economic stimulus that would be provided but also is a denial of fairness for a group of men and women who work hard, play by the rules, try to raise their children, and ought to be treated fairly. I thank the Senator.

Mrs. BOXER. Before the Senator leaves, I have a question for him.

We have not seen an increase in the minimum wage since 1996. This is going on 7 years. Does it not amaze my friend to see the passionate debate that happens here when our friends on the other side of the aisle talk about giving tax breaks worth 10 times more than what someone working at minimum wage for 1 year would earn? In other words, for people earning a million dollars a year, the Bush tax cut is going to be more than $50,000 a year in their pocket. That is more than—well, how many times more than $11,000? Maybe four times. And our friends, we see them get tears in their eyes worrying about the people at the top of the economic ladder.

Yet they will not even give us a vote. I just cannot believe it, in this day and age, that we would have to wait so long to do this little piece of economic justice.

I wonder if my friend thinks about that. He and I talk about this as we watch our friends when there is a tax cut to the wealthy few—the passion, the excitement, the dedication to this. Yet we cannot get a vote for the people at the bottom of the ladder.

Mr. KENNEDY. The Senator makes an excellent point. I think she would agree with me that, as our President said, ''We are one nation with one history and one destiny. We are all really basically together.''

Yet when we see this callous disregard for working men and women who are trying to provide for themselves and for their children, on the one hand, and complete callous disregard—and the preference and special privileges granted to another group—this really flies in the face of what I think this society and this country is really all about.

I am sure the Senator understands that the $1.50 increase in the minimum wage would affect nearly 9 million people in this country. It would represent one-fifth of 1 percent of the nation's payroll. That is what we are talking about.

People say it is highly inflationary. Of course, the economic studies show it is not because these are funds that are spent by these minimum-wage workers. It helps the economy. It helps stimulate the economy. These are Americans who will invest in the community.

Wouldn't you think we could say we want to make sure people who are working, providing for their families, will not be left out and left behind in the richest nation of the world?

We have Americans who are in the service fighting overseas. We have heard the debates of war and peace. We have to ask, why are they the best? The reason they are the best is not only that they have the best training, are the best equipped, and the best led, but because they have values. Those values also include fairness and decency to their fellow human beings and to their fellow workers. Fairness and decency to those workers includes the raise in the minimum wage.

I thank the Senator.

Mrs. BOXER. I thank my friend. He has made, of course, a great moral argument for increasing this minimum wage.

I point out that in 1996 when we passed this—my friend from Nevada may well remember—my friends on the other side finally went along. Remember, we had a Democratic President. They predicted we would have a terrible economy because we were raising the minimum wage. Oh, this was going to be a damper. This was going to be awful. What happened? We had the greatest economic recovery we have ever seen, the greatest economic boom we have ever seen.

Now, when we are making a plea to our colleagues that those who have carried this country through these good times have fallen behind, they are too busy thinking of ways to cut the taxes for the people at the top.

I believe it is important to note, as we look at this economic record and how terrible it is, that there are a few actions we could take.

Yes, we did something today. We got some budgetary discipline back into this body today. I am proud we did that. But I say to my friends, there is lots we could do to change this pattern. One is to change this stagnating minimum wage. Give a little boost to a few people. They will turn around, spend it at the corner store, have more dignity, and spark this economy in a way that all the tax cuts to the top people just don't. It just doesn't happen that way.

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

Mrs. BOXER. I am happy to do that.

Mr. REID. The Senator mentioned the creation of jobs during the 8 years President Clinton was in office. The Senator is aware, I am certain, that he, during his administration, created over 20 million new jobs.

What has happened during the first 2 years of the Bush administration is there have been over 2 million jobs lost. A net gain of over 20 million jobs under Clinton; already a net loss of 2 million jobs under Bush.

Would the Senator comment on that?

Mrs. BOXER. Yes. I have pointed out here, as has the Senator, my friend, and Senator DASCHLE, record job losses that we are seeing, the weakest economic growth. We all know stories. We read the headlines: 10,000 jobs lost here, 5,000 there, 2,000 there.

I say to my friend from Nevada, behind every one of these record job losses is a personal story. It is not as if this administration is willing to give folks the tools to retrain. We on this side of the aisle have to fight every inch of the way to save programs that give people the tools to retrain. We have had to fight the Bush administration on the H–1B program—it is a wonderful program that my friend has supported along with me—to retrain people. We have personal stories of those people, where they have done so well with worker retraining. We have to fight every step of the way. Even with the free trade bill, there was a big struggle to see if we could make part of that, at least, some worker retraining.

My friend is right. This is not only a terrible record, it is a reversal from policies that were brought to us by a Democratic President, Bill Clinton, that brought us a wonderful economy and hope in our future.

I think it is important that our friends ask, What do you Democrats want to do? I think Senator DASCHLE laid that out.

I want to spend a couple of minutes in closing by laying out what our solution is here.

We took a step today—budget enforcement. Here it is. We took a step. We couldn't get it for another year. We took it for as long as we could get it.

It is going to take 60 votes—at least through April—to raid the Social Security trust fund again. It is going to take 60 votes to bleed this budget without paying for it.

So we did that. That is something Alan Greenspan said we should do.

What else can we do?

Unemployment insurance. We have people who are suffering because they cannot find a new job in this terrible recessionary period. They need an extension of unemployment. Day after day Democrats have been down here asking, begging, cajoling, Can we not pass another extension?

We can't get it through. They do not want to raise the minimum wage. People can't live on a minimum wage.

They won't expand unemployment insurance to help people get through until they find a job.

What is their answer? More tax cuts for the rich. It doesn't work. We tried that. I didn't vote for it, I am happy to say. But it passed here because most Presidents get 90 percent of what they ask for. That is true of Democrat Presidents and Republican Presidents. The President got it.

What have we seen as a result? Terrible times.

That is not the answer. Why doesn't this President spend some time on the economy? Call Senator DASCHLE and say, Senator DASCHLE, you came over here to the White House to talk about the war in Iraq. Congressman GEPHARDT, the Democratic leader, you came over here and talked about the war on terror. We speak as one voice on foreign policy. Even if we have a few disagreements along the way, we set them aside. Why don't we have time to talk about this economy, Mr. President?

I have been saying we have to do foreign policy and economic policy. We have to do more than one thing at a time.

Now the President is doing two things at one time—foreign policy and campaigning.

Call off those campaign trips, Mr. President. Let us have a little summit and talk about the need for unemployment insurance and have that to stimulate our economy so people get their money.

Minimum wage. This man is a compassionate man. I have seen compassion in his face. I know he has compassion in his heart. Where is his compassion for the people who are working at the bottom of the ladder? Let us talk about it, Mr. President.

Fiscal relief to States. This administration is asking States to do a lot after we were attacked on 9/11, and the States are trying their best. We have been hit with recession. Where is the money for port security? Where is the money for airport security? Where is the money for chemical plant security? Where is the money for nuclear plant security? We gave it to this President—and he refused to spend it—$5.1 billion for all those things. He is complaining that we will not pass this reshuffling and this new Department, which I have a lot of doubts about. You could do more good by spending the $5.1 billion that we Democrats and Republicans voted to spend under the emergency powers we have.

Instead of walking away from that, that would have helped our people in local and State government. That would have helped our people by giving them protection.

We are offering people who live within 10 miles of a nuclear power plant an iodine pill in case they are exposed. Wouldn't you rather prevent something from happening by making sure that the plants are secure?

All of these things are on point with the economy because we must protect the homeland, and if we do it right, we will provide jobs and we will stimulate this economy. It all fits in with fiscal relief to States, and that will help this economy.

We have even offered rebates and better targeted business incentives. Why do we give businesses incentives to run away off shore to avoid taxes? Let us give them real incentives to invest, real incentives to hire, and real incentives if they retrain workers.

I already talked about investments in homeland security. But I didn't mention schools.

We have schools that are falling apart, Mr. President. I know how dedicated you are to education. You and I know there is a message sent to our children when they go to school and there are tiles falling off the ceiling, the place is dirty, and you are breathing in mold. Some of these schools haven't been really touched in tens of years. That is where our teachers are supposed to teach our children.

We Democrats believe you are sending a message when a child goes to a department store and sees how beautiful it is. There is a message there. It is a subtle message—or maybe it is not so subtle. Gee, this is important. But when the child goes to school, the place where they are going to get the American dream—I am the product of public schools. I never went to a private school in my life, from kindergarten through college. It is the way I got the skills I needed.

We need to invest in those schools. In that investment, we will give a boost to this economy.

Investment in health research. How many people do we meet whose relatives are suffering from Alzheimer's, or cancer, or heart disease, or diabetes? We know we have a host of diseases—spinal cord injuries. We should invest in that science. That will help our people. It will lift our economy.

Pension reform. God knows we need pension reform. We can't have a circumstance where people are relying on a pension, and when they are ready to retire it is not there. That is devastating. It is devastating to our whole country. The bottom line is we haven't done anything about pension reform. We haven't attacked the problem. Our friends on the other side of the aisle are not interested in it. That is a fact.

We now have to enforce the Corporate Accountability Act. Harvey Pitt was supposed to appoint someone under the new board created in the Sarbanes bill. It got a little too hot at the top there for this man. It was too good, and they backed off.

How can we get anywhere against these people who are in these high positions in corporate America if we don't enforce our own laws?

This President needs a new economic team.

I listen to the people who come here, and they talk about how great the economy is. It is a rosy scenario. They do not even admit we have a problem. I could name every single one of them, and I could give you their quotes. Maybe someone will do that later in the day. But every single member of the economic team is in denial: Oh, everything is wonderful. The stock market is turning around. Recession, we don't have a recession. We have turned the corner.

Maybe this is the reason they do not want to act on any of these issues. They don't want to raise the minimum wage. They don't care. They don't want to give people unemployment insurance. They do not care. They don't care about our States. It is unbelievable to me.

Here is the bottom line. We are getting ready to leave here for a few weeks. The people of America are going to make their decisions. I just hope whatever side of the aisle they are from, or whatever ideology they are from, whatever they are thinking, they will assert their responsibility and vote in this election. This election is crucial.

I meet people all the time who say, Oh, all the candidates are alike. No; not true. If you broach any of these issues to people who may have touched your heart, you will find people with differing views.

You are never going to find anyone with whom you agree 100 percent of the time. But what happens in this Chamber is dependent on the views of the American people. And this is an important time. Whether you agree with everything I said, whether you agree with 50 percent of what I said, or if you disagree with me on everything I said, that is not important.

It is important to understand what is at stake right now. Are we going to move forward with an economic plan that addresses this economy while we engage in the challenge we were given on September 11 and all the other foreign policy challenges we face? I think we have no choice. We need to do more than one thing at a time. We need to do a lot of things.

(Ms. CANTWELL assumed the Chair.)

Mrs. BOXER. I see my friend from Washington is now presiding. She and I have worked very hard to preserve and protect the environment of this country. Not a day goes by that this administration isn't doing something to weaken our environmental laws, whether it is clean air or it is clean water. We all know what happened with arsenic in the water. We stopped that. But every day, in every way, they are doing something to weaken laws.

Just the other day, in California, this administration sided with the big auto companies. They are suing my State because my State wants clean air and they want to see cars that emit less pollution.

Here is an administration that claims they love States rights, they love local control. Well, they love States rights, and they love local control, unless they disagree with your State at the moment or your locality

at the moment. Then, suddenly, oh, the Federal Government: We are the ones who have to make the rules.

So there is so much at stake. I just took to the floor because I thought before we recessed, I might put it in the RECORD. I want to say, in relation to all these issues that are so very difficult—the issue of war and peace, the issue of this economy, the issue of the environment, the issue of a woman's right to choose, that is under tremendous attack every day by this administration—and I should mention the horrible time people in the Washington, DC, area are going through because of a sniper out there—these are hard times, but a little light peeks through every once in a while.

I thought I would end on an up note: Two of my teams in California are going to the World Series. So even in these hard times, a little brightness shines through. For this Senator from California, I could not be more proud of these two teams from San Francisco and Anaheim.

It is going to be very hard for me. What am I going to do? I have to root for everybody. But whatever happens, California will win. And if I have my way, once that is over, I want California to win on this economy, on the environment. I want the kids in my State to have the best education, the best health care, the best life, the best shot at the American dream.

So after the World Series is over, and after the elections are over, I will be back here and I will be fighting for those very things.

I thank you very much, Madam President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

FCC VACANCY

Mr. DORGAN. Madam President, earlier today I spoke briefly about the nomination of Mr. Adelstein to serve as a member of the Federal Communications Commission. I know that the two Senate leaders are working on nominations to see if they could clear some today. I don't know the final result of that, but it now appears as if that will not be the case. I want to speak not about all of the nominations that are awaiting confirmation by the Senate but only about this nomination.

This nomination doesn't have so much to do with the person I am speaking of, Jonathan Adelstein, as it has to do with the position at the Federal Communications Commission, a vacant spot that has been there over a year. That particular nomination is critically important especially to rural States and rural areas.

We have a Federal Communications Commission that is on the edge of making critically important decisions about the future of telecommunications. These decisions will have a profound impact on a significant part of our country.

Chairman Powell and others, I fear, are going to take action in a wide range of areas that will have a significant impact on rural America. Mr. Copps is one commissioner fighting valiantly. His is a refreshing voice that stands up for the interests of rural America. But we now have this vacancy at the FCC for 13 months.

Mr. Jonathan Adelstein is a superbly qualified candidate who should have been there long ago and has been held up at a number of intersections with this process.

On September 7, Gloria Tristani resigned the FCC. This is a Democratic seat. There are Republican and Democratic appointments. This is a Democratic appointment. It took forever for the White House to get his nomination to the Senate. The Commerce Committee on which I serve approved it and reported it out on July 23. So 13 months after the vacancy was available, and 4 months after the Commerce Committee took action on Jonathan Adelstein's nomination, that position is still vacant. We have one commissioner's slot down at the FCC that is unfilled.

The voice of Mr. Adelstein could join that of Mr. Copps in speaking up, standing up, and fighting for rural interests for those millions of Americans who live in more sparsely populated States and for whom telecommunications policy will be the difference of being on the right or wrong side of the digital divide, will mean whether you have economic opportunity and economic growth or not. These policies are critically important for all Americans but especially for Americans who live in my part of the country and in a rural State.

Think back to the 1930s, when we had a country in which if you lived out on the farm, you had no electricity. No one was going to bring electricity to the farm until public policy said, through the REA program, we will electrify America's farms. We will have a Federal program and public policy that says we will move electricity to all the small towns and family farms in our country. We did that, and we unleashed productivity never before imagined.

Some who are in a regulatory body today have the mindset that if the market system doesn't provide for it, it shall not be available. They would never have had an REA program. We would still be having America's farms without electricity. We would not have made the progress we did. But we have people in these regulatory agencies who have this mindset. They worship at the altar of the market system. Listen, the market system is a wonderful thing. I am all for it, but it needs effective regulation. Effective regulation by the FCC in telecommunications policy is critical to our future.

The market system is a system that says to us that someone who portrays a judge on television—I will not name the judges. There are three or four of them. I will name one—Judge Judy—makes $7 million a year, I read in the paper. That is the market system. The Chief Justice of the U.S. Supreme Court makes $180,000 a year. That is the market system. A schoolteacher might make $30,000 or $40,000, and a shortstop for the Texas Rangers may make $250 million over 10 years. The market system. The market system is wonderful.

I have studied economics, taught it, and been able to overcome it, however, and still lead a good life. I believe in the market system. I think it is a wonderful thing. But it needs effective regulation, and it needs policymakers and regulatory authorities and regulatory bodies that have some common sense.

I worry about the FCC and the decisions they are about to make. At the FCC, we need a full complement of commissioners, and we need this slot filled—not tomorrow, not next week, not next year. We need this slot filled now. We must find a way to overcome this logjam on nominations. I am only speaking of this one because it is really important in terms of telecommunication policy and future opportunities and economic growth in rural States. In the coming days and weeks, as we reconvene following the election—which I understand will now be the week of November 12—my hope is we can find a way to clear these nominations. I know Senator DASCHLE understands that and has tried to do that. The Senate should do this, clear this nomination and other nominations that have been waiting on the calendar for some long while.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

KEEPING CHILDREN AND FAMILIES SAFE ACT

Mr. DODD. Mr. President, I want to take a few minutes to express my disappointment. I was going to call up some legislation that we have worked very hard on dealing with children, the Keeping Children and Families Safe Act. It was legislation approved by the Senate Health, Education, Labor, and Pensions Committee in September, about a month ago. I think it was adopted unanimously. It deals with abused children. It reauthorizes the Child Abuse Prevention and Treatment Act, better known as CAPTA.

This is a piece of legislation that has been around for a number of years. It was a bipartisan bill that was introduced by myself, Senators GREGG, KENNEDY, COLLINS, DEWINE, and WELLSTONE, and approved unanimously by voice vote. This is one of those bills with that kind of support out of the committee, on a bipartisan basis, and was done early enough that we thought we would have little difficulty in having this adopted as part of a unanimous consent calendar, rather than engaging in taking up the time of the Senate.

Unfortunately, I am told that any effort to try to pass this legislation will be objected to. As such, I regret to inform my colleagues that the Child Abuse Prevention and Treatment Act reauthorization will just not get an endorsement by this Congress. That is a sad note indeed.

Mr. President, about 3 million children each year are abused in this country. Close to 900,000 children were found to be victims of child maltreatment or abuse.

The most tragic consequence of child maltreatment is death, obviously. The most recent data available for the year 2000 show that 1,200 children died in this country of abuse and neglect. Children younger than 6 years of age accounted for 85 percent of child fatalities, and children younger than 1 year of age accounted for 44 percent of child fatalities.

What more tragic news could there be than a child, an infant—1,200 in this country of ours—dying as a result of abuse and neglect? Here we are trying to do everything we can to help bring these numbers down.

Just imagine the face of a young child facing the horror of abuse and neglect that goes on far too often. Unfortunately, despite the unanimous vote out of the committee of jurisdiction, a bipartisan agreement to reauthorize these dollars, to allow us to go forward and deal with this situation, we are told: We are sorry, we cannot do this. We do not have either the time or the desire.

I am deeply saddened by it. As a first-time father with a 1-year-old child, I cannot imagine anyone abusing my daughter Grace. The idea that some child her age, some infant—1,200 of them around the country, according to the statistics in the year 2000—lost their lives, not to mention the several thousands more who are abused and survive but suffer the scars of that abuse, and that the Child Abuse Treatment and Prevention Act, which has actually done a great deal to assist families and communities in dealing with this issue is not going to have the imprimatur approval, despite the unanimous bipartisan agreement of the committee, to bring that matter up for consideration by this body.

The people who work in this area give tirelessly of their time and efforts to go out and save a few lives. I am not suggesting we save all 1,200, but what if we save 20? What if we save 10? Is it worth this Senate's time to spend a few minutes to pass some legislation that might save one child's life this year? Would that be wrong?

I would not hesitate to say our allocation of time for an issue of that type, the life of one child we might save, is worthy of this Senate's attention and time.

It is with a high degree of sadness that I report to my colleagues we are going to have to wait for another day, I guess, maybe later in the next Congress, to do something. But when you pick up a newspaper over the next several months and read another child lost their life as a result of abuse and neglect, then you might look back on a moment like this and wonder: Maybe this Congress, despite the time we spent on other issues of questionable value, could have found a few minutes to deal with this issue of child neglect and abuse.

I regret to report to colleagues and others that this issue will have to wait for another day. Hopefully, the families of some children will not have to look back and wonder whether or not if we acted, we might have saved a life or saved a child from the lifetime scars that abuse and neglect can bring.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TERRORISM INSURANCE

Mr. DODD. Mr. President, as we are in the closing hours of this session—I am told there is some discussion about coming back after the election—we have not yet reached a final agreement on the terrorism insurance bill in the sense that there are conference reports that are being read. Obviously, Members from this Chamber and the other Chamber have departed for their respective districts and States. So despite the long hours last night, the early hours of this morning and today to achieve the final signing of a conference report, that particular effort has not been achieved yet.

It is appropriate and proper to suggest to those who are interested in the subject matter that we are on the brink of a very good and strong agreement dealing with terrorism insurance. Obviously, it is not finished until the conferees of the Senate and the other body sign the conference report, both bodies then vote on a conference report, and the President signs it. So there are several steps to go after people who have worked on a product and submit it to all of our colleagues, particularly those who are on the conference, for their approval.

I am heartened and confident that when Members look at the agreement, they will be satisfied we did a good job. I will quickly point out that like any agreement involving 535 different people, not including the President of the United States, where there are divided institutions, as they are in the Senate and the other body, getting an agreement that one side or the other would find entirely favorable is very unrealistic.

I went through a process with my good friend now from the State of Ohio, BOB NEY, on election reform. We have spent a lot of days, a lot of nights and weekends working out that bill.

There are those in this Chamber and the other Chamber who are not satisfied with everything we did—I understand why—but we never would have achieved a bill had it been a bill to the total satisfaction of one side or the other. I will say the same is going to be true about terrorism insurance.

I commend MIKE OXLEY, the chairman of the House Banking Committee, JIM SENSENBRENNER, and others who have worked on this legislation.

I commend the White House and the Treasury Department.

I thank my colleague, Senator SARBANES, who is the chairman of the Banking Committee and chairman of the conference on terrorism insurance, Senator SCHUMER, Senator REED of Rhode Island, Senator GRAMM, Senator SHELBY, and Senator ENZI, all of whom have been conferees on the Senate side. Certainly, their staffs have labored.

I thank the majority leader's office and the minority leader's office. A lot of people have worked on this bill.

If I were asked whether this is the bill I would write if I could write it alone, I would say no. I am sure Chairman Oxley would say the same thing. Were it his opportunity to write a bill perfectly, he would write something different than what we wrote. But we believe it is the best we could do under these circumstances.

The terrorism insurance bill is about policyholders. It is about jobs. It is about an economic condition of a country that is faltering. While this proposal is not going to solve all of those problems when there are a lot of people out of work, a lot of construction projects that have stopped, a lot of fine businesses and industries that cannot get insurance and thus cannot borrow money, then that contributes to an economic difficulty in the country which we are witnessing.

We have worked a long time to arrive at a product we think can be constructive, one that the President could sign, and one that Members could support. Obviously, I do not know all of the situations in the other body, but I can say that in this Senate we are going to make a real effort to send this conference report around and give Members a chance to read it. Frankly, we wanted to have that done before the close of business today, but when we were up until about 4 or 4:30 this morning, began again at 9:30 this morning,

and did not finish the final product until late this afternoon, it is unrealistic to assume everyone could have read this, gone over it carefully, and signed off on it.

I regret we were unable to get that done, but I believe before the final gavel comes down on this session, whenever that is, the Congress of the United States will have a chance to express its approval of this effort.

I wish I could stand here and say that this is done. It is not, because we need those signatures on this conference report. But I can say that those who have been involved in trying to craft it believe we have put together a good agreement.

Mr. REID. Will the Senator yield?

Mr. DODD. I am happy to yield to the Senator.

Mr. REID. This is more of a comment than a question. The Senator from Connecticut has been on the floor this week for two very important reasons. One was to announce election reform, which is landmark legislation. No matter how one looks at it, it is landmark legislation. Also, the Senator from Connecticut has worked on this terrorism insurance bill for more than a year.

The reason I mention this is that there are no legislative winners or losers. It is something that was done on a bipartisan basis, each not getting everything they wanted but coming up with a product that is good for the American people.

The Senator is a veteran legislator. We all know that. But I really want to spread on the RECORD of this Senate how important it is to have someone such as the Senator from Connecticut who can work with people on the other side of the aisle to come up with a product for which no one can claim credit. This is not a Democrat or Republican victory with regard to election reform and terrorism insurance—when that is approved, and I am confident it will be. It will not be a victory for the Democrats or the Republicans. It will be a victory for the American people.

The way we were able to do so was with patience, perseverance, and the expertise of the Senator from Connecticut. On behalf of the entire Senate, the people of Nevada, who badly need both pieces of legislation, and the rest of the country, I applaud the work of the Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague from Nevada for those very gracious comments. I thank him for his efforts, as well as the very fine staff people, on both the terrorism insurance issue, which is an important question in his State, and the election reform bill.

I think we have finally come to realize—maybe it takes some of us longer than others—that any product that is going to have much merit requires that it be one reached on a bipartisan basis. The very fact that this institution is divided about as equally as it can be demands that.

I have served in this Chamber in the minority by a significant number of seats, and I have served in the majority by a significant number of seats. I have served in this Chamber, obviously, as we all do today, when we have been evenly divided. Under any set of circumstances short of an overwhelming number, measures need to be worked out with each other. We have to sit down and resolve differences across party lines.

The Senator from Nevada is a master at it. He was generous in his comments about the Senator from Connecticut. All of us admire the patience, the diligence, and the tenacity of Senator REID. There is no one who fights harder and spends more time every day to try to make things happen. There is no more frustrating job.

I found that out working on these last two issues, and that was frustrating enough. I am tired. I have been up several nights into the wee hours of the morning. I have talked about that 1-year-old daughter of mine. I have been accused of trying to avoid some of the paternal responsibilities that come with a new child by legislating too late at night. That is hardly the case. I cannot wait to get home to her.

I have admiration for Senator REID, who does it every day, but for those who do this on occasion, it is very hard. To do it every single day we are here takes a special talent and ability and commitment to this country. No one embraces those qualities better than the senior Senator from Nevada.

I thank the Senator for the kind words about the Senator from Connecticut. But they can be said with greater emphasis about the Senator from Nevada. I am sorry we cannot urge the adoption of a conference report on terrorism insurance. We will do that shortly sometime within the next few weeks. I am confident that before the Congress ends, enough Members, as they have already indicated in this Chamber, will be willing to sign a conference report, and hopefully the other Chamber will do the same.

Again, my compliments to the leadership of the other body and the leadership here for insisting we work to try to get this done. It is never an easy job. You have to try to work things out. I thank the President of the United States, as well, and his very kind staff. They worked very hard to keep us at this. When a number of us became discouraged on whether it was worthwhile spending anymore time, people at the White House, legislative staff kept saying: let's stick with it and see if we cannot come up with some answers. I admire that tenacity and that commitment.

I look forward to the final passage of this bill. It will happen, without any doubt. It is just a matter of time. I thank those involved in the process.

The PRESIDING OFFICER. The Senator from Minnesota.

SENATE BUSINESS

Mr. DAYTON. I join my colleague from Nevada in complimenting the Senator from Connecticut on the passage of the election reform law. I had the distinct pleasure and privilege to sit in the chair to preside when this matter was debated and discussed many months ago. As the Senator from Connecticut has observed, no one could have known then how long the ordeal remained before they could bring the conference report back this week. What the Senator from Connecticut, the Senator from Kentucky, and the Senator from Missouri accomplished on behalf of the Senate and, more importantly, on behalf of the citizens of America, is extraordinary. Given all that has not been brought to fruition in the final days, the accomplishment the Senator brought to the Senate is an extraordinary tribute to his endurance and his legislative skills.

He was very gracious yesterday to commend all of the people who worked so hard on this legislation—his colleagues and the staff across the aisle. He was too modest to compliment himself. I join with the Senator from Nevada in saying that Senator DODD has performed an extraordinary service to his Nation. We will—in Minnesota and Hawaii and Connecticut and across the country—conduct better elections, more reliable elections, elections where citizens can vote and know the votes will be counted and counted accurately.

His daughter Grace and his grandchildren and my children and grandchildren will be the beneficiaries of those hours of hard work. I thank the Senator. I congratulate him for that extraordinary accomplishment. It is one of the true highlights of our session.

Also, to follow up, I was presiding when the Senator referred to a couple of pieces of legislation that were not enacted in this session. We will be finishing our work and perhaps coming back in November after the election, with an agenda then that has not yet been determined and with prospects that are unknown. I express my great disappointment in some of the matters that were not accomplished.

When I was elected 2 years ago—so this is my first session of Congress—perhaps I came with loftier expectations and perhaps less seasoned assumptions of what could be accomplished, especially given the opportunities that presented themselves less than 2 years ago when we arrived and were looking at these months of time, the trillions of dollars of resources available to do the things that needed to be done.

One of the promises I made to the people of Minnesota during my campaign, which I took very seriously, was the passage of prescription drug legislation to provide for coverage through Medicare or some other means, but my own view was, through the Medicare Program for senior citizens throughout

Minnesota, I am sure Hawaii and elsewhere, have been ravaged by these rising prices, by their inability to control the costs, by the need, as I have discovered in my age, to require more prescription medication. The benefits of those medications are lifegiving, lifesaving, life-enhancing for millions of Americans.

However, for our elderly population, they are literally the difference between life and death. They are literally the difference, time after time, between being able to enjoy their lives, rather than being consigned to pain and suffering, and infirmity that no one should be subjected to, certainly not in your last months or years of your life. We had all these good intentions. If we totaled the assurances Members made from both sides of the aisle when they sought election or reelection that year, we would have had a unanimous agreement that this legislation was overdue, was badly needed, and we might have had some differences of views as to how it was going to be enacted.

But when I came here in January of 2001 I felt as certain as I felt about anything that we would pass that legislation and we would have that moment that Senator DODD enjoyed yesterday, to bring back to the Senate a conference report, something that was agreed upon by the House, by the White House, and by the Senate, and we could pass it and go back and proudly tell our fellow citizens we had done the job they sent us to do.

I am terribly distraught and disappointed and disillusioned. I feel apologetic to the citizens of Minnesota, to the senior citizens who placed their trust in me and sent me here. I remember one elderly woman in Duluth, MN, in the northeastern part of our State, about half my size and twice my age, who spoke to me in December of the year 2000 just before I came here. She looked at me after I visited her with her and her friends. She said, If you do not keep your promises, I will take you out behind the woodshed for an old-fashioned thrashing.

I don't dare go back to Duluth, MN, after our failure to pass this legislation. I think in some ways this whole process that we failed to master, if not ourselves, individually, the failure of this entire endeavor, needs an old-fashioned thrashing. It is shameful we have not enacted that legislation on behalf of seniors in Minnesota and everywhere.

It is only one instance, unfortunately, where this failure to enact the people's business occurred in this body. I have presided over this Senate more hours in the last 2 years than anyone, save my colleague, Senator CARPER, of Delaware, and it has been in most respects a very enjoyable, fascinating, and certainly educational experience as a new Member of the Senate to see firsthand what occurs here and how these matters are handled. The masters of the Senate, through years of experience, know how this process works; also, unfortunately, masters of the process who know how to prevent it from working and how to obstruct and delay it.

I have watched since the beginning of this year, time after time the efforts of the majority leader, my good friend from the neighboring State of South Dakota, who has the responsibility as leader of our majority caucus to try to schedule and move legislation forward. I have seen time after time that he has not been given the agreement necessary. In the Senate, it takes, as you know, unanimous consent. It takes all 100 of us to agree individually just to bring up a matter of legislation. Without that unanimous consent, we have to go through a procedure that then requires the majority leader to file cloture. Then it takes 2 more days before we can vote on proceeding, just going ahead to take up a piece of legislation.

Time after time we have had to go through that process. The majority leader has had to follow it. I believe, if we tallied up all those days that we have been obstructed and delayed from just considering legislation in this body, it would be 50 or 60 during the last year alone. That is 10 to 12 weeks of time. That is 2½ to 3 months of time that we have not been able to conduct the people's business, where we couldn't consider legislation, where we couldn't bring up amendments and vote them up or down.

Here we are now just at a point of recess or adjournment or whatever it is going to be, and we have not passed prescription drug coverage for seniors, we have not extended unemployment benefits but once. I believe we have tried two or three other times to do so. We have not been able to get to so many things the people of Minnesota depended on me to provide and I think the people of America were looking for from all of us.

So as we are in these closing moments, and as Senator DODD from Connecticut has brought attention to some of the unfinished business before us, I wanted to highlight some of that myself and to say, the Good Lord willing, I will be back here, whether it is in November or December or January of next year or the new session of Congress. I wish we would have been able to leave here with much more accomplished. Those who are out there wondering, who do not want excuses or explanations, who want real results, which they should have, who want programs that will benefit them, who want help when they need it, who want improvements in their lives—if they really want to understand why we are leaving some of these matters undone, I invite their calls. I would be happy to discuss those matters with them.

They should look, as I say, and count the number of days we have had to wait to let the clock tick so we could follow the rules of the Senate just to move on to another matter. Then I would recommend they ask themselves why it is and who it was behind this delay and this obstruction, and hold those individuals to account when they visit the voting booth in the next occasion.

With that, I wish the President a good evening, 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.

EXECUTIVE SESSION

NOMINATIONS DISCHARGED AND PLACED ON THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the HELP Committee be discharged from further consideration of the following nominations: Robert Battista to be a member of the NLRB; Wilma Liebman to be a member of the NLRB; Peter Schaumber to be a member of the NLRB; Joel Kahn to be a member of the National Council on Disability; Patricia Pound to be a member of the National Council on Disability; Linda Wetters to be a member of the National Council on Disability; David Gelernter to be a member of the National Council of the Arts; Allen Greene, Judith Rapanos, Maria Guillemard, Nancy Dwight, Peter Hero, Sharon Walkup, and Thomas Lorentzen to be members of the National Museum Services Board; Juan Olivarez to be a member of the National Institute for Literacy Advisory Board; James Stephens to be a member of the Occupational Safety and Health Review Commission; Peggy Goldwater-Clay to be a member of the Board of Trustees for the Barry Goldwater Scholarship Excellence in Education Foundation; and Carol Gambill to be a member of the National Institute for Literacy, and that the nominations be placed on the Executive Calendar.

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

NOMINATION DISCHARGED AND REFERRED TO COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the HELP Committee be discharged of the nomination of John Higgins to be the Inspector General for the Department of Education and that it be referred to the Governmental Affairs Committee for the statutory time limitation.

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

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to executive session to consider the following nominations: Calendar Nos. 1130, 1134, 1136, 1138, 1139 through 1146, and the nominations placed on the Secretary's desk; that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action and that any statements pertaining thereto be printed in the RECORD, with the preceding all occurring with no intervening action or debate.

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

The nominations were considered and confirmed as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mark B. McClellan, of the District of Columbia, to be Commissioner of Food and Drugs, Department of Health and Human Services.

CENTRAL INTELLIGENCE

Scott W. Muller, of Maryland, to be General Counsel of the Central Intelligence Agency.

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Glen W. Moorehead, III, 0000

The following officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Frederick F. Roggero, 0000

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., section 601:

To be general

Lt. Gen. Burwell B. Bell, III, 0000

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., section 601:

To be lieutenant general

Maj. Gen. Robert W. Wagner, 0000

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., section 601:

To be lieutenant general

Maj. Gen. Richard A. Hack, 0000

The following Army National Guard officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., Section 12203:

To be major general

Brigadier General George A. Buskirk, Jr., 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. David C. Harris, 0000

MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James T. Conway, 0000

NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Lowell E. Jacoby, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. David L. Brewer, III, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN2208 Air Force nomination of James M. Knauf, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2209 Air Force nomination of Gary P. Endersby, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2210 Air Force nomination of Mark A. Jeffries, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2211 Air Force nomination of John P. Regan, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2212 Air Force nomination of John S. McFadden, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2213 Air Force nomination of Larry B. Largent, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2214 Air Force nomination of Frank W. Palmisano, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2215 Air Force nominations (2) beginning David S. Brenton, and ending Brenda K. Roberts, which nominations were received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2216 Air Force nominations (2) beginning Cynthia A. Jones, and ending Jeffrey F. Jones, which nominations were received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2217 Air Force nomination of Mario G. Correia, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2218 Air Force nomination of Michael L. Martin, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2219 Air Force nominations (2) beginning Xiao Li Ren, and ending Jeffrey H. Sedgewick*, which nominations were received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2220 Air Force nominations (3) beginning Thomas A. Augustine III*, and ending Charles E. Pyke*, which nominations were received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2229 Air Force nominations (39) beginning Errish Nasser G. Abu, and ending Ernest J. Zeringue, which nominations were received by the Senate and appeared in the Congressional Record of October 4, 2002.

PN2240 Air Force nominations (2) beginning Dana H. Born, and ending James L. Cook, which nominations were received by the Senate and appeared in the Congressional Record of October 8, 2002.

ARMY

PN2221 Army nomination of Scott T. William, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2222 Army nomination of Erik A. Dahl, which was received by the Senate and appeared in the Congressional Record of October 1, 2002.

PN2241 Army nomination of James R. Kimmelman, which was received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2242 Army nomination of John E. Johnston, which was received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2243 Army nominations (5) beginning Janet L. Bargewell, and ending Mitchell E. Tolman, which nominations were received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2244 Army nominations (5) beginning Leland W. Dochterman, and ending Douglas R. Winters, which nominations were received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2245 Army nominations (6) beginning Glenn E. Ballard, and ending Marion J. Yester, which nominations were received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2246 Army nomination of Robert D. Boidock, which was received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2247 Army nomination of Dermot M. Cotter, which was received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2248 Army nomination of Connie R. Kalk, which was received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2249 Army nomination of Michael J. Hoilen, which was received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2250 Army nomination of Romeo Ng, which was received by the Senate and appeared in the Congressional Record of October 8, 2002.

PN2267 Army nominations (71) beginning Judy A. Abbott, and ending Dennis C. Zachary, which nominations were received by the Senate and appeared in the Congressional Record of October 10, 2002.

PN2268 Army nominations (48) beginning Jose Almocarrasquillo, and ending Matthew L. Zizmor, which nominations were received by the Senate and appeared in the Congressional Record of October 10, 2002.

PN2269 Army nominations (42) beginning Arthur L. Arnold, Jr., and ending Mark S. Vajcovec, which nominations were received by the Senate and appeared in the Congressional Record of October 10, 2002.

PN2270 Army nominations (41) beginning Adrine S. Adams, and ending Maryellen Yacka, which nominations were received by the Senate and appeared in the Congressional Record of October 10, 2002.

FOREIGN SERVICE

PN1894 Foreign Service nominations (139) beginning Dean B. Wooden, and ending Claudia L. Yellin, which nominations were received by the Senate and appeared in the Congressional Record of June 21, 2002.

PN1893–1 Foreign Service nominations (132) beginning Deborah C. Rhea, and ending Ashley J. Tellis, which nominations were received by the Senate and appeared in the Congressional Record of June 21, 2002.

NOMINATION OF MARK MC CLELLAN

Mr. KENNEDY. Dr. McClellan has an impressive background. He is both

economist and a physician. He is a member of the President's Council of Economic Advisers and he is also a major advisor on health policy to the President today. He was an associate professor of economics and medicine at Stanford University. He also served as deputy assistant secretary in the Department of Treasury. And, best of all, he received his medical degree, his doctorate in economics, and his master's degree in public health at Harvard and MIT.

This nomination to a major public health position is long overdue. Dr. McClellan has the training, the experience, and the stature to serve as the head of the country's most important public health regulatory agency—an agency that serves as the gold standard for the rest of the world.

FDA's mission is to protect the public health. Its mission affects more than a quarter of every dollar spent in the U.S. economy. The products that it regulates—food, drugs, biologics, devices supplements and cosmetics—affect public health and safety every day.

The agency also has a long and distinguished history of serving the public interest. It has a proud tradition of promoting the public interest ahead of special interests. It is an agency of skilled professionals who set high standards and demand excellence from the industries it regulates.

In this time of extraordinary medical breakthroughs and as new threats to public health arise, the FDA faces enormous challenges. The American people increasingly depend on the FDA to safeguard public health. Now is not the time for FDA to retreat from these challenges, or surrender its authority over public health.

Dr. McClellan has been nominated to a position of great responsibility. I believe he will make a fine commissioner, one who will help lead the agency into the 21st century.

PROTOCOL RELATING TO THE MADRID AGREEMENT—TREATY DOCUMENT NO. 106–41

Mr. REID. I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar No. 1, the protocol relating to the Madrid agreement; that the protocol be considered as having advanced through its parliamentary stages up to and including the presentation of the resolution for ratification, and that the understandings, declarations and conditions be agreed to, and that the Senate now vote on the resolution of ratification.

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

The question is on agreeing to the resolution.

All those in favor of the resolution will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

In the opinion of the Chair, two-thirds of the Senators present and having voted in the affirmative, the resolution is agreed to.

The resolution of ratification read as follows:

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. ADVICE AND CONSENT TO ACCESSION TO THE MADRID PROTOCOL, SUBJECT TO AN UNDERSTANDING, DECLARATIONS, AND CONDITIONS.

The Senate advises and consents to the accession by the United States to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on June 27, 1989, entered into force on December 1, 1995 (Treaty Doc. 106–41; in this resolution referred to as the ''Protocol''), subject to the understanding in section 2, the declarations in section 3, and the conditions in section 4.

SEC. 2. UNDERSTANDING.

The advice and consent of the Senate under section 1 is subject to the understanding, which shall be included in the United States instrument of accession to the Protocol, that no secretariat is established by the Protocol and that nothing in the Protocol obligates the United States to appropriate funds for the purpose of establishing a permanent secretariat at any time.

SEC. 3. DECLARATIONS.

The advice and consent of the Senate under section 1 is subject to the following declarations:

(1) NOT SELF-EXECUTING.—The United States declares that the Protocol is not self-executing.

(2) TIME LIMIT FOR REFUSAL NOTIFICATION.—Pursuant to Article 5(2)(b) of the Protocol, the United States declares that, for international registrations made under the Protocol, the time limit referred to in subparagraph (a) of Article 5(2) is replaced by 18 months. The declaration in this paragraph shall be included in the United States instrument of accession.

(3) NOTIFYING REFUSAL OF PROTECTION.—Pursuant to Article 5(2)(c) of the Protocol, the United States declares that, when a refusal of protection may result from an opposition to the granting of protection, such refusal may be notified to the International Bureau after the expiry of the 18-month time limit. The declaration in this paragraph shall be included in the United States instrument of accession.

(4) FEES.—Pursuant to Article 8(7)(a) of the Protocol, the United States declares that, in connection with each international registration in which it is mentioned under Article 3ter of the Protocol, and in connection with each renewal of any such international registration, the United States chooses to receive, instead of a share in revenue produced by the supplementary and complementary fees, an individual fee the amount of which shall be the current application or renewal fee charged by the United States Patent and Trademark Office to a domestic applicant or registrant of such a mark. The declaration in this paragraph shall be included in the United States instrument of accession.

SEC. 4. CONDITIONS.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) TREATY INTERPRETATION.—The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997 (relating to condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988).

(2) NOTIFICATION OF THE SENATE OF CERTAIN EUROPEAN COMMUNITY VOTES.—The President shall notify the Senate not later than 15 days after any nonconsensus vote of the European Community, its member states, and the United States within the Assembly of the Madrid Union in which the total number of votes cast by the European Community and its member states exceeded the number of member states of the European Community.

Mr. REID. Mr. President, I ask unanimous consent that any statements relating thereto be printed in the RECORD.

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

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

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

MORNING BUSINESS

Mr. REID. We are in morning business, is that correct?

The PRESIDING OFFICER. The Senator is correct.

U.S. EFFORTS IN POST-CONFLICT IRAQ

Mr. DASCHLE. Mr. President, early last Friday morning, the Senate acted on the President's request to grant him authority to use force in Iraq. I joined with a majority of my colleagues from both sides of the aisle to support the resolution granting that authority, but made clear then and continue to believe now that our vote was the first step in our effort to address the threat posed by Iraq's weapons of mass destruction. In my statement before that vote, I indicated the President faces several challenges as he attempts to fashion a policy that will be successful in our efforts against Saddam Hussein and his weapons of mass destruction.

One of those challenges is preparing for what might happen in Iraq after Saddam Hussein and preparing the American people for what might be required of us on this score. To that end, I was interested to see an article in Friday morning's newspaper with the title, ''U.S. Has a Plan to Occupy Iraq, Officials Report.''

Citing unnamed administration officials, the article contends the administration is modeling plans for the economic and political reconstruction of Iraq on the successful efforts in post-WWII Japan. The article goes on to report that the Administration has yet to endorse a final position and this issue had not been discussed with key American allies. When questioned at a press conference Friday afternoon, the White House spokesperson distanced himself from this specific plan.

If this news account is true, I have no choice but to conclude this administration has much to do before it will be in position to present a plan to the American people and the world about what

it feels is necessary to promote economic and political stability in post-conflict Iraq. We do know, however, that a plan based on the Japan precedent would require a significant and lengthy commitment of American political will, economic resources, and military might.

While I do not doubt either our resolve or capability to be successful in Iraq, it is critical that the Administration be clear with the Congress, the American people, and the world about what it believes will be needed in post-Saddam Iraq, what portion of that it believes America should undertake, and what it believes others should be prepared to do. To this end, I urge the President and his administration to keep in mind the following facts and questions as planning for post-conflict Iraq continues.

General MacArthur and President Truman made a strategic choice in post-WWII Japan to leave intact as much as 95 percent of the imperial Japanese government, including the Emperor himself, because of the fear of what impact a massive upheaval of the government structure would have on stability in Japan. Do the President and his team intend to follow that precedent, or we will start from scratch in constructing post-conflict institutions in Iraq?

We maintained nearly 80,000 troops in Japan for 6 years after V-J Day and still maintain 47,000 troops to this day, more than a half century after the conflict officially ended. How long does the administration anticipate having U.S. forces in post-conflict Iraq, and how much of this burden can we anticipate our friends allies will assume?

Post-WWII Japan represented an ethnically and religiously homogenous population. How does the fact that Iraq is riven by ethnic and religious difference impact U.S. planning for post-conflict Iraq?

From 1946 to 1950, the Congressional Research Service estimates that the United States spent a yearly average of $3 billion, in today's dollars, for the occupation of Japan. Are those the kinds of numbers the President and his team anticipate for political and economic reconstruction in post-conflict Iraq?

If the administration plans on obtaining assistance from others, what nations is it assuming will be willing to help us? What is the administration assuming these other nations are prepared to do and for how long? If no plan is yet in place and no allies briefed, when does the administration believe such discussions should begin?

I ask unanimous consent to print the article in the RECORD.

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

[From the New York Times, Oct. 11, 2002]

U.S. HAS A PLAN TO OCCUPY IRAQ, OFFICIALS REPORT

(By David E. Sanger and Eric Schmitt)

WASHINGTON.—The White House is developing a detailed plan, modeled on the post-war occupation of Japan, to install an American-led military government in Iraq if the United States topples Saddam Hussein, senior administration officials said today.

The plan also calls for war-crime trials of Iraqi leaders and a transition to an elected civilian government that could take months or years.

In the initial phase, Iraq would be governed by an American military commander—perhaps Gen. Tommy R. Franks, commander of United States forces in the Persian Gulf, or one of his subordinates—who would assume the role that Gen. Douglas MacArthur served in Japan after its surrender in 1945.

One senior official said the administration was ''coalescing around'' the concept after discussions of options with President Bush and his top aides. But this official and others cautioned that there had not yet been any formal approval of the plan and that it was not clear whether allies had been consulted on it.

The detailed thinking about an American occupation emerges as the administration negotiates a compromise at the United Nations that officials say may fall short of an explicit authorization to use force but still allow the United States to claim it has all the authority it needs to force Iraq to disarm.

In contemplating an occupation, the administration is scaling back the initial role for Iraqi opposition forces in a post-Hussein government. Until now it had been assumed that Iraqi dissidents both inside and outside the country would form a government, but it was never clear when they would take full control.

Today marked the first time the administration has discussed what could be a lengthy occupation by coalition forces, led by the United States.

Officials say they want to avoid the chaos and in-fighting that have plagued Afghanistan since the defeat of the Taliban. Mr. Bush's aides say they also want full control over Iraq while American-led forces carry out their principal mission: finding and destroying weapons of mass destruction.

The description of the emerging American plan and the possibility of war-crime trials of Iraqi leaders could be part of an administration effort to warn Iraq's generals of an unpleasant future if they continue to support Mr. Hussein.

Asked what would happen if American pressure prompted a coup against Mr. Hussein, a senior official said, ''That would be nice.'' But the official suggested that the American military might enter and secure the country anyway, not only to eliminate weapons of mass destruction but also to ensure against anarchy.

Under the compromise now under discussion with France, Russia and China, according to officials familiar with the talks, the United Nations Security Council would approve a resolution requiring the disarmament of Iraq and specifying ''consequences'' that Iraq would suffer for defiance.

It would stop well short of the explicit authorization to enforce the resolution that Mr. Bush has sought. But the diplomatic strategy, now being discussed in Washington, Paris and Moscow, would allow Mr. Bush to claim that the resolution gives the United States all the authority he believes he needs to force Baghdad to disarm.

Other Security Council members could offer their own, less muscular interpretations, and they would be free to draft a second resolution, authorizing the use of force, if Iraq frustrated the inspection process. The United States would regard that second resolution as unnecessary, senior officials say.

''Everyone would read this resolution their own way,'' one senior official said.

The revelation of the occupation plan marks the first time the administration has described in detail how it would administer Iraq in the days and weeks after an invasion, and how it would keep the country unified while searching for weapons.

It would put an American officer in charge of Iraq for a year or more while the United States and its allies searched for weapons and maintained Iraq's oil fields.

For as long as the coalition partners administered Iraq, they would essentially control the second largest proven reserves of oil in the world, nearly 11 percent of the total. A senior administration official said the United Nations oil-for-food program would be expanded to help finance stabilization and reconstruction.

Administration officials said they were moving away from the model used in Afghanistan: establishing a provisional government right away that would be run by Iraqis. Some top Pentagon officials support this approach, but the State Department, the Central Intelligence Agency and, ultimately, the White House, were cool to it.

''We're just not sure what influence groups on the outside would have on the inside,'' an administration official said. ''There would also be differences among Iraqis, and we don't want chaos and anarchy in the early process.''

Instead, officials said, the administration is studying the military occupations of Japan and Germany. But they stressed a commitment to keeping Drag unified, as Japan was, and avoiding the kind of partition that Germany underwent when Soviet troops stayed in the eastern sector, which set the stage for the cold war. The military government in Germany stayed in power for four years; in Japan it lasted six and a half years.

In a speech on Saturday, Zalmay Khalilzad, the special assistant to the president for Near East, Southwest Asian and North African affairs, said, ''The coalition will assume—and the preferred option—responsibility for the territorial defense and security of Iraq after liberation.''

''Our intent is not conquest and occupation of Iraq,'' Mr. Khalilzad said. ''But we do what needs to be done to achieve the disarmament mission and to get Iraq ready for a democratic transition and then through democracy over time.''

Iraqis, perhaps through a consultative council, would assist an American-led military and, later, a civilian administration, a senior official said today. Only after this transition would the American-led government hand power to Iraqis.

He said that the Iraqi armed forces would be ''downsized,'' and that senior Baath Party officials who control government ministries would be removed. ''Much of the bureaucracy would carry on under new management,'' he added.

Some experts warned during Senate hearings last month that a prolonged American military occupation of Iraq could inflame tensions in the Mideast and the Muslim world.

''I am viscerally opposed to a prolonged occupation of a Muslim country at the heart of the Muslim world by Western nations who proclaim the right to re-educate that country,'' said the former secretary of state, Henry A. Kissinger, who as a young man served as district administrator in the military government of occupied Germany.

While the White House considers its long-term plans for Iraq, Britain's prime minister, Tony Blair, arrived in Moscow this evening for a day and a half of talks with President Vladimir V. Putin. Aides said talks were focused on resolving the dispute at the United Nations. Mr. Blair and Mr. Putin are to hold

formal discussions on Friday, followed by a news conference.

Mr. Blair has been a steadfast supporter of the administration's tough line on a new resolution. But he has also indicated that Britain would consider France's proposal to have a two-tiered approach, with the Security Council first adopting a resolution to compel Iraq to cooperate with international weapons inspectors, and then, if Iraq failed to comply, adopting a second resolution on military force. Earlier this week, Russia indicated that it, too, was prepared to consider the French position.

But the administration is now saying that if there is a two-resolution approach, it will insist that the first resolution provide Mr. Bush all the authority he needs.

''The timing of all this is impossible to anticipate,'' one administration official involved in the talks said. ''The president doesn't want to have to wait around for a second resolution if it is clear that the Iraqis are not cooperating.''

EXPRESSING SYMPATHY FOR THE PEOPLE OF AUSTRALIA

Mr. LOTT. Mr. President, the people of the United States were shocked and saddened to learn of the cold blooded and cowardly attack on hundreds of Australian tourists vacationing on the island of Bali, on October 12. In a few shocking seconds our friends lost more of their fellow Australians than at any time since the darkest days of World War II.

Although Australia is at the farthest corner of the earth, America has no greater friend or ally. Just this year Prime Minister John Howard addressed a joint session of the United States Congress to celebrate the 50th Anniversary of the signing ANZUS Treaty, the document that has formally tied our strategic destinies together for the Food of the entire Asian Pacific Rim.

But our relationship with Australia did not begin with the ratification of one treaty. American and Australian soldiers have fought together on every battlefield of the world from the Meuse Argonne in 1918 to the Mekong Delta and Desert Storm. In all of our major wars there has been one constant, Americans and Australians have been the vanguard of freedom. In fact when American troops launched their first combined assault on German lines in World War I, it was under the guidance of the legendary Australian fighter General John Monash. We share a common historic and cultural heritage. We are immigrant peoples forged from the British Empire. We conquered our continents and became a beacon of hope for people struggling to be free.

For over 100 years, the United States and Australia have been the foundation for stability in the South Pacific. When America suffered its worse loss of life since December 7, 1941, the first nation to offer a helping hand was Australia. The day after the attacks on Washington and New York, Australia invoked the mutual defense clause of the ANZUS Treaty. They were the first to offer military support. Australian special forces are in Afghanistan and after Great Britain have made the largest per capita contribution to our efforts there. In the fight to break the back of al-Quaeda and the Taliban, Australian troops scaled the mountains around Tora Bora.

Mr. President, we received another wake-up call on October 12. We can no longer let the nay sayers and the hand wringers counsel timidity have their way. The free world is clearly in the sights of fanatics who want to plunge us into a new dark age. Whether it be Saddam Hussein, Osama bin Laden, or the coward who attacked men, women, and children on holiday in Bali, they are part of the same threat to free peoples.

We send our heartfelt condolences to the people of Australia and pledge to stand with them in their fight for peace and freedom.

PRESIDENTIAL ABILITY TO LAUNCH AN ATTACK

Mr. BYRD. Mr. President, I would like to take this opportunity to submit for the RECORD two very thoughtful and well-researched documents submitted to me by renowned constitutional scholars with respect to the President's ability to launch an unprovoked military attack against a sovereign state.

Earlier this year, I wrote to a number of constitutional scholars advising them that I was concerned about reports that our Nation was coming closer to war with Iraq. I asked a number of esteemed academics their opinion as to whether they believed that the Bush Administration had the authority, consistent with the U.S. Constitution, to introduce U.S. Armed Forces into Iraq to remove Saddam Hussein from power.

All of the scholars I consulted responded by stating that, under current circumstances, the President did not have such authority. I have previously submitted for the RECORD the responses of professors Michael Glennon of Tufts, and Jane Stromseth of Georgetown University Law Center.

Now, I would like to submit two additional responses I received on this same subject from professors Laurence Tribe of Harvard Law School and William Van Alstyne of the Duke University School of Law. I found the depth and breadth of their scholarship on this subject to be extremely impressive and, for this reason, I ask unanimous consent that their responses to me be printed in the RECORD.

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

DUKE UNIVERSITY,
SCHOOL OF LAW,
Durham, NC., August 7, 2002.

Senator ROBERT C. BYRD,
Chairman, U.S. Senate
Committee on Appropriations,
Washington, DC

DEAR SENATOR BYRD: I am writing in response to your letter of July 22 inquiring whether in my opinion, ''the Bush Administration currently has authority, consistent with the U.S. Constitution and the War Powers Resolution, to introduce U.S. Armed Forces into imminent or actual hostilities in Iraq for the purpose of removing Saddam Hussein from Power.'' You raise the question because, as you say, in your letter, you are ''deeply concerned about comments by the Bush Administration and recent press reports that our nation is coming closer to war with Iraq.''

I was away from my office at Duke University During the week when your inquiry arrived. Because you understandably asked for a very prompt response, I am foregoing a fuller, more detailed, statement to you just now, the day just following my reading of your letter, on August 6. I shall, however, be pleased to furnish that more elaborate statement on request. Briefly, these are my views:

A. The President may not engage our armed forces in ''war with Iraq,'' except in such measure as Congress, by joint or concurrent resolutions duly passed in both Houses of Congress, declares shall be undertaken by the President as Commander in Chief of the Armed Forces. As Commander in Chief, i.e., in fulfilling that role, the President is solely responsible for the conduct of whatever measures of war Congress shall authorize. It is not for the President, however, to presume to ''authorize himself'' to embark on war.

Whether the President deems it essential to the National interest to use the armed forces of the United States to make war against one of our neighbors, or to make war against nations yet more distant from our shores, it is all the same. The Constitution requires that he not presumed to do so merely on his own assessment and unilateral order. Rather, any armed invasions of or actual attack on another nation by the armed forces of the United States as an act of war requires decision by Congress before it proceeds, not after the President would presume to engage in war (and, having unilaterally commenced hostilities, then would merely confront Congress with a ''take-it-or-leave it'' fait accomplis). The framers of the Constitution understood the difference vividly—and made provision against vesting any war-initiating power in the Executive.[1]

B. Nor does the form of government of—or any policy currently pursued by—an identified foreign nation affect this matter, although either its form of government or the policies it pursues may of course bear substantially on the decision as shall be made by Congress. Whether, for example, the current form of government of Iraq is so dangerous that no recourse to measures short of direct United States military assault to ''remove'' that government (a clear act of war) now seem sufficient to meet the security needs either of the United States or of other states with which we associate our vital interests, may well be a fair question. That is a fair question, however, is merely what therefore also makes it right for Congress to debate that question.

Indeed, it appears even now that Congress is engaged in that debate. And far from feeling it must labor under any sense of apology

[1] It is today, even as it was when Thomas Jefferson wrote to James Madison from Paris, in September, 1789, referring then to the constitutional clauses putting the responsibility and power to embark on war in Congress rather than in the Executive. And thus Jefferson observed: ''We have given, in example, one effectual check to the dog of war, by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.'' C. Warren, The Making of the Constitution 481 n. 1 (1928). (See also Chief Justice Johnson Marshall's Opinion for the Supreme Court in Talbot v. Seeman, 5 U.S. (1 Cranch) 1,28 (1803) (''The whole powers of war being, by the constitution of the United States, vested in congress, the acts of that body can alone be resorted to as our guides.'')

in conducting that debate—whether or not some in the executive department of elsewhere express irritation over what they regard as presumptuous by Congress, it is not presumptuous but entirely proper. It is what the Constitution assigned to Congress the responsibility to do.

C. And first, with respect to that debate, suppose it were the case of the President believed that measures of war were not now necessary and ought not be passed by Congress, at least not at this time. I put the point this way the better to clear the air to make a neutral observation of the respective roles.—Were he of that view, without doubt he shall so advise Congress. And equally without doubt, Congress should desire and welcome him to do so, not merely from respect for his office, rather, at least equally because both his information and his views would be among the most important considerations Congress should itself take into account.

D. But the same is true in the reverse circumstance as well. It is altogether the right prerogative of the President to lay before Congress every consideration which, in the President's judgment, requires that measures of direct military intervention in Iraq now be approved by Congress, lest the security of the nation be even more compromised than it already is.[2] If the President believes we cannot any longer, by measures short of war, now avoid the unacceptable risk of weapons of mass destruction from developing under a repressive Iraq regime already defiant of various earlier resolutions by the United Nations Security Council, it is by all means his prerogative and his responsibility as President candidly, even bluntly, to say so—to Congress.

And he may as part of that address, accordingly request from Congress that he now be appropriately authorized, as President and as Commander in Chief, ''to deploy and engage the armed forces of the United States in such manner and degree as the President determines to be necessary in affecting such change of government in Iraq'' . . . as will remove that peril, or accomplish such other objectives (if any) as Congress may specify in its authorizing resolution. Supposing Congress agrees, the resolution will be approved, and the authority of the President to proceed, consistent with that resolution, will be at once both established and clear.

E. Equally, however, in the event that Congress does not agree. That is, insofar as, despite whatever presentation the President shall make (or shall have made), Congress is unpersuaded that such military intervention under the direction of the President as he may propose is now appropriate to authorize and approve, it may assuredly decline to do so. In that circumstance, and until Congress shall decide otherwise, matters also settled and equally clear. The President may not then proceed to embark upon a deliberate course of war against the government or people of Iraq.

F. And correspondingly, however, the President is not to be faulted in that circumstance, insofar as authorization by Congress for military intervention or other measures of war is withheld. For the responsibility (and any fault—if fault it be) then will rest with Congress, even as the Constitution contemplates that it should.

In short, the President acquits himself well by making full report to Congress of information, and of his reasons, and of his judgment, as to what the circumstances now require of the nation, in his own view. That Congress may disagree is no reflection upon the President nor, necessarily, upon itself. Rather, it but reminds us of which department of our national government is charged by the Constitution to decide whether and when we shall move from a position of peace, however strained, to one of war. By constitutional designation, that department is assuredly the legislative department, not the executive.

G. I do not here presume to address the limited circumstance in which the country comes under attack, in which event the President may assuredly take whatever emergency measures to resist and repel it are reasonably required to that end. Likewise, in respect to exigent circumstances of U.S. forces or American citizens lawfully stationed, or temporarily resident, in areas outside the United States in which local hostilities may unexpectedly occur, with respect to which intervention to effectuate safe rescue will not be regarded as an act of war. Neither these nor other variant possibilities were raised by your letter, however, so I leave them for another day.

You also asked for comments respecting three previous Joint Resolutions by Congress, i.e., whether any of these, or some combination, constitute a sufficient basis for the President to proceed to engage whatever magnitude of invasive forces would be necessary to overthrow Iraq's current government and/or seek out and destroy or remove such weapons of mass destruction, as well as the means of their production, as that invading force would be authorized to accomplish. Specifically, you adverted to The War Powers Resolution of 1973 (Pub. L. No. 93–148, Nov. 7, 1973); The Authorization for Use of Military Force Against Iraq Resolution of 1991 (Pub. L. No. 102–1, Jan. 14, 1991); and The Authorization for Use Military Force Resolution of 2001 (Pub. L. No. 107–40, Sept. 18, 2002).

As to the first of these, the ''War Powers Resolution of 1973'' (or War Powers Act as it is sometimes informally called), I am very clear that it is certainly not a Resolution authorizing or directing the President now to engage the armed forces of the United States in acts of war within or against Iraq. As to the second and third, I do not believe they can serve that function either, though there is some more reasonable margin for disagreement—one which Congress itself, however, is frankly far between situated to attempt to resolve than I do anyone else so removed from a fuller record one would need to be of more than marginal help.

The reasons for my uncertainty regarding the Joint Resolution of 1991 (specifically captioned by Congress as ''The Authorization for Use of Military Force Against Iraq Resolution'') will take but a few sentences to share. That this Resolution did authorize what became ''Operation Desert Storm'' as a major use of the war power, against Iraq specifically, under the direction of the President (with collaborative forces of other nations), and the use of massive force, including bombardment and invasion of Iraq, is unequivocal. A declared objective sought to be achieved (and thus part of the described scope of the authorized use of force) was . . . to ''achieve implementation of'' . . . eleven United Nations Security Council Resolutions, each identified by specific number. The Resolution also required (i.e., ''the President shall submit'') the President ''at least once every 60 days'' to submit to Congress a summary on the status ''of efforts to obtain compliance by Iraq'' with those resolutions.

Foremost among the stated objectives of that authorized use of war power was to force the unconditional withdrawal of Iraq forces from Kuwait and restoration of that country's ''independence and legitimate government.'' As much as that has surely been accomplished—was well accomplished fully a decade ago.

However, the Resolution also recited that ''Iraq's conventional, chemical, biological, and nuclear weapons and ballistic missile programs and its demonstrated willingness to use weapons of mass destruction pose a grave threat to world peace.'' Thus, it was also in contemplation of that ''grave threat'' the United States was willing to make the commitment as it did. And we have the President's report (as I must assume Congress has received it) that that threat has not yet abated, indeed, may have been renewed.

Moreover, it is additionally true that in a significant sense, our ''invasion'' of Iraq, proper as it was immediately following this authorization by Congress (and still may be), continues to this very day. It does so, as the Congress is well aware in a variety of ways, but most notably by the continuing armed overflights through large swaths of Iraq air space, and the continuing forcible interdiction of Iraqi installations in large areas of Iraq (north and south) by direct military force. So, in one reasonable perspective, there has simply been a continuing, albeit immensely reduced and attenuated ''war'' with Iraq, under the direction of the President, and within the boundaries of that original Resolution of 1991.

Still, it is far from certain that these elements are enough insofar as the President may now propose to ''re-escalate'' the conflict in enormous magnitude: (a) to overthrow the government of Iraq and (b) insert whatever invading force as he would deem required to locate and destroy any existing stores of weapons of ''mass destruction,'' and the means of their production. The principal basis for that uncertainty (at least my own uncertainty) is twofold. First, that the express authorization made by Congress in 1991 was, as noted above, to use all necessary military force ''to achieve implementation of'' certain specifically numbered UN Security Council Resolutions, none of which I have had the opportunity to read or study, and therefore cannot resolve for suitable fit today. It is my impression that with the exception of ourselves (and perhaps the British), however, that members of the Security Council may not now regard those decade-old resolutions as adequate for the United States to use as an adequate sanction to ''reignite'' a virtual full-scale war, as distinct from the continuing overflights, but I am in no position to speak to that question as well as others. Similarly, I should think it best for Congress itself, to resolve whether the decade-old Resolution enacted by Congress in 1991 can cover the present case as well though, in my own view, it probably does not.

Third, and most recent among the resolutions you enclosed, is the express ''Authorization for Use of United States Armed Forces'' by Congress, adopted on September 18, 2001, following the cataclysmic events of September 11. The authorization is quite current and it calls expressly for the use of U.S. Armed Forces ''against those responsible for the recent attacks launched against the United States.'' It is also framed in the following quite inclusive terms, in §2(a), that:

[T]he President is authorized to use all necessary and appropriate force against

[2] Exactly as President Jefferson did in reporting to Congress in equivalent circumstances, in 1801. Thus, his urgent message to Congress reviewed attacks recently made against American commercial vessels in the Mediterranean, reported defensive steps already taken in repelling those attacks, and then declared the following. ''The Legislature will doubtless consider whether by authorizing measures of offense also, they will place our force on an equal footing with that of its adversaries. I communicate all material information on this subject, that in the exercise of this important function confided by the Constitution to the Legislature exclusively, their judgment may form itself on a knowledge and consideration of every circumstance of weight.'' 22 Annals of Cong. 11 (1801), reprinted inn 1 Messages and Papers of the Presidents, 1789–1897, ata 326–27 (J. Richardson ed. 1898) (emphasis added.)

those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.

I nonetheless think it doubtful that this will ''stretch'' to cover a proposal to use military force to overthrow the government of Iraq as is currently being considered, without authorization by Congress, absent quite responsible evidence that Iraq was involved in ''the terrorist attacks that occurred on Sept. 11, 2001''—evidence that may exist but not that I have seen reported in the press or elsewhere. I note, respectfully, that the authorization is not an ''open-ended'' one to authorize the use of military power against any nations, organizations, or persons whom the President identifies as proper targets insofar as it would merely help in some general sense to ''prevent'' future terroristic attacks by such nations, organizations, or persons. Rather, it is to permit such uses of military power only with reference to those identified as having contributed in some substantial manner to the September 11th attacks, or known now to be harboring such persons.

But in this effort not to neglect your several requests, I have (more than?) reached my limit to try to be of immediate assistance to you and your committee. The portions of this letter I would emphasize are in its first half, the portions dealing with the constitutional questions reviewed in letter sections A. through F. I wish you well with your deliberations.

Sincerely,

WILLIAM VAN ALSTYNE.

HARVARD UNIVERSITY,
LAW SCHOOL,
Cambridge, MA, July 31, 2002.

HON. ROBERT C. BYRD
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: I share the concern expressed in your letter of July 22, 2002, about recent reports that our nation is approaching war with Iraq. I wish I had the time to give your questions regarding those reports the detailed and thoroughly documented reply they deserve. Unfortunately, I will have to be content with a brief statement of my conclusions and of the basic reasons for them.

My study of the United States Constitution and its history, as a scholar and teacher of American constitutional law over the past thirty years, has suggested to me no authority for the President, acting as the Commander in Chief, to wage a purely preemptive war against another nation without at least consulting with Congress first, and without obtaining from Congress a formal authorization, whether in the form of a declaration of war or, at the least, a joint resolution expressing the assent of both the House and the Senate—with the exception of so exigent an emergency as to admit of no time for such consultation and authorization without mortal and imminent peril to our nation.

Of course, if the President were to learn, for example, that another nation was about to launch a massive thermonuclear attack on the United States, and if there genuinely appeared to be no possibility of deterring such an attack by threatening a fatal counterstrike or by pursuing diplomatic alternatives consistent with our national security, then presumably the U.S. Constitution would not tie the President's hands by committing the Executive Branch to a course that would spell our virtually certain destruction as a nation. As many have famously observed, our Constitution is not a suicide pact. But that exception for cases of self-defense cannot be treated so elastically that the exception threatens to swallow the rule.

In circumstances when the President takes the position that delaying a mobilization and deployment of our armed forces to attack another sovereign state while Congress debates the matter, although not necessarily threatening our nation's imminent destruction, would nonetheless expose us to grave and unacceptable danger by letting the optimal moment for a preventive attack pass as that hostile state proceeds to accumulate rapidly deployable weapons of mass destruction and moves inexorably toward unleashing those weapons on us or on our allies, either directly or through proxies, it would be difficult to defend a completely doctrinaire response to the questions your letter addressed to me. In so ambiguous a situation, the allocation of power between the President and Congress is not a matter that admits of absolutely confident and unambiguous assertions, for the Constitution's framers wisely left considerable areas of gray between the black and white that often characterize the views of advocates on both sides of the invariably heated controversies that attend instances of warmaking.

That said, it remains my view, as I wrote in volume one of the 2000 edition of my treatise, ''American Constitutional Law,'' §4–6, at page 665, ''although the Constitution does not explicitly say that the President cannot initiate hostilities without first consulting with and gaining the authentic approval of Congress, that conclusion flows naturally, if not quite inescapably, from the array of congressional powers over military affairs and especially the provisions in Article I, §8, clause 11, vesting in Congress the power to declare war. To permit the President unilaterally to commit the Nation to war would read out of the Constitution the clause granting to the Congress, and to it alone, the authority 'to declare war.'" (Footnotes omitted.) Whether with the aid of the War Powers Resolution of 1973—a resolution that some have regarded as a quasi-constitutional articulation of the boundaries between the Presidency and the Congress—or without regard to that much mooted (and arguably question-begging) assertion of congressional power to draw those boundary lines for itself—one would be hard-pressed to defend the proposition that, simply because the President thinks it inconvenient to bring Congress into his deliberations and to await Congress's assent, he may suddenly proceed, like the kings and emperors of old, unilaterally to unleash the dogs of war.

I put to one side the profound lesson of our ill-fated involvement in Vietnam—the lesson, as I see it, that a President who wages war without first assuring himself of the deep national consensus and commitment that can come only from a thorough national ventilation of the arguments pro and con plunges the nation into a perilous and probably doomed course. Purely from the perspective of wise policy, that is a lesson one hopes is not lost on our President, or at least on his closest advisors, many of whom would seem to be astute students of American history. But it is probably for the best, in the long run, that the Constitution does not invariably enjoin wisdom upon those who wield power in its name. It leaves each of the three great branches of the national government free to make serious, even tragic, blunders—a fate from which not one of the three branches of government is immune. In any event, I reach the constitutional conclusions expressed in this letter not by virtue of any firm convictions one way or the other about the path of wisdom in the difficult circumstances we face when dealing with as malevolent and dangerous a leader as Iraq's Saddam Hussein. I lack the hubris to pretend that I know better than the President and his Administration just what the path of wisdom is in this matter. My very substantial doubt that the President has constitutional authority to launch a preemptive or preventive strike against Iraq therefore represents as detached a reading as I am capable of giving the relevant constitutional text, structure, and history.

It seems quite clear that S.J. Res. 23 (Pub. L. No. 107–40), the joint resolution authorizing the use of U.S. military force against those responsible for the attacks of September 11, 2001, would not furnish the requisite congressional assent to any such strike against Iraq, or even to the introduction of U.S. armed forces into imminent or actual military hostilities in Iraq for the purpose of removing Saddam Hussein from power. Unless convincing evidence of Iraq's involvement in the terrorist attacks of September 11 were to emerge, that joint resolution could not be said to offer even a fig leaf of cover for such a military campaign. To its credit, the Bush Administration does not appear to have suggested the contrary.

Nor could anyone argue that Pub. L. 102–1, enacted in 1991 to authorize the use of military force by President George H.W. Bush against Iraq to repel its invasion of Kuwait, offers any basis for a current military campaign to topple the Hussein government. To be sure, that enactment, promulgated pursuant to U.N. Security Council Resolution 678 to achieve the implementation of previous Security Council resolutions, may well have authorized U.S. armed forces to proceed to Baghdad at the time of Operation Desert Storm had the first President Bush decided to take that course. But he did not, and the time to complete that military thrust—a thrust that was abruptly ended a decade ago—has long since passed, the causus beli of that occasion now long behind us.

The circumstances that Saddam Hussein's government is undoubtedly in violation of numerous commitments that government made to the United Nations as a condition of the termination of Operation Desert Storm—commitments regarding access for U.N. inspectors to confirm that Iraq is not in fact developing and secretly storing lethal materials related to weapons of mass destruction—cannot by itself eliminate the constitutional requirement of congressional authorization for the waging of war by our armed forces.

One might, finally, imagine someone arguing that the absence of congressional debate and authorization should not be deemed fatal to the constitutionality of a preemptive military strike on Iraq for the pragmatic reason that such a debate would disclose too much to the enemy, depriving our plans of the shield of secrecy and our troops of the safety such a shield might provide. But any such argument—whatever constitutional standing it might have in other circumstances—would, of course, be unavailing on this occasion, if only because whatever shield secrecy might otherwise have provided has been rendered moot by the Bush Administration's repeated floating of trail balloons on the subject. Not to put too fine a point on it, whatever cover a secret military attack on Iraq might have enjoyed has by now been thoroughly blown.

I am therefore constrained to conclude that, on the basis of the facts as I understand them, the Bush Administration does not currently have sufficient constitutional and/or legislative authority to introduce U.S. armed forces into Iraq in order to wage war on that nation's government—even for the overwhelmingly salutary purpose of toppling

an authoritarian regime that has deployed weapons of mass destruction against its own people, that is overtly and overwhelmingly hostile to our nation, that threatens the security and stability of some of our closest friends and allies, and that besmirches the very idea of human rights.

If the President would use military force against the government in Baghdad, he must first consult with and obtain the consent of the Congress.

With best regards, I am

Sincerely,

LAURENCE H. TRIBE.

RETIREMENT OF SENATOR JESSE HELMS

Mr. THURMOND. Mr. President, I rise today to pay tribute to my longtime colleague from my neighboring State of North Carolina, Senator JESSE HELMS.

It has been my honor and great privilege to have worked so closely with this fine Senator for the past thirty years. Senator HELMS has been one of the great Senate leaders of the 20th century. After serving in the United States Navy during World War II, Senator HELMS went on to have an illustrious career in journalism. He began his reporting career as the city editor of The Raleigh News and later served as the editor of the Tarheel Banker, which became the largest State banking publication in our Nation. During his many years of reporting and as a top Executive at Capitol Broadcasting Company, his editorials appeared in more than 200 newspapers and more than 70 radio stations in North Carolina. During these years, he also served on the Raleigh City Council.

In 1972, JESSE ran for the Senate. It was my privilege to campaign throughout the State with him, forging a friendship which I treasure. Since his election, Senator HELMS has served our Nation with nothing but class, integrity, and honesty. During his five terms in the United States Senate, his service has been marked by countless significant achievements for our great Nation. Admired and respected by both parties, he truly embodies the qualities of a superior statesman. Senator HELMS is to be applauded for his work on the Committee of Agriculture, Nutrition, and Forestry, the Rules and Administration Committee, and for his work as Chairman and now ranking Minority member of the Committee on Foreign Relations.

His numerous awards reflect the many and varied contributions he has made to the Senate and to his State. He was the first Republican to receive the Golden Gavel for presiding over the Senate more than 117 hours in 1973. Along with others, he holds the Gold Medal of Merit from the Veterans of Foreign Wars and on three occasions was named the Most Admired Conservative in Congress by Readers Digest. I would also like to note Senator HELMS has received the Guardian of Small Business Award and the Watchdog of the Treasury Award every year since his 1973 election.

JESSE certainly represents the qualities of a true southern gentleman. He is a loving husband, father, and grandfather, a devout Baptist, and an individual who would stop at nothing to help his fellow North Carolinians. His wife, Dot, is a lady of grace and charm. They are an admirable couple and a wonderful example for others to follow.

For thirty years, the tireless Senator HELMS has carried out his duties as United States Senator with the utmost sense of honor. His dedicated service to our Nation has set an example for all to follow, and I have been privileged to have served with such an esteemed individual. It is because of leaders like Senator HELMS that our Nation is the greatest in the world. As the 107th Congress pays tribute and says farewell to one of the greatest Senators of all time, I say thank you to my colleague and my close friend.

Again, I congratulate JESSE on his lengthy and distinguished career and thank him for the friendship we have enjoyed during our many years working together. On behalf of myself, my colleagues, and a most grateful Nation, I express my gratitude for his outstanding service to the United States Senate. I wish him, his lovely wife Dot, three children, Jane, Nancy, and Charles, and his seven grandchildren the best of luck and continued health and happiness in the years to come.

THE CLEAN WATER ACT: 30 YEARS

Mr. LEVIN. Mr. President, on the 30th anniversary of the Clean Water Act, I am pleased to acknowledge progress in the cleanup of our Nation's lake and rivers. The goals were ambitious. Congress envisioned a nation of fishable, swimmable rivers and lakes, and zero discharges of harmful pollutants. While we have not reached those goals, the steps we have taken have improved the quality of our water, including the natural, and national, resources embodied in the Great Lakes.

As cochair of the Great Lakes Task Force, I have worked with other Members to pass appropriations and targeted legislation to protect our Nation's largest inland body of water. The citizens of Michigan and seven other adjoining States recognize the value of the Great Lakes system to industry, transportation, water resources, and recreation—a vital link in a long chain of waterways that enhance our economy, provide pleasurable pastimes, and protect our health.

That's why I authored the Great Lakes Critical Programs Act in 1990 that amended the Clean Water Act; these changes help States measure and control pollutants discharged into the Great Lakes. My bill helped set uniform, science-based water quality criteria, ensuring that citizens throughout the system share the burdens and benefits of reducing harmful pollutants that can affect human health. It also provided for control and cleanup of contaminated sediments that leach into the water, affecting people, fish, and wildlife.

I have helped secure other protections for wild creatures through the Great Lakes Basin Fish and Wildlife Restoration Act. This legislation provides a framework and funding for studying and adopting measures to restore healthy fish, bird, and animal populations and to manage fisheries responsibly.

Nonpoint source pollution contaminants discharged into water over a broad area are widely recognized as a major problem. The Great Lakes Soil Erosion and Sediment Control Program will help. This 2002 farm bill program provides grants for education on agricultural techniques, such as contoured farming and planting of vegetation along banks, that reduce the runoff of pesticides and other chemicals into streams and rivers.

Other legislation has set standards and enabled technology for reducing soil erosion, controlling sediment runoff, and creating environmental research labs specifically targeting the problems of the Great Lakes.

Even with our successes, however, EPA reports that more than 40 percent of our Nation's waterways remain too polluted for fishing, swimming, and other activities. Municipal sewage discharges and urban storm sewers continue to dump massive amounts of pollutants into our water. And more needs to be done in our cities, our industries, and our farms.

Thus the fight for water quality continues. In this Congress, I have introduced legislation to protect Great Lakes waters from invasive species the zebra mussel, Asian carp, and other intruders that enter U.S. waters through maritime commerce and on the hulls of ships. These intruders can damage ecosystems and wipe out entire populations of native fish.

I have also asked the Senate to consider the Great Lakes Legacy Act. This bill would provide funds for States to cleanup and restore areas of special concern, which do not meet the basic water quality standards laid out in a 1972 United States Canada agreement. These areas include some vital passages between the Great Lakes, including Michigan's Detroit and St. Clair Rivers.

Funding water quality management activities and improvements in environmental infrastructure is one of my highest priorities. Even now, Congress is exploring ways to improve funding for the construction of wastewater treatment plants to help control urban sewer and stormwater overflows, a huge source of nonpoint source pollution.

Even as we implement new measures, the Bush administration threatens a sweeping dismantlement of existing Clean Water Act safeguards by removing Federal oversight, allowing polluters to ''buy'' credits that would permit the continuation of harmful practices, and reneging on the decades-old

commitment to protect the Nation's wetlands.

The diligence of Congress, previous administrations, Federal and State agencies, and dedicated citizens helped us pass the Clean Water Act and other tough measures needed to preserve and protect water resources. We must stand guard over these gains and move forward, not backward, with even more effective measures. Clean water is a privilege, a pleasure, and something we can't live without.

Mr. LEAHY. Mr. President, tomorrow, as we recognize the 30th anniversary of the amendments to the Federal Water Pollution Control Act, the Clean Water Act, I want to take a moment to reflect on the importance of this cornerstone of environmental legislation and to frankly address the significant amount of work that remains to be done.

Vermont is a shining example to the Nation in terms of its environmental ethics and in its commitment to environmental action. I am proud to hail from and to represent a State whose people share a passionate and abiding concern for the environment.

We Vermonters are especially proud that much of the environmental progress and improvements to water the Nation has achieved in the last three decades can be directly attributed to the legacy of Vermont's own Robert Stafford. Bob Stafford's leadership in Congress helped shape national environmental policy from the time that the environmental movement was in its infancy and continued well into its maturity.

During his 30 years in the House of Representatives and in the Senate, Bob Stafford courageously and successfully stood up to those who sought to diminish and roll back our environmental standards. His efforts were heightened during his tenure as Chairman of the Committee on Environment and Public Works, a post he assumed in 1981 during the 97th Congress and maintained through the 99th. One of his crowning achievements during this time was working with Senator John Chafee to pass the Clean Water Act.

Although we should be proud of the great strides we have made to reduce and prevent the levels of pollutants and contaminants in our water, we are far from the visionary goals and ambitious standards set by those who conceived this vital legislation 30 years ago. When Senator Stafford testified before the Environment and Public Works Committee last week, he clearly challenged us to do more. We cannot halt the progress we have made and merely rest on our environmental laurels.

I call upon my colleagues, the administration and the American public to look back at the debate that took place at the time and the essence of this remarkable piece of legislation. The 1972 legislation declared as its objective the restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters. Two goals also were established: zero discharge of pollutants by 1985 and, as an interim goal and where possible, water quality that is both ''fishable'' and ''swimmable'' by 1983.

Although we have had more than twice that amount of time to meet these goals, we have only managed to get half-way there. According to EPA's 2000 National Water Quality Report released earlier this year, 39 percent of assessed river and stream miles and 45 percent of assessed lake acres do not meet applicable water quality standards and were found to be impaired for one or more desired uses.

In Vermont, too many of our waters still fall into this category. Over the last 30 years, we have addressed many of the point-sources of water pollution in Lake Champlain, the Connecticut River and other water bodies around the State. Unfortunately, we learn about new pollution concerns all the time. Years of unchecked pollution from coal-fired power plants outside of Vermont's borders have overburdened Lake Champlain and many of our rivers with mercury. Vermont now has fish advisories for walleye, lake trout and bass due to mercury.

There are solutions to this environmental challenge and others that threaten the health of Vermont's waters. We just need to act on them. Instead, I worry that we are ignoring the warning signs, such as climate change, new health problems in our children, loss of our natural resources to pests and disease.

By its actions I fear that the current administration seems to be interested in protecting special interests and ignoring public support for strong environmental protections and conservation measures. Just in the last few months, the administration has announced plans to rewrite Clean Water Act regulations that would allow dirt displaced by mountain top mining to be dumped in waterways. Army Corps of Engineers' regulations protecting wetlands have been relaxed, backing away from the decade-old commitment of no net loss of wetlands.

Instead of looking at ways to undercut the Clean Water Act, we need to get back on track and strengthen it.

THE LEADERSHIP IN UKRAINE

Mr. HELMS. Mr. President, the current leadership in Ukraine, led by President Leonid Kuchma, has been one of unmet promises. Failed efforts at economic reform, violent repression of independent media; and a rise in government corruption and cronyism has robbed the citizens of Ukraine of the bright future they deserve.

Ukraine is a vital country of 48 million people in the heart of Europe. A Europe whole, free and secure cannot be achieved without Ukraine's integration into Europe. However, I have become convinced that the actions of Ukraine's President Kuchma have demonstrated to the people of Ukraine and the world that their integration cannot be achieved with Kuchma at the helm.

Secret recordings made by a former security guard, who is now seeking asylum in the United States, raise suspicions that President Kuchma had knowledge of or involvement in the brutal murder of journalist Gyorgi Gongadze. This callous act shows that he will stop at nothing to repress the opposition and independent media who challenge his control.

As the United States and the international community are striving to eliminate the threat posed by Iraq's possession of weapons of mass destruction, evidence shows that President Kuchma approved the sale of the Kolchuga radar—an advanced system whose purpose is to threaten U.S. aircraft in violation of United Nations sanctions. The State Department recently confirmed the authenticity of an audio recording of President Kuchma approving the sale of a Kochulga radar system to Iraq in July 2000. Iraq has fired anti-aircraft missiles at coalition aircraft and while our expert pilots are trained to counter such measures, the Kolchuga radar system gives a boost to Iraqi air defenses by detecting approaching aircraft without tipping off the pilots.

Ukraine remains important to the United States, we must stand firm with the people and the brave reformers who hope for a better day for Ukraine. However, President Kuchma's day has passed. He deserves nothing more than what his actions bring him, isolation.

In bilateral meetings the United States should continue to meet at a ministerial level and in important multilateral organizations we should strive for the same. This includes NATO. At NATO's Prague Summit next month, the scheduled NATO-Ukraine Council meeting is an important opportunity for NATO and Ukraine to look for greater cooperation. On a range of issues, Ukraine has certain assets such as strategic lift which could be beneficial to our European NATO allies who lack such capabilities. NATO should conduct this meeting at the Ministerial level rather than at a Presidential level and send an important signal to the government of Ukraine. To do otherwise would result in President Bush sitting two seats down from a corrupt leader who is arming Iraq at a Summit which will likely focus on a possible war with Iraq.

I ask unanimous consent that the following articles that appeared in the Wall Street Journal on October 9, and The Washington Post on August 8 and September 22 be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 9, 2002]

UKRAINE'S ROGUE PRESIDENT

(By Adrian Karatnycky)

In his speech Monday night, President Bush laid out the threat posed by the Iraqi regime should it be able to ''buy, produce or

steal'' the ingredients for a nuclear weapon. But while the idea that any nation would willingly aid the murderous intentions of Saddam Hussein has long seem far-fetched, the possibility hit close to home in recent days.

Just a week before the speech, the Bush administration confirmed that Ukrainian President Leonid Kuchma had approved the sale of an antiaircraft radar system to Iraq. President Kuchma's decision, in clear violation of United Nations sanctions, may be the first sign of complications with loose technology in the states of the former Soviet Union.

DEADLY KNOW-HOW FOR IRAQ

Although Ukraine destroyed its last nuclear missile silo last year, the country is still an institutional repository of deadly know-how. It had also, up until last week, been considered a irreproachable friend of the U.S. But the revelation creates doubts which could fundamentally alter the U.S.'s relationship with Ukraine, and particularly with its president. Although Mr. Kuchma has denied any involvement in a sale and offered a joint investigation, the FBI has authenticated a tape of the Ukrainian president and his arms-export chief hatching the scheme.

Far from being any old technology, the radar system in question could make a significant difference for Iraq. If the U.S. goes to war, Mr. Kuchma will have tried to provide deadly technology that could cost the lives of American pilots. Whatever the next steps taken against Iraq, Ukraine's president cannot escape without paying a heavy price. If the U.S. succeeds in installing a rigorous U.N. inspections regime, an example must be made of Mr. Kuchma to ensure international compliance with anti-Iraq sanctions.

President Bush's anger over the plot by a country that was once the third biggest recipient of U.S. foreign aid is said to be palpable. U.S. officials suggest Mr. Bush is especially livid that Mr. Kuchma plotted the sale to Iraq just before a summit in 2000 with President Clinton, where the U.S.-Ukraine ''strategic partnership'' was celebrated. U.S. officials responsible for Ukraine policy are also indicating they believe Ukraine's ''Kolchuha'' early-warning radar system has been deployed in Iraq, suggesting there is some intelligence data to reach such a conclusion.

The new Iraq revelations come in the wake of incriminating details contained in hundreds of additional hours of clandestinely taped conversations of Mr. Kuchma's meetings recorded and smuggled out of the country by his former bodyguard who lives in exile in the U.S. These depict a crude and venal leader at the center of corrupt and criminal behavior. Several of the conversations have been authenticated by the Virginia-based voice analysis firm Bek Tech, headed by a former FBI operative.

The behavior appears to fit a pattern. Mr. Kuchma's Ukraine has emerged as a leading supply source for illicit traffic in global arms. In defiance of a U.N. embargo, arms and ammunition of Ukrainian origin have been seized in the weapons caches of Unita guerrillas in Angola. Widespread allegations suggest Ukrainian weapons breached a mid-1990s arms embargo in the former Yugoslavia and helped equip Afghanistan's Taliban. In 1997, Nigerian authorities alleged that Ukraine was involved in the sale of three aircraft fighters to rebels from Sierra Leone.

For years, Ukrainian officials strenuously denied that the illegal arms trade was officially sanctioned. But the authenticated Kuchma tape suggests that while Ukraine is not a rogue state, it has a rogue president. Apart from the Iraq conversation, there is a tape of a meeting between Mr. Kuchma and Oleksander Zhukov, a reputed underworld figure with ties to Leonid Minin, a suspected international arms dealer.

Mr. Kuchma's credibility with the U.S. has been pulverized in recent months. In the summer of 2001, the Ukrainian president apparently lied to National Security Adviser Condoleezza Rice in asserting that Ukraine supported a ''political solution'' to the ethnic conflict in Macedonia. All the while—with his approval—Ukraine persisted in shipping weapons to the Macedonian government.

In response to U.S. pressure, Ukraine's legislature will launch an investigation into the Iraq sale. But the legislature has refused to investigate an array of alleged crimes involving the president, including the unsolved murder in 2000 of opposition journalist Gyorgi Gonzadze.

With the next presidential election coming in two years, the best hope for Ukraine—and for the U.S.—is in pressuring Mr. Kuchma to step aside quietly in favor of early elections. Demonstrations, which began last month and drew nearly 100,000 protestors nationwide, are scheduled to start up again later this month.

For Ukraine's president to exit the scene, protests against him must widen—71% of Ukrainians tell pollsters he should go. The reformist former prime minister, Viktor Yushchenko, must try to woo Mr. Kuchma's wavering supporters, among them oligarchs and regional leaders, to support a transition. Diplomatic isolation of Mr. Kuchma by the U.S. and Europe must be airtight and confined to the president and his corrupt cronies, not the entire Ukrainian government or nation. Finally, Russian President Vladimir Putin, who stands by Mr. Kuchma, must be convinced that Russian interests would be better served by a reformist-led coalition government including significant representation from Ukraine's pro-Russian eastern regions.

The current U.S. review of its Ukraine policy must include initiatives that help encourage these trends while ensuring that change is constitutional and peaceful.

For months, Ukraine's rumor mills have been working overtime with hints that a deal to pave the way for a post-Kuchma Ukraine is in the works. One possible compromise would be to give Mr. Kuchma blanket amnesty for past transgressions. Even Yuliya Tymoshenko, a former economic magnate and deputy prime minister who is Mr. Kuchma's most bitter enemy, supports such a deal. As she told me several months ago, ''If one criminal can sleep easily so that the rest of the country can sleep well, then so be it.''

RUSSIA'S CYNICAL EMBRACE

If Mr. Kuchma resigns, Ukraine's Iraq-gate will have borne positive fruit. If he does not, the U.S. will confront two problems: Ukraine's president will demonstrate to other leaders that you can conspire with Iraq and get away with it. And Mr. Kuchma's inevitable isolation will drive Ukraine, a strategically important country of 50 million that sits on NATO's eastern frontier, into Russia's cynical embrace.

Both outcomes would cause headaches for Europe and the U.S. But the worst would be if Ukraine's movement toward Europe, democracy and the rule of law is hijacked by Mr. Kuchma's insistence on remaining in office.

[From the Washington Post, Aug. 8, 2002]

UKRAINE AND THE WEST

NATO's coming eastward expansion and its new partnership with Russia have prompted a major change in direction by one of Europe's largest and most unsettled nations, Ukraine. A country of more than 50 million people that is still struggling to gain its political and economic footing after a decade of independence, Ukraine has abruptly dropped its longstanding policy of balancing itself between the West and Russia. Its government recently requested talks on becoming a full member of both NATO and the European Union. The reaction has been guarded: Both European governments and the Bush administration seem unsure whether Ukraine should be a part of the Western alliance in the future, and there is resistance even to upgrading its relations with the EU. But Ukraine is too big to be safely kept on the back burner. The United States and Europe must formulate a clear answer. In some respects, the question of what to do about Ukraine seems easy. Given its huge size, strategic location in southern and central Europe and relatively sophisticated industrial economy, Ukraine is a natural member of the translational organizations that are slowly spreading across the continent. Without Ukraine, the longstanding Western goal of a Europe ''whole and free'' will remain incomplete; without an anchor in those institutions, the country's long-term stability and even its viability as an independent nation could be seriously threatened. Yet Ukraine as it exists today is a most difficult partner for the West to take on. Its economy remains a post-Communist shambles, and though it is nominally a democracy its president, Leonid Kuchma, has frequently resorted to thuggish tactics. His own poll ratings are in single digits, but Mr. Kuchma managed to manipulate a recent parliamentary election so that his cronies, rather than opposition parties that won 70 percent of the popular vote, maintained control.

Of even greater concern in Ukraine's involvement in improper arms trafficking and service as a transit point for illegal drugs and other contraband. Floating Western appeals, Ukraine's big weapons companies have shipped arms to Macedonia, Serbia and East Africa; secretly recorded audiotapes suggest that Mr. Kuchma himself at least discussed selling sophisticated antiaircraft systems to Iraq. Iraq recently opened an embassy in Kiev and announced it was interested in purchasing Ukrainian industrial goods and technology.

The Bush administration and most European governments have steadily distanced themselves from Mr. Kuchma. Congress has reduced U.S. aid. Some officials argue that Ukraine should not be invited even to begin discussions with NATO on conditions for becoming a member, at least as long as Mr. Kuchma and his cronies are in power. But NATO, which has laid out comprehensive and detailed reform programs for each of the countries seeking membership offers later this year, could also provide a structure for long-term change by Ukraine. A dialogue could constructively begin on such issues as arms sales, drug trafficking and military reform, with the understanding that these are the first steps in a membership preparation process that could extend for a decade. Making countries such as Ukraine fit for the club of Western democracies may not be NATO's first purpose, but the alliance is the best vehicle that exists for managing what is, ultimately, a transition vital to long-term European security.

[From the Washington Post, Sept. 22, 2002]

UNFINISHED BUSINESS IN EUROPE

(By Michael McFaul)

President Bush has made a strong commitment to a distinct tradition in international diplomacy by stating repeatedly that the United States has a strategic interest in regime change in Iraq. If Iraq changes from

dictatorship to democracy, so the argument goes, then Iraq will follow a friendlier foreign policy toward the United States.

To make his case, Bush has a powerful historical experience to draw upon: the end of the Cold War. Regime change in Eastern Europe and the Soviet Union fundamentally enhanced American national security. If Iraq possessed Russia's nuclear arsenal today, the United States would be in grave danger. Two decades ago we feared this same arsenal in the hands of the Kremlin. Today we do not. The reason we do not is that the regime in Russia has become more democratic and market-oriented and therefore also more Western-oriented. Unfortunately, the task of promoting democratic regime change in the former Soviet Union is not complete. In rightly focusing on how to promote democratic regimes in the Muslim world, the Bush administration is failing to complete the consolidation of capitalism and democracy in the former communist world and the integration of these new democracies into the Western community of democratic states.

To assume that this process of democratization and integration will march forward without American prodding is misguided. First, the lines between East and West in Europe are beginning to harden, not fade. After the next round of expansion, the European Union is very unlikely to offer membership to countries farther to the east in the near future. Bureaucrats in Brussels simply laugh when the idea of Russian or Ukrainian membership in the EU is raised. NATO has moved more aggressively to extend its borders eastward, but it too will become fatigued and inwardly focused after the next round of expansion. If the prospect of membership in NATO and the EU can no longer be considered a foreign policy goal for those left out of the next wave of expansion, then the pull of the West will diminish.

Second, democratization on the periphery of Europe has stalled. A dictator who praises Stalin and Hitler runs Belarus. President Vladimir Putin has weakened democratic institutions and grossly violated the human rights of his own citizens in Chechnya in his attempt to build ''managed democracy'' in Russia. In Ukraine, President Leonid Kuchma aspires to create the same level of state control over the democratic process as Putin has achieved in Russia to ensure a smooth—that is, Kuchma-friendly—transition of power when his term ends in 2004. In contrast to Russia, Ukraine has a vibrant democratic opposition, whose leader, Viktor Yuschenko, is likely to win a free and fair presidential election. This vote in 2004 will be free and fair, however, only if the West is watching. Only in Moldova has authorization creep been avoided, but that's because of the weakness of the state, hardly a condition conducive to long-term democratic consolidation.

Over time, the combination of a closing Western border and growing authoritarianism on the Eastern side of this wall spells disaster for American security interests in the region. As the United States gears up to create new regimes with a democratic and Western orientation in the Middle East, it may be losing the gains of similar efforts of democratic promotion in the communist world during the Cold War.

Obviously, President Bush's foreign policy team is overworked and focused now on Iraq. Nonetheless, the United States should be able to conduct more than one foreign policy at the same time. In numerous speeches, Bush has already outlined his grand strategy for foreign policy. He has stated repeatedly that the United States should champion freedom and liberty for people around the world, and when necessary even promote regime change in those countries that do not offer their citizens basic democratic rights. To be a successful and credible doctrine, however, this strategy must be applied consistently.

When diplomatic historians look back on the 1990s, they should describe it as the era of European integration. They will do so, however, only if the project is completed. As the Bush administration begins the process of promoting democratic regime change along a new frontier in the Muslim world, it must also finish the job on the European frontier.

The writer, a Hoover Fellow and professor of political science at Stanford University, is a senior associate at the Carnegie Endowment for International Peace.

STEPHEN AMBROSE

Mr. KOHL. Mr. President, I rise today as an original cosponsor of Senator LANDRIEU's resolution honoring the life of Dr. Stephen E. Ambrose, a distinguished historian, storyteller and treasure of the State of Wisconsin. Born in Whitewater, WI, Dr. Ambrose attended the University of Wisconsin for both his undergraduate and his doctorate, molding a career in American history and embarking on a path he almost didn't take. From his first book, ''Wisconsin Boy in Dixie,'' published in 1961, Dr. Ambrose went on to publish more than 30 books, captivating audiences, young and old, for 41 years.

Dr. Ambrose once said, ''When I'm writing at my best, I want to share my own discoveries with the reader. I want to take people to a new understanding of an event, an individual or a story. I want them to be as amazed as I am.'' It was with this great love for storytelling Dr. Ambrose catapulted readers into the horrific, yet glorifying days of World War II, reigniting old memories and sparking new compassion among those who lived through the era and those who have only read about it in history books. He dedicated numerous books to the courage and sacrifice of the men and women who fought in World War II and is the founder of The National D-Day Museum in New Orleans, LA, the only museum in the country dedicated to ''all of the 'D-Days' of World War II, and to those at home who supported these efforts.''

From a little-known history professor came this thunderous voice for the thousands of Americans who fought to preserve the freedom of this country. His contributions to the historical education of the American people are both priceless and unmatched. His knowledge, enthusiasm and dedication to the preservation of hometown heroes and history enthusiasts alike will be greatly missed. Speaking on behalf of the state of Wisconsin, this country has certainly lost one of its finest historians.

HOLD TO H.R. 4125

Mr. GRASSLEY. Mr. President, I would like to inform my colleagues that I have requested to be notified of any unanimous consent agreement before the Senate proceeds to the consideration of H.R. 4125. I have some concerns with this bill and would like to review it further. In addition, there are other Federal courts improvement measures that could be added to make this bill better, such as my Sunshine in the Courtroom legislation, which would allow federal judges discretionary authority to allow media coverage of Federal court proceedings with appropriate safeguards.

MILITARY CONSTRUCTION APPROPRIATIONS CONFERENCE REPORT FOR FISCAL YEAR 2003

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

I did not object to the unanimous consent request to proceed to a voice vote on the fiscal year 2003 Department of Defense Military Construction appropriations conference report because on the day that this funding bill passed, I had managed the floor for more than 16 hours while the Senate proceeded with the serious matter of debating and finally approving the Iraqi War Resolution.

America remains at war, a war that continues to unite Americans in pursuit of a common goal, to defeat terrorism. All Americans have, and undoubtably in the future will make sacrifices for this war. Many have been deeply affected by it and at times harmed by difficult, related economic circumstances. Our servicemen and women in particular are truly on the front lines in this war, separated from their families, risking their lives, and working extraordinarily long hours under the most difficult conditions to accomplish the ambitious but necessary task their country has set for them.

Every year, I come to the Senate floor to highlight 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 is not.

There are 26 conferees of the Appropriations Military Construction Conference report who represent 19 States. Of those 19 States only one, Wisconsin, did not have projects added on this appropriations bill. Of 119 projects added to this bill, 60 projects are in the states represented by the MILCON Appropriations Conferees, totaling over $530 million. Those numbers, needless to say, go well beyond the realm of mere coincidence.

By adding over $900 million above the President's request, the Appropriations Conference Committee is further draining away funds desperately needed for enhancing our warfighting capability. Commonsense reforms, closing military bases, consolidating and

privatizing depot maintenance, ending ''Buy American'' restrictions, and ending pork-barrel spending—that I have long supported would free up nearly $20 billion per year which could be used to begin our long-needed military transformation.

We are waging a war against a new enemy and at the same time undertaking a long-term process to transform our military from its cold war structure to a force ready for the challenges of tomorrow. A lack of political will had previously hamstrung the transformation process, but the President and his team have pledged to transform our military structure and operations to meet future threats.

The reorganization of our armed services was 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.

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. Needless to say, this transformation process will require enlightened, thoughtful leadership, and not the pork-barreling of military funds if we are to best serve America in this time of rapid change in the global security environment.

I look forward to the day when my appearances on the Senate floor for this purpose are no longer necessary. I reiterate, over $900 million in unrequested military construction projects were added by the Committee to the defense appropriations bill. Consider how that $900 million, when added to the savings gained through additional base closings and more cost-effective business practices, could be used so much more effectively.

The problems of our Armed Forces, whether in terms of force structure or modernization, could be more assuredly addressed and our warfighting ability greatly enhanced. The American taxpayers expect more of us, as do our brave servicemen and women who are, without question, fighting this war on global terrorism on our behalf.

But for now, unfortunately, they must witness us, seemingly blind to our responsibilities at this time of war, going about our business as usual.

SUPPORT FOR OUR TROOPS

Ms. STABENOW. Mr. President, I rise today to indicate my resolve that our men and women in uniform have this Senate's full support in whatever actions might be taken regarding Iraq and in our ongoing war against terrorism.

The question has never been whether Saddam should be disarmed but rather how best to accomplish that goal.

I was pleased to join with my colleagues, Senator CARL LEVIN, Chair of the Armed Services Committee, Senator BOB GRAHAM, Chair of the Intelligence Committee, and Senator DAN INOUYE, Chair of the Defense Appropriations Subcommittee in supporting a resolution that focused on the creation of an international coalition to enforce a tough inspection regime with real deadlines for Saddam along with the authorization of force to disarm him in cooperation with our allies through the United Nations.

But that is not the approach that was passed by this body. I hope President Bush will wisely use the broad powers that Congress has given him. I continue to hope he will take the time to assemble a worldwide coalition—ready to use force if necessary—that will convince Saddam he has no choice but to disarm.

But we have had the debate. We have had the vote. And it is time for Congress to show there are no Democrats and no Republicans when it comes to supporting our troops.

We have shown that support by quickly passing the Defense appropriations bill. This ensures our troops will have the most up-to-date weapons, fast-moving logistical support and the best pay and benefits of any armed forces in the world. This is essential to support these patriots and their families at home.

This bill does that by boosting defense spending to more than $355 billion for the fiscal year that began Oct. 1—a $34.4 billion increase over last year. This new spending will help not only with any action against Iraq, but also in honoring our commitments around the world in the global fight against terrorism.

It is important to recognize that this bill includes nearly $94 billion to provide for a 4.1 percent pay increase as well as full funding of all authorized benefits for all military personnel.

I think all of us agree that war should always be our last choice.

But, if it comes to that last resort, I promise that I will do everything within my power to ensure that our armed forces have the weapons and materials they need to defeat any enemy and expose our troops to the least possible risk.

We have to remember that it is not just Iraq that poses a threat. We still have troops in Afghanistan and the Philippines. We have seen new terrorist attacks in Kuwait, Bali and against a French oil tanker. The war against terrorism is far from over and our troops need support in that battle as well.

Upon our Nation's shoulders have fallen staggering duties as the world's sole remaining superpower. But Americans already stand on the tall shoulders of our own history and we do not shrink from these burdens.

I believe that if we stand tall for our ideals the world will follow and we can disarm Iraq and defeat world terrorism as part of a broad coalition of allies.

If our country acts alone, our men and women in uniform must always know that their Nation is united behind them in gratitude for their service, in pride of their dedication to duty and in awe of their bravery.

I yield the floor.

U.S. TRADE LAWS

Mr. BAUCUS. Mr. President, I would like to engage in a colloquy with the Senator from West Virginia. On May 23, during the debate of the trade bill, Senator ROCKEFELLER spoke on some of the provisions in the Trade Promotion Authority provisions relating to trade remedy laws. There has been continued discussion of these issues over the past several months, so I would like to take this opportunity to clarify that the points we made in discussing the Senate bill apply equally to the Conference Bill.

Section 2102(b)(14) of the TPA bill states that it is a ''principal'' U.S. negotiating objective to preserve, in all trade negotiations, the ability of the United States to enforce rigorously its trade remedy laws and to avoid any agreement that would require weakening of the current U.S. antidumping, countervailing duty and safeguard remedies. The Committee on Finance regards strict adherence to this directive as critical in advancing the economic interests of the United States in future trade agreements.

The directive encompasses any weakening of the existing remedies, whether at the level of statute, regulation or agency practice. This means that the Administration must reject any new international rule or obligation whose acceptance would lead to relief under our existing trade laws becoming more difficult, uncertain, or costly for domestic industries to achieve and maintain over time.

I want to highlight again some examples of new international obligations that have been proposed by WTO members, and that would obviously result in a weakening of U.S. trade laws and therefore must be rejected under the standard set out in section 2102(b)(14).

These include:

No. 1, a ''public interest'' rule politicizing and encumbering the administrative processes under which trade remedy laws are currently applied;

No. 2, a requirement to exempt from trade remedy measures items alleged to be in ''short supply'' in the domestic market;

No. 3, a ''lesser duty'' rule limiting antidumping and countervailing duties to some amount less than the calculated margin of dumping or subsidy, such as the amount supposedly necessary to offset the injury;

No. 4, any extension of faulty dispute resolution models such as Chapter 19 of the NAFTA;

No. 5, changes to the rules for ''sunset'' reviews of antidumping and CVD measures which would make it more difficult to keep relief in place;

No. 6, additional constraints or criteria for dumping calculations, in areas

where current WTO rules and U.S. law vest discretion in the administering authority; and

No. 7, special rules and standards that would make it easier for a particular group of countries, such as developing countries, to utilize injurious dumping or subsidies as a means of getting ahead in international trade.

Mr. ROCKEFELLER. I agree, and I also want to clarify that section 2102(b)(14) is a ''no weakening'' provision, and not a ''no net weakening'' provision. In other words, it encompasses any new international obligation whose acceptance would impair current U.S. trade remedies by making relief costlier, more uncertain, or otherwise harder to achieve and maintain over time. An agreement that includes such changes must be rejected, and it is no answer, insofar as section 2102(b)(14) and the intent of the Congress is concerned, to contend that the agreement in question also includes some ''strengthening'' provisions.

As I believe the strong vote on the Dayton-Craig amendment demonstrated, it would be a serious mistake to think that an agreement or package of agreements can be successfully presented to Congress for approval, under fast-track rules or otherwise, if it includes weakening changes to our trade remedy laws.

I would also like to clarify that this negotiating directive does not preclude U.S. negotiators from addressing the very serious shortcomings that have become apparent in the operation of the WTO dispute settlement system.

Mr. BAUCUS. That is exactly right. As explained in the Finance Committee's report on the TPA measure, in a series of decisions involving trade remedy measures, the WTO Appellate Body and lower dispute settlement panels have fabricated obligations which our negotiators never accepted and blatantly disregarded the discretion which the Uruguay Round negotiators intended national investigating authorities to retain. These WTO tribunals have violated their mandate not to increase or reduce the rights and obligations of WTO Members; have imposed their preferences and interpretations, and those of a biased WTO Secretariat, on the United States and on other WTO Members; and have issued decisions with no basis in the legal texts they supposedly were interpreting.

The effect has been to upset the careful balance achieved in the Uruguay Round by adding new, and wholly unwarranted, constraints on the use of trade remedies. The no-weakening directive presents no impediment to the pursuit of a forceful U.S. agenda to address the problems plaguing WTO dispute settlement.

COST ESTIMATES—S. 2667, H.R. 3656, AND H.R. 4073

Mr. BIDEN. Mr. President, on October 8, the Committee on Foreign Relations ordered reported three bills, S. 2667, H.R. 3656, and H.R. 4073. I ask unanimous consent that the cost estimates prepared by the Congressional Budget Office with regard to these bills be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 10, 2002.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2667, the Peace Corps Charter for the 21st Century Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehill, who can be reached at 226–2840.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 2667—Peace Corps Charter for the 21st Century Act

Summary: S. 2667 would authorize appropriations for the Peace Corps for years 2004 through 2007 totaling $2.1 billion. It would authorize a doubling in the number of volunteers to 14,000 and would increase the authorized readjustment allowance paid to returning volunteers to $275 for each month of service. The bill also would authorize $10 million in 2003 for a grant program to support returned Peace Corps volunteers' efforts to promote a better understanding of other peoples on the part of the American people. Assuming the appropriation of the authorized amounts, CBO estimates that implementing S. 2667 would cost $1.9 billion over the 2003–2007 period. S. 2667 would not affect direct spending or revenues.

S. 2667 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2667 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs). For this estimate, CBO assumes that the legislation will be enacted early in fiscal year 2003, that the authorized amounts specified in the bill for each year over the 2003–2007 period will be provided in annual appropriation acts near the start of each fiscal year, and that outlays will follow historical spending patterns.

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for the Peace Corps:						
Authorization Level [1]	275	365	0	0	0	0
Estimated Outlays	276	343	72	8	2	0
Proposed Changes:						
Authorization Level	0	10	465	500	560	560
Estimated Outlays	0	8	365	474	536	549
Spending Under S. 2667 for the Peace Corps:						
Authorization Level	275	375	465	500	560	600
Estimated Outlays	276	351	437	482	538	549

[1] The 2002 level is the amount appropriated for that year. Section 3(b)(1) of the Peace Corps Act authorizes the appropriation of $365 million in 2003.

Intergovernmental and private-sector impact: S. 2667 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Joseph C. Whitehill (226–2840); Impact on State, Local, and Tribal Governments: Greg Waring (225–3220); and Impact on the Private Sector: Paige Piper/Bach (226–2940).

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 10, 2002.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3656, an act to amend the International Organizations Immunities Act to provide for the applicability of that act to the European Central Bank.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehill, who can be reached at 226–2840.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3656—An act to amend the International Organizations Immunities Act to provide for the applicability of that act to the European Central Bank

H.R. 3656 would extend to the European Central Bank (ECB) the same privileges, exemptions, and immunities given to the central banks of sovereign states. Specifically, it would protect the ECB's assets from judicial process and attachment. The ECB is an independent legal entity owned by the central banks of the 12 countries of the European Union that comprise the euro area and functions as the central bank for the euro. It holds some of the foreign reserve assets of those countries in the Federal Reserve Bank of New York and commercial banks in the United States. The act would assure that the assets held collectively by the ECB retain the same protection they had when they were held separately by the central banks of its member countries. CBO estimates that H.R. 3656 would have no effect on federal spending or receipts.

H.R. 3656 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On March 27, 2002, CBO transmitted an estimate for H.R. 3656 as ordered reported by the House Committee on International Relations on March 20, 2002. The two versions of the legislation are identical, as are the two cost estimates.

The CBO staff contact is Joseph C. Whitehill, who can be reached at 226–2840. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 10, 2002.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4073, an act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those acts, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehill.

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 4073—An act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes

Summary: H.R. 4073 would authorize the appropriation of $175 million in 2003 and $200 million in 2004 for grants and credits to microenterprise development programs, or programs that would provide access to financial service to poor persons in developing countries. The act would place emphasis on assistance to persons living within the bottom 50 percent below a country's poverty line or living on less than the equivalent of $1 per day. CBO estimates that implementing H.R. 4073 would cost $328 million over the 2003–2007 period, assuming the appropriation of the authorized amounts. The act would not affect direct spending or revenues.

H.R. 4073 contains no integovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4073 is shown in the following table. The estimate assumes this legislation will be enacted near the beginning of 2003, that the specified amounts will be appropriated before the start of each fiscal year, and that outlays will follow historical spending patterns. The costs of this legislation fall within budget function 150 (international affairs).

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for Microenterprise Assistance Programs:						
Budget Authority [1]	155	0	0	0	0	0
Estimated Outlays	131	118	66	34	18	10
Proposed Changes:						
Authorization Level	0	175	200	0	0	0
Estimated Outlays	0	23	91	113	67	34
Spending Under H.R. 4073 for Microenterprise Assistance Programs:						
Authorization Level	155	175	200	0	0	0
Estimated Outlays	131	141	157	147	85	44

[1] The 2002 level is the amount appropriated for that year.

Intergovernmental and private-sector impact: H.R. 4073 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On May 1, 2002, CBO transmitted an estimate for H.R. 4073 as ordered reported by the House Committee on International Relations on April 25, 2002. The two versions of the legislation are identical, as are the two estimates.

Estimate prepared by: Federal Costs: Joseph C. Whitehill; Impact on State, Local, and Tribal Governments: Greg Waring; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

THE CENTER FOR THE ADVANCEMENT OF LEADERSHIP

Mr. HATCH. Mr. President, I rise today to highlight a very important initiative in my State of Utah, The Center for Advancement of Leadership.

The Center for the Advancement of Leadership was approved by the Utah Board of Regents in January of 2001 and operates as a part of the Utah Valley State College School of Business.

The center was established for college students, K–12 students, and professional practitioners to accomplish several goals: first, to advance leadership and character development education through classes, programs, and conferences; second, to expand the body of leadership knowledge through studies, projects, and research; and finally, to reinforce the importance of ethical behavior in doing business.

In order to accomplish these goals, The center has undertaken several projects designed to establish leadership education programs for each of the target demographics mentioned.

The focal point of The Center is the certification program for students from all collegiate disciplines attending Utah Valley State College, UVSC. Students may earn a ''Leadership Certificate'' that will be a part of their official college transcript by completing 15 credit hours in leadership management.

The Center and the School of Business at UVSC have launched a leadership education program that is reaching students in several of the local high schools. These students, through state-approved concurrent enrollment, are receiving college credit in high school for taking School of Business leadership classes.

UVSC Athletics and the center, along with local school districts and community-based organizations, have developed and implemented a program titled, ''No Greater Heroes.'' Student athletes from UVSC use a well-planned script to present a high-powered, energetic program that builds self-confidence in young, elementary school-age children. They are taught character-development abilities to set high standards for themselves.

The center will also provide support to the ''Why Try'' program for junior high schools. ''Why Try'' was created to provide simple hands-on solutions for helping youth overcome challenges. The goal of the ''Why Try'' program is to help youth answer the question, ''Why try in life?'' during times when they are frustrated, confused, or angry with life's pressures. It teaches youth that it is worth putting the effort in overcoming the challenges at home, at school, and with peers. It also provides opportunity from more freedom and self-respect.

The Center also hosts the Annual Leadership Conference on the campus of Utah Valley State College. Keynote speakers in the past have included such high-profile individuals as Sheri Dew, Rulon Gardner, Ed J. Pinegar, Steve Young, and Denis Waitley. During this 1-day conference, attendees are able to learn from some of the best minds in the leadership field. In addition to the keynote addresses, participants are able to choose from a diverse selection of topics for breakout sessions. The topics are tailored to meet the needs of the students, advisors, and business and community leaders.

There is significant demand for the current leadership programs at UVSC. Already 15 students have graduated from UVSC with a ''Certificate in Leadership,'' 45 are enrolled in the 4-year integrated studies program with a leadership emphasis, and over 100 taking classes toward the certification program; the concurrent enrollment classes have increased from seven high schools to 10 high schools, with 13 more waiting to participate; ''No Greater Heroes'' has a waiting list of elementary schools wanting to participate; and the attendance at the annual conference has grown from a couple of hundred to several thousand.

I commend the center for taking on these important projects. I am pleased to be able to share with my colleagues some examples of the fine work done by the center. I am very supportive of this program and commend it to my colleagues as an excellent example of educational innovation.

PEACE CORPS CHARTER FOR THE 21ST CENTURY ACT

Mr. DODD. Mr. President, I rise today to express my satisfaction with last night's passage by unanimous consent of S. 2667, the Peace Corps Charter for the 21st Century Act. I would like to thank Gaddi Vasquez and the staff of the Peace Corps for their willingness to work with me to come up with a bill that I believe will make it possible for the President to achieve the goal that he set during the State of the Union address in January, namely the doubling of the size of the Peace Corps over the next several years. I am proud of the bill we have passed, and I am confident that the provisions it contains will help us continue to fulfill President Kennedy's original vision of the Peace Corps as an American volunteer service dedicated to ''promoting world peace and friendship.''

It is always with tremendous fondness and pride that I speak of the Peace Corps, as it gives me occasion to recall my own years as a volunteer in the Dominican Republic. I have often spoken of how these 2 years changed my life. Indeed, living and working outside of the United States and seeing the way other nations operated for the first time, I grew to appreciate our nation more and more, and developed a strong sense of what it means to be an American. I was proud to share my experience as an American citizen with the people I was there to help. Those 2 years were invaluable to me, and truly brought home to me the value of public service.

As remarkable as the success of the Peace Corps has been, and as important a symbol and example it is of public service, in the aftermath of the tragic

attacks on America on September 11, it has become something more. It has become a necessity. The terrorist attacks of last year have shown us that the world has become a much smaller place. The United States can no longer afford to neglect certain countries, or certain parts of the world. We need to find ways to help developing countries meet their basic needs, and we need to do so now. We especially need to act in places where the citizens are particularly unfamiliar with American values. Now, more than ever, Peace Corps volunteers play a pivotal role in helping us achieve a greater understanding of America abroad, especially in predominantly Muslim countries.

However, if we are to expand the aims of the Peace Corps, to broaden its scope, and to send our volunteers into more countries, then we must provide the Peace Corps with a new charter and adequate resources to safely and effectively pursue these objectives. I believe that the legislation that passed the Senate last night, the Peace Corps Charter for the 21st Century Act, will go a long way to meeting anticipated funding needs, as well as charting the future course for this valuable organization.

I believe that the Peace Corps Charter for the 21st Century Act will do an excellent job of modifying the Peace Corps Act to better meet the needs of both our volunteers and an expanding and changing organization. The Peace Corps is a truly remarkable institution in America, a symbol of the very best of our ideals of service, sacrifice, and self-reliance. Our volunteers are to be commended again for their enduring commitment to these ideals, and for the way they are able to communicate the message of the Peace Corps throughout the world. They deserve the very best from us, and the passage of the Peace Corps Charter for the 21st Century Act is an important step toward fulfilling our responsibility to the Peace Corps and its volunteers.

Mr. BIDEN. Mr. President, I support S. 2667, The Peace Corps Charter for the 21st Century Act. I commend Senator DODD for developing this legislation and for working closely with the administration to advance it through the Foreign Relations Committee, where last week it was reported unanimously. Support for the Peace Corps is not, and should not be, a partisan issue. Senator DODD's quiet work in moving this legislation forward is a testament to that principle.

From promoting environmental conservation, to teaching primary school classes; from working to increase food production to training health care workers, Peace Corps volunteers do a lot of good throughout the world. Since the organization was founded 40 years ago, over 165,000 volunteers have served in 135 countries. If you multiply that number by the number of people reached by each volunteer, the phenomenal impact of the Peace Corps becomes apparent. Our Peace Corps volunteers represent, in many ways, U.S. diplomacy at its best—reaching remote communities as well as urban neighborhoods, and helping people improve their lives in immeasurable ways.

The Peace Corps is stronger and more popular than ever. Since January, the organization estimates that there has been a 300 percent increase in inquiries from potential volunteers. We must ensure that the Peace Corps has the necessary resources to capture and utilize this unprecedented surge in interest.

For these reasons, I am pleased to support S. 2667, which goes a long way in advancing and strengthening the Peace Corps. The legislation authorizes yearly increases in funding for the Peace Corps to $560 million in fiscal year 2007, in order to double the number of volunteers over the next 5 years. This increase in funding and volunteer capacity is long overdue, and is now more crucial than ever.

Furthermore, the bill calls for the Peace Corps to develop a strategy for special placement of volunteers in countries whose governments are seeking to foster greater understanding between their citizens and the United States, particularly in countries with significant Muslim populations. Through person-to-person contact, Peace Corps volunteers can make great strides in eroding the deep misconceptions of the United States that exist in many cultures. The volunteers give a human face to the term ''American,'' bringing personal knowledge of our ideals and attitudes to communities all over the world.

The legislation also establishes a global infectious disease initiative to comprehensively train Peace Corps volunteers in the education, prevention and treatment of the infectious diseases HIV/AIDS, tuberculosis and malaria. The HIV/AIDS epidemic has killed more people than the bubonic plague of the Middle Ages. Five million people were infected with HIV/AIDS in the past year alone, creating an unthinkable number of orphans worldwide. In some countries, the disease threatens to wipe out an entire generation. Tuberculosis and malaria have also caused millions more preventable deaths. It is imperative that Peace Corps volunteers be equipped with the knowledge and resources to protect their health, and that of the communities in which they serve, to the greatest extent possible.

Again, I congratulate and thank Senator DODD for his enduring allegiance to the Peace Corps. At a time when we must do all we can to promote mutual understanding worldwide, this legislation is an important effort to strengthen the Peace Corps, the United States' most valuable international volunteer program.

Mr. KYL. Mr. President, I rise today to cosponsor the Protection of Lawful Commerce in Arms Act, S. 2268. I feel that this bill is necessary in light of the large numbers of lawsuits initiated in recent years seeking to impose liability on gun manufacturers and dealers for the violent conduct of third-party criminals. At common law, tort liability would not lie for harm that was proximately caused by the intervening acts of a third party. It was universally understood that you could not hold a person responsible for the behavior of another person whom he did not control. Applying these long-standing principles, the vast majority of courts have thrown out these types of gun lawsuits.

Unfortunately, however, some courts have allowed these suits to go forward. Ohio's Supreme Court, for example, recently overruled both trial courts and appellate courts when, in a 4–3 vote, it reinstated a lawsuit against firearms manufacturers brought by the City of Cincinnati. Lower courts in Massachusetts have also allowed such lawsuits to go forward.

This type of politicized litigation affects all firearms manufacturers' and dealers' right to conduct lawful commerce. These lawsuits thus affect all Americans' second amendment rights, not just the rights of those in the jurisdictions that have allowed these suits to go forward. For this reason, a Federal solution to this problem is appropriate.

I, therefore, am pleased to cosponsor S. 2268, though I do so with one reservation. The bill as introduced in the Senate appears that it would not only bar political lawsuits, but would also bar recovery for a type of claim that I believe to be legitimate: an action for damages that result if a dealer knowingly or negligently sells a gun to a criminal. The same concern about barring this type of lawsuit was raised during the House of Representatives' consideration of the House companion to this bill, one member knew of a case in his district in which a dealer was sued for selling a gun to someone who was intoxicated. In response, the House Commerce Subcommittee on Commerce, Trade, and Consumer Protection added an additional exception to the bill's preemption for actions arising from: the supplying of a firearm or an ammunition product by a seller for use by another person when the seller knows or should know the person to whom the product has been supplied is likely to use the product, and in fact does use the product, in a manner involving unreasonable risk of injury to himself and others.

I believe that this House amendment is sufficient to allow legitimate lawsuits for harm arising from improper gun sales to go forward, while still protecting dealers and manufacturers from politicized anti-gun litigation. On the understanding that Senate conferees would accede to this or an equivalent provision in the House-Senate conference on this legislation, I am pleased to cosponsor the Protection of Lawful Commerce in Arms Act.

RETIREMENT OF CONGRESSMAN JOHN LAFALCE

Mr. SARBANES. Mr. President, Congressman JOHN LAFALCE, the ranking member of the House Committee on Financial Services, has announced his retirement after 28 years of dedicated service to his constituents in upstate New York and to our country.

I rise today to acknowledge and applaud the interests and accomplishments of JOHN LAFALCE during his long and productive career in Congress, and to wish him the very best in his future endeavors. We served together in the House, and we worked closely on a bicameral basis for many years on a variety of financial, consumer, and community development issues.

By way of background, JOHN LAFALCE was first elected to Congress from the 32nd Congressional District of New York in 1974 as part of the ''Watergate class.'' His victory was the first by a Democrat since 1912. His constituents then had the wisdom to return him to Washington as their representative 14 times. Since his arrival in the House, his committee assignments have included the Committee on Banking, Finance and Urban Affairs—the counterpart to the Senate committee I am honored to chair—and the Committee on Small Business, which he chaired from 1987 until 1994. He was elected ranking Democrat on the renamed Committee on Financial Services in 1998.

I know firsthand of JOHN's passion for public policy—and the intellectual vigor he brought to its formulation—because of our common interests and frequent collaboration in such areas as consumer protection, housing and community development, the safety and soundness of the financial system, corporate accountability, financial modernization, and the effectiveness of international lending programs.

Let me offer some illustrations. Congressman LAFALCE was a leader in the longstanding efforts to modernize the Nation's complex financial services system to promote competition between financial intermediaries while protecting consumers and ensuring that financial institutions continue to contribute to community development and provide services to unserved and underserved communities and populations. Early in 1999, working closely with the Clinton Treasury Department, JOHN helped to jump-start serious consideration of financial modernization legislation by garnering administration support for the first time in the recent history of that debate. That bill provided the basis for the eventual bipartisan agreement that led to enactment of Gramm-Leach-Bliley, referred to by The New York Times as ''landmark legislation. . . . The pre-eminent legislative accomplishment of the year.''

More recently, JOHN has been a leading advocate for strong investor protections. He sounded some of the earliest and most accurate alarms about conflicts of interest by investment professionals, questionable accounting practices, inadequate enforcement efforts by the SEC, and inadequate agency funding. The colossal failures of Enron, WorldCom, Global Crossing, and other firms, and the devastating impact on investors and on the working men and women of those companies, have more than justified JOHN's concerns.

JOHN was a prime mover of the sweeping corporate accounting reform legislation signed into law by President Bush on July 25, 2002. JOHN actually introduced in the House in early February of this year the first comprehensive legislative solution offered to address the serious problems in the capital markets and corporate boardrooms. JOHN deserves the praise he has received from many consumer, investor, and labor groups for his leadership in helping to achieve these landmark reforms. A comment by AFL–CIO president JOHN SWEENEY is typical of the praise JOHN received: ''I particularly want to thank Congressman LAFALCE, who has really stood out these last few months as a leader ready to take on powerful Wall Street and big money interests on behalf of working families.''

I want to make one last observation about JOHN's legislative legacy. Over the years, he has been a tireless and committed crusader for consumers and community development.

For example, in the area of financial privacy, where JOHN and I have worked so closely together, it was legislation that JOHN had introduced in 1998 and 1999 that laid the basis for the historic financial privacy protections that Congress included within Gramm-Leach-Bliley. Since then, JOHN and I have continued to work on new legislation to further enhance these financial privacy protections.

Similarly, JOHN has been a leader in the fight against predatory lending. He crafted excellent legislation that would provide real and substantive protections for the many homeowners, many of whom are elderly, minorities, or immigrants who are financially unsophisticated, who fall prey to unscrupulous mortgage lenders and brokers. I have used JOHN's bill as a basis for my own legislation here in the Senate.

JOHN has also been a strong and consistent advocate for the Community Reinvestment Act. During the debate surrounding financial modernization legislation, we opposed those who wanted to either repeal or undermine it. He has been an ardent defender of funding for affordable housing and community development and has taken the lead in enacting into law important elderly housing and homeless prevention provisions. In addition, he has developed major legislative initiatives to expand homeownership opportunities, and reform the mortgage loan process.

I have had the pleasure and privilege of knowing and working closely with JOHN for almost three decades. I do not expect his retirement from elective office to end either his public service or his significant contributions to our Nation. In fact, I have every expectation that JOHN LAFALCE will continue to be an active, thoughtful, and valuable contributor to public debate on critical national issues.

Finally, I pay tribute to JOHN's staff. JOHN has been the first to point out that he has always surrounded himself with talented people. Jeanne Roslanowick is an outstanding public servant, and we will miss working with her and the rest of his staff.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 23, 2001 in Thibodaux, LA. Two white teens attacked and injured a black woman by shooting her in the face with a paintball gun. The victim and her husband were walking through their front yard when the two teens attacked. Prior to the assault, the teens were heard to say that they wanted to ''shoot black people'', and police investigated the incident as a hate crime. The victim was treated for her injuries in a local hospital.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SALUTE TO LIEUTENANT COLONEL LEE A. ARCHER, JR., USAF (RET.)

Mr. LEVIN. Mr. President, tomorrow night I have the privilege of speaking at the Tuskegee Airmen National Historical Museum's 17th Annual Salute Reception and Dinner in my hometown of Detroit. This event is held each year at the museum to present an outstanding individual with a Distinguished Achievement Award. This year's honoree is Lieutenant Colonel Lee A. Archer, who was one of the original Tuskegee Airmen. He is being honored for his exemplary military, corporate executive, and entrepreneurial careers.

Colonel Archer was born in 1921 and enlisted in the Army in 1941. He received his commission after training at the Tuskegee Army Air Field in Alabama and was assigned to the 332nd Fighter Group. He successfully flew 169 combat missions over central and southern Europe and had 4.5 confirmed aerial victories. He modestly shared

credit with another pilot for the first victory but a subsequent review indicated that he deserved full credit and the coveted status of ''Ace.'' He received the Distinguished Flying Cross and the Air Medal with 18 Oak Leaf Clusters and numerous other awards over the course of his Active Duty career, which lasted 29 years.

These tremendous accomplishments would probably satisfy most people. But Colonel Archer has since gone on to have an equally successful business career. After retiring from the Air Force, he joined the General Foods Corporation in 1970 and became a director just 1 year later. In 1975, he was elected corporate vice president of General Foods. Over the years, he also served as president, chairman, and chief executive officer, CEO, of Vanguard Capital Corporation; chairman and CEO of Hudson Commercial Corporation; and Chairman and CEO of Archer Associates, LTF, a venture capital holding corporation. This is just a partial listing, and doesn't include his numerous civic activities and board memberships.

Colonel Archer, along with his fellow Tuskegee Airmen, and the other members of the ''Greatest Generation'' who fought in the Second World War have earned our Nation's enduring respect and gratitude for their heroic and selfless deeds in defense of our country, our freedoms, and our way of life.

Regrettably, the Tuskegee Airmen faced rigid segregation and a prevailing prejudice that questioned their ability to serve as Airmen and prevented them from training and working with their white counterparts. But they certainly proved their mettle. Led by the recently departed General Benjamin O. Davis, the first black general in the Air Force; Colonel Archer; and so many other valiant men, the Tuskegee Airmen flew over 15,500 sorties, completed over 1,500 combat missions, and downed over 260 enemy aircraft. They even sank a German destroyer in the harbor of Trieste, Italy. Amazingly, no bomber escorted by the Tuskegee Airmen was ever downed by enemy aircraft.

All in all, 992 men graduated from pilot training at Tuskegee during World War II, 450 of whom were sent overseas for combat assignment. One hundred and fifty men made the supreme sacrifice for our Nation and were killed while in training or on combat missions. Thirty-two downed Airmen were taken as prisoners of war.

Collectively, the Tuskegee Airmen received 3 Presidential Citations, 95 distinguished flying crosses, 8 purple hearts and 14 bronze stars.

Upon returning home from war, these Airmen found a society still deeply segregated. The Tuskegee Airmen themselves remained segregated from the larger military and were unable to provide their skills and aptitude to other units that were in dire need of qualified airmen. It was not until President Truman issued Executive Order 9981 that segregation was ended in the United States Armed Services. This Executive Order played a vital role in the subsequent integration of our Nation. The valor and dedication of the Tuskegee Airmen played a vital role in changing our Nation's attitude toward integration and racial diversity.

The author and historian Edith Hamilton, commenting on the works of the ancient Greek dramatist Aeschylus, said, ''Life for him was an adventure; perilous indeed, but men are not made for safe havens.'' Certainly, life for Lee Archer has been an adventure, perilous indeed. Certainly, Lee Archer was not made for safe havens; nor has he ever sought them. All Americans are the better for it.

CYBER SECURITY RESEARCH AND DEVELOPMENT ACT, S. 2182

Mr. HATCH. Mr. President, I rise to comment on the passage of H.R. 3394, the Cyber Security and Research Development Act. I want to specifically congratulate and thank Senators ALLEN and WYDEN for proposing this measure and for working with me to address a few concerns I had relating to ensuring appropriate national security protections.

This important legislation authorizes computer and network security research and development and research fellowships through the National Science Foundation and the Secretary of Commerce for the National Institute of Standards and Technology. This legislation is an important step in protecting our country's computer infrastructure, and will quickly bear fruit by increasing research and development in this critical area.

Our country's computer infrastructure is critical to our nation's homeland defense. This measure is a much needed effort to improve our research and development efforts in this area by enlisting and bolstering research by our universities, colleges, and research entities. At the same time, I wanted to ensure that access to such critical cyber-research information is appropriately tailored to ensure that our national security interests are protected.

Mr. President, I want to highlight the modifications that I proposed and were included in the bill. These include: (1) expanding the purposes for such grants to include research to enhance law enforcement efforts to detect, investigate and prosecute cybercrimes, including those that involve piracy of intellectual property, and (2) ensuring compliance with the immigration laws by requiring that those who receive funds comply with United States immigration laws and are not from countries that sponsor international terrorism terrorism, unless the Attorney General and Secretary of States make an individualized determination that the individual is not a threat to our national security. Theft of intellectual property on the internet is becoming a serious threat to many in our creative community and one of our most important exports.

Again, I am grateful that the authors of this legislation were willing to work with me to include these modifications and I strongly support enactment of this legislation into law.

AMERICA'S STRENGTHENED RESOLVE

Mr. SANTORUM. Mr. President, this year, we did not wait passively for September to arrive; we began preparing weeks ago to greet this month with offerings of memorial in hand. At services across the Commonwealth and in remembrances around the country, last fall's attacks have again drawn the focus of our Nation. There is a new sentiment this time around, though, one that is hopeful, grateful, more determined, and less confused.

For all of us, it has been a week of reflection on the losses and lessons of the attack that changed our history and our lives. The destruction wrought by a hateful few was intended to unravel America's strength, but it has only made us stronger. And from this strength, we have come to understand that the tragedy of last September 11 has in fact blessed us with an opportunity. The attacks are still tangible in Pennsylvania, and so we take this opportunity very seriously, proud to have a part in creating a positive legacy for 9/11. It was aboard the plane that crashed in Shanksville that America's response to terrorism first began.

Somerset County, for this reason, will be a symbol of the heroism and sacrifice that a few brave, ordinary citizens chose to exhibit when faced with the most difficult and dangerous situation of their lives. Shanksville, the World Trade Towers, and the Pentagon can all be reminders of what the American spirit is capable of overcoming, of what Todd Beamer meant when he said, ''Let's roll,'' if we as a Nation choose to make it so. The anniversary of September 11 should, therefore, be about the resolve to honor the memories of all those lost to the terrorist attacks by living to make ourselves, our communities, and our country better.

Looking back over the past twelve months, the most inspiring aspect of the national recovery effort was the compassion, cooperation, and concern that citizens across the country shared with one another. Through the charity of time, prayer, blood, consolation, money, and other expressions of support, Americans exhibited a goodwill that is rarely seen so universally, but comes so naturally to us all at times of crisis. As we settle back into our normal, peaceful lives, however, this goodwill tends to steal away from us. As a result, our collective awareness of a common humanity and a world view larger than our own back yards also begins to fade. In the aftermath of 9/11 and the years to follow the shock of terrorism on our soil, we must renew

the commitment we have to our neighbors, our communities, and our Nation. Across the country, we can make the courage and responsibility displayed by the heroes at Ground Zero endure. In this way, we will triumph over evil and devastation, and we can try to make sense out of all that we have suffered.

When I first visited the cratered field in Shanksville, and when I returned to that crash site this week, I was struck by the importance of our continued hope. I was also inspired by the strength of those Flight 93 family members, now carrying the torches of their loved ones who gave their last measure of bravery for our nation. I have resolved to make every day a memorial to September 11th by working to keep the bigger picture in mind and a better world in sight. I hope you will find your own way to keep and exhibit this renewed American spirit in your lives. May God bless you and our great country.

USDA TESTING FOR CHRONIC WASTING DISEASE

Mr. FEINGOLD. Mr. President, I rise today to urge Secretary Veneman to provide more details on the United States Department of Agriculture's recent announcement regarding chronic wasting disease, CWD, testing, and urge her to provide hunters with more testing opportunities for CWD.

On Tuesday of this week, USDA announced an increase of up to 200,000 more Government-approved tests for chronic wasting disease this deer hunting season. Prior to the announcement, USDA officials have said labs certified to test for the disease would only accommodate the needs of the Wisconsin Department of Natural Resources, DNR, and not provide testing opportunities for hunters.

I appreciate USDA's recent decision to allow Government laboratories certified by the U.S. Department of Agriculture, USDA, to offer an additional 200,000 chronic wasting disease or CWD tests to Wisconsin hunters. As I noted in my September 24, 2002, letter to Secretary Veneman, given hunters' concerns in my state, it is appropriate for USDA to offer any excess test processing capacity in the Government system to Wisconsin on a priority basis. This assistance from USDA allows Wisconsin to be able to offer testing to our hunters on request, and gives Wisconsin hunters access to the ''gold standard'' immunohistochemistry, IHC, test.

While I commend USDA for these efforts, I will be closely monitoring the implementation of the new testing program in the State, and in particular the Department's stated commitment of providing 200,000 more tests to Wisconsin hunters. It is important to note that nine of the Government laboratories that will be processing Wisconsin tests this fall have not previously conducted such tests. Given the time it took to get the Wisconsin State Veterinary Laboratory in a position to be able to process CWD tests, USDA must be vigilant in ensuring that these Government labs are ready in the next month. In addition, I also urge USDA to assist the State of Wisconsin in ensuring that the labs that will process Wisconsin's CWD tests provide accurate and prompt information regarding the test processing costs.

I commend the USDA for finally taking steps to provide more testing opportunities through Government labs. But the USDA must do more, including continuing efforts to certify private labs, like the Marshfield Clinic, and to approve rapid test kits for this fall's hunt. I want to ensure that USDA meets, and I hope exceeds, its commitment of providing 200,000 additional tests to Wisconsin's hunters for this year's hunt.

To that end, I hope that the administration will endorse my legislation, S. 3090, the Comprehensive Wildlife Disease Testing Acceleration Act of 2002. This legislation would provide hunters with more testing opportunities for chronic wasting disease by requiring USDA to develop appropriate testing protocols and to certify private labs to conduct CWD tests.

My legislation will remove bureaucratic roadblocks by requiring the USDA to expand the number of labs that can provide CWD testing to hunters. Until I am satisfied that USDA has done everything possible to bring this disease under control, I will continue to press this legislation forward.

Our 2001 deer hunt involved more than 400,000 deer. With only 250,000 tests total for Wisconsin, some hunters may still lack the ability to have their deer tested. USDA must continue efforts to provide more testing opportunities for hunters. By certifying private labs like the Marshfield Clinic and approving a rapid test this fall, USDA can ensure that Wisconsin hunters have the information they deserve.

Action on this problem is urgently needed. I am glad that the Secretary has finally begun to take a step in the right direction, and I urge her to undertake all the necessary measures to bring these diseases under control.

PRESCRIPTION DRUGS

Mr. SMITH of Oregon. Mr. President, we have been debating important issues in the Senate these past few weeks, Homeland Security, and the possibility of war in Iraq, and other issues that have resulted from 9/11. While these important debates take place here on the Senate floor and in the kitchens and living rooms across America, there is still another longstanding issue that affects the health and livelihood of our senior citizens, that of prescription drug coverage for our nation's seniors.

As the end of the legislative year looms closer, I am angry to say that we are no closer to having a prescription drug program for our seniors. When the Senate debated the addition of a prescription drug benefit to the Medicare program in July, there was clear agreement that such a benefit was badly needed and that time was of the essence for delivering such a benefit to America's seniors. Over several weeks of debate on prescription drugs, progress was made toward agreement, but unfortunately, the discussion was cut short by the August recess.

I believe this issue is so important, and so urgent for seniors, that I stand before you today to say that this Congress should stay in session until we are able to pass a prescription drug benefit for our seniors. It is not too late to pass a prescription drug bill this year.

With the help of new treatments and therapies, it is now possible for seniors to live longer and better than at any other time in history. Every day that Medicare excludes prescription drugs from coverage is a day that countless seniors will not have access to medications that could improve their health—or save their lives. In addition, every year that passes without adding a prescription drug benefit to Medicare, the cost of adding such a benefit increases substantially.

In recent weeks, there has been a lot of talk about adjusting Medicare payments to reimburse health care providers fairly for treating seniors. My home state of Oregon ranks 46th in the country for Medicare spending per beneficiary. These incredibly low Medicare reimbursement rates have made it impossible for some health care providers to continue serving Medicare beneficiaries. This means that many seniors in Oregon are now having difficulty even finding a health care provider to see them. Therefore, I am very supportive of the Medicare provider payment components of the package proposed by Senators BAUCUS and GRASSLEY, and I urge passage of this legislation before this Congress adjourns. However, I also believe there must be renewed interest in reaching a consensus on how to add an affordable, universal, voluntary prescription drug benefit to Medicare this year.

I know we have a lot of work to do this year. Urgent work, important work. But I can think of no more important issue than ensuring that our parents, our neighbors, our friends, our Nation's seniors, never have to lose their homes when they lose their health. We can pass a prescription drug bill this year, and we must. I urge my colleagues to stay in Washington until we are able to pass a prescription drug benefit for our Nation's seniors, and have it signed into law.

FDA APPROVAL OF BUPRENORPHINE/NALOXONE

Mr. LEVIN. Mr. President, last week, the fight against heroin addiction took a major leap forward after a decade of struggle. On October 8, 2002, the Food

and Drug Administration, FDA, announced the approval of a new anti-addiction drug, buprenorphine/naloxone, which, followed with the directives of a new law I authored along with Senators HATCH and BIDEN, makes a dramatic change in the way America fights heroin addiction. This new anti-addiction drug, developed under a Cooperative Research and Development Agreement, CRADA, between the National Institute on Drug Abuse, NIDA, and a private pharmaceutical company, has been the subject of extensive successful research and clinical trials in the United States. The new law, the Drug Addition Treatment Act of 2000, permits, for the first time, such anti-addiction medications to be dispensed in the private office of qualified physicians, rather than in a centralized clinic. That change can have a revolutionary reduction in the number of addicts, the crimes some of them commit, and the heroin related deaths which have occurred.

This newly approved anti-addiction medication has already been in use in France, where significant success has been achieved in getting patients off of heroin, reducing drug-related crime and reducing heroin-related deaths. For example, user crime in France and arrests are down by 57 percent and there has been an 80 percent decline in deaths by heroin overdose.

It is estimated that there are approximately 1 million individuals in the U.S. who are addicted to heroin. The new office-based system is a revolutionary change and will make our communities better and safer places to live. It will open the door to tens of thousands of individuals to get rid of their addiction, but are now unable to or are reluctant to seek medical treatment at centralized methadone clinics, where their appearance amounts to an announcement of their addiction and which for many addicts are difficult to get to for their once or twice a day use. According to a report by the Department of Health and Human Services, many individuals who want to get rid of their addiction will not go to centralized clinics, ''. . . because of the stigma of being in methadone treatment. . . .'' The report went on to say that HHS was:

> . . . especially encouraged by the results of published clinical studies of buprenorphine. Buprenorphine is a partial mu opiate receptor agonist, in Schedule V of the Controlled Substances Act, with unique properties which differentiate it from full agonists such as methadone or LAAM. The pharmacology of the combination tablet consisting of buprenorhine and naloxone results in . . . low value and low desirability for diversion on the street. Published clinical studies suggest that it has very limited euphorigenic affects, and has the ability to precipitate withdrawal in individuals who are highly dependent upon other opioids. Thus, buprenorphine and Buprenorphine/naloxone products are expected to have low diversion potential . . . and should incerase the amount of treatment capacity available and expand the range of treatment options that can be used by physicians.

The compelling need for this new system of treatment is borne out in some astonishing data. A recent study by the U.S. Office of National Drug Control Policy, ONDCP, released in January of this year, shows that illegal drugs drain $160 billion a year from the American economy; and that the majority of these costs, $98.5 billion, stem from lost productivity due to drug-related illnesses and deaths, as well as incarcerations and work hours missed by victims of crime. The report found that illegal drug use cost the health-care industry $12.9 billion in 1998. Commenting on the release of the study, ONDCP Director John P. Walters said:

> Drugs are a direct threat to the economic security of the United States . . . and results in lower productivity, more workplace accidents, and higher health-care costs, all of which constrain America's economic output. Reducing substance abuse now would have an immediate, positive impact on our economic vitality. When we talk about the toll that drugs take on our country, especially on our young people, we usually point to the human costs: lives ruined, potential extinguished, and dreams derailed. This study provides some grim accounting, putting a specific dollar figure on the economic waste that illegal drugs represent.

Another recent study, released in September of this year, determined that the majority of drug offenders in our State prisons have no history of violence or high-level drug dealing. The study found that of the estimated 250,000 drug offenders in state prisons, 58 percent are nonviolent offenders. The authors concluded that these nonviolent offenders ''. . . represent a pool of appropriate candidates for diversion to treatment programs . . . .'' They went on to say that ''The 'war on drugs' has been overly punitive and costly and has diverted attention and resources from potentially more constructive approaches.''

Of the juveniles who land behind bars in State institutions, more than 60 percent of them reported using drugs once a week or more, and over 40 percent reported being under the influence of drugs while committing crimes, according to a report from the Bureau of Justice Statistics. Drug-related incarcerations are up and we are building more jails and prisons to accommodate them, more than 1000 have been built over the past 20 years. According to the July 14, 1999 Office of National Drug Control Policy Update, ''Drug-related arrests are up from 1.1 million arrests in 1988 to 1.6 million arrests in 1997—steady increases every year since 1991.''

In a September 3, 2001 interview with the New York Times, then-Drug Enforcement Administration nominee Asa Hutchinson underscored the need for drug rehabilitation for nonviolent offenders, saying that we are ''not going to arrest [our] way out of this problem.''

I believe that the system that we have finally put in place will effectively put America on the right road to fighting and winning the heroin addiction war. It has been a long and difficult road for over a decade. First, in providing the resources to help speed the development and delivery of anti-addiction drugs that block the craving for illicit addictive substances. Second, authoring a law that would allow for such medications to be dispensed in an office-based setting rather than centralized clinics, by physicians who are certified in the treatment of addiction. In 1996, the Senate adopted my amendment to the budget resolution to steer $500 million over 6 years to the National Institute on Drug Abuse, which resulted in substantial increases in funding for research conducted by the National Institute on Drug Abuse. Then, in 1997, when Senator Moynihan and Senator Bob Kerrey joined me in convening a panel of experts to present their expert views at a Drug Forum on Anti-addiction Research, in an effort to assess the level of progress and needed support to expedite new anti-addiction discoveries. In October, 2000, the Drug Addiction Treatment Act, was enacted into law. Today, we are taking a giant step forward with the Food and Drug Administration's approval of this new anti-addiction drug, which will allow for the appropriate and long awaited, conventional, office based approach to addiction treatment in this country.

The protections in the new law against abuse are as follows: Physicians may not treat more than 30 patients in an office setting; appropriate counseling and other ancillary services must be offered. Under this legislation the Attorney General may terminate a physician's DEA registration if these conditions are violated and the program may be discontinued altogether if the Secretary of HHS and Attorney General determine that this new type of decentralized treatment has not proven to be an effective form of treatment.

This great success would not have been possible without the scientific genius, leadership and steadfast support of many individuals, including, Dr. Alan Leshner, who, during his 7-year tenure as Director of NIDA, energetically led the government initiated partnership that produced buprenorphine/naloxone for the treatment of heroin addiction; Dr. Frank Vocci, a brilliant scientist who heads up Medications Development at NIDA and whose tutoring has led me to a better understanding of the science of addiction; Dr. Charles Schuster of Wayne State University, a past director of NIDA who has conducted clinical trials on buprenorphine/naloxone, the results of which have been presented in testimony before Congress. Dr. Schuster has been my resource and my guide on this issue from the very beginning and his advice and expertise continues today; Dr. James H. Woods, Director of Drug Addiction Research Projects at the University of Michigan, has long been a progressive force in the area of addiction research, and has been an effective voice in the formulation of legislative policy in the area of addiction

both at home and abroad. Dr. Herbert Kleber, Professor of Psychiatry at Columbia University and one of the Nation's foremost experts on drug addiction and treatment, provided invaluable assistance to me in putting together this new system of treatment. Dr. Chris-Ellyn Johanson, President-elect of the College on Problems of Drug Dependence and Professor in the Department of Psychiatry and Behavioral Neuroscience at Wayne State University, has made major contributions to understanding the basis of the buprenorphine therapeutic effects in the treatment of heroin abuse and dependence; and Dr. Stephanie Meyers Schim, former president of the Michigan Public Health Association, who has helped us to understand that drug addiction is a public health problem that is in crisis and that our health policies should reflect this reality.

In closing, I would like to thank those who too often go unnoticed, the Senate staff members who kept this legislation on track despite the many twists and turns and the unforeseen challenges along the way. My Deputy Legislative Director Jackie Parker, whose commitment and diligence in moving this issue was characteristically unwavering. Bruce Artim, who serves Senator HATCH on the Judiciary Committee and Marcia Lee of Chairman BIDEN's Subcommittee on Crime and Drugs were undeterred in their resolve to move all obstacles that came in the way of making this new system of treatment a reality.

Finally, I ask unanimous consent that the remarks of Dr. James H. Woods of the University of Michigan, Dr. Chris-Ellyn Johanson and Dr. Charles R. Schuster of Wayne State University, and Dr. Herbert Kleber of the New York State Psychiatric Institute, along with a list of participants, be printed in the RECORD.

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

DR. JAMES H. WOODS, UNIVERSITY OF MICHIGAN, PRESS CONFERENCE ON FOOD AND DRUG ADMINISTRATION (FDA) APPROVAL OF BUPRENORPHINE/NX (BUP), OCTOBER 9, 2002

There are a variety of reasons for the scientific and medical excitement today celebrating the approval of buprenorphine for the pharmacotherapy of narcotic abuse. It fits in what I hope will be a succession of new therapies for drug abuse that will be employed under The Drug Addiction Treatment Act to change the way we view addictions and how they may be treated.

There are, of course, many different groups of individuals who are responsible for this important day. We need to show our considerable appreciation to Senators Levin, Hatch, and Biden for their support for The Drug Addiction Treatment Act. Having worked most with Sen. Levin, I know that he has been long interested in the important problem of drug abuse. He has visited us at the University to see firsthand what we were up to in evaluating different, novel approaches to pharmacotherapy of drug abuse. He has kept the problems of developing these therapies in mind and has worked long and hard to bring this legislation into being. I know the Senator believes fervently that buprenorphine's approval is going to produce some major changes in the treatment of narcotic abuse because of the ways that it will be used in conjunction with The Drug Addiction Treatment Act. I wholeheartedly agree and I hope what we are seeing today with buprenorphine will be replicated with increasing frequency in the future.

In my opinion, we will see the individual physician taking an increasingly important role in dealing with narcotic addiction in a different way. They will be dealing with individuals who would not otherwise present themselves for the kinds of treatment currently available. Those who prefer the privacy of individual physician treatment can be allowed that privilege with this new medication for it is very, very safe. When we consider that 5 of 6 narcotic abusers are not in treatment, it is clear that this new approach to therapy is sorely needed.

We need to show our appreciation to the National Institute on Drug Abuse and their efforts toward medications development. Were it not for their support in developing buprenorphine, we would not be having this meeting today. They have supported strongly both the effort to move buprenorphine along towards this drug abuse indication, and related research toward the development of other much needed therapies in the field of drug abuse. Thus, knowing a bit about what they have in mind for the future, I think we will be seeing more of these meetings.

We need to thank the firm, Reckitt Benckiser, for sponsoring buprenorphine. It was clear early in the study of buprenorphine that it might have potential as a pharmacotherapy. This has been demonstrated quite well. The drug has been fascinating to opioid pharmacologists ever since it was made public, and its interesting pharmacological properties were described. Though some of its pharmacology remains elusive to us, it is clear that we may have happened upon just the right molecule for opioid abuse treatment. Our Narcotic Center Grant at the University, funded by NIDA for some 30 years, has had the objective of improving upon some of the effects of buprenorphine. We have made and studied extensively hundreds of chemical relatives and found many compounds comparable to buprenorphine, but none superior to it in safety or duration of action. Thus, we believe that buprenorphine is a substance that will be the best of its kind for this type of therapy.

I appreciate the concert of effort that it takes to bring this new type of attention to the problem of drug abuse. It is only with the combined legislative, governmental, pharmaceutical, and scientific efforts that these problems will be dealt with effectively.

DR. CHRIS-ELLYN JOHANSON, WAYNE STATE UNIVERSITY, PRESS CONFERENCE ON FOOD AND DRUG ADMINISTRATION (FDA) APPROVAL OF BUPRENORPHINE/NX (BUP)

My name is Chris-Ellyn Johanson and I am a professor in the Department of Psychiatry and Behavioral Neurosciences at Wayne State University and the incoming president of the College of Problems of Drug Dependence. When I joined the Wayne State faculty in 1995, I was fortunate enough to become a part of a research center at the University of Michigan, headed by Dr. James Woods and funded by the National Institute on Drug Abuse. This center is devoted to the development of safer and better opiate drugs and has been continuously funded by the National Institute on Drug Abuse for over 30 years. My research has focused on trying to understand how buprenorphine exerts its therapeutic effects in the treatment of heroin abuse and dependence.

I have been fortunate to work in collaboration with Jon-Kar Zubieta, also from the University of Michigan, using state-of-the-art neuroimaging techniques in conjunction with behavioral measures to understand the biobehavioral basis of the therapeutic efficacy of buprenorphine. Our studies have clearly demonstrated that because buprenorphine's unique pharmacology as a partial mu agonist, it can block the dependence-related effects of heroin-like drugs and in many ways combines the characteristics of the agonist treatment agent methadone and the antagonist treatment, naltrexone. Further, its pharmacology makes it a drug with a long duration of action and a remarkable margin of safety.

So I am very pleased to be here today to welcome buprenorphine into the armamentaria for the treatment of heroin addiction. Not only will buprenorphine allow the expansion of treatment options for clinicians, but because of the legislation sponsored by Senator Levin to allow office-based practice for drugs such as buprenorphine, this option will be available to an increased number of opiate-dependent patients. I want to personally thank Senator Levin and his staff for their efforts in promoting more rationale treatment for heroin addiction. The Drug Abuse Treatment Act of 2000, which allows qualified physicians to treat opiate addicts in their office, brings the treatment of heroin addiction into mainstream medicine. This will not only increase the availability of treatment but will as well destigmatize it. Without this legislation, buprenorphine's unique advantages could not be effectively utilized.

I would also like to thank Senator Levin and his staff on behalf of the College on Problems of Drug Dependence. One of the major goals of this scientific organization, which has been in existence since 1929, is the development of safer and more useful medications for the treatment of addiction, including heroin dependence. Most of the scientists who have been responsible for the development of buprenorphine are members of this organization and have presented their findings with buprenorphine at its annual scientific meeting. Because of this, CPDD has been very involved in pushing for the approval of buprenorphine and has been appreciative of the help of Senator Levin in getting approval.

DR. CHARLES R. SCHUSTER, WAYNE STATE UNIVERSITY

My name is Charles R. Schuster and I am a Professor of Psychiatry and Behavioral Neuroscience at the Wayne State University School of Medicine.

I am extremely excited by the news that the Food and Drug Administration has approved the marketing of two buprenorphine preparations, Subutex and Suboxone, for the treatment of opiate dependence. These products are the first to be available in a new model of office-based treatment of opiate dependence allowed under the Drug Abuse Treatment Act of 2000. We can thank Senator Levin for his incredible thoughtfulness and tenacity in fighting to get this legislation through Congress.

One of the major advances that has been made in the past several years by a joint effort between Reckitt-Benckiser Pharmaceutical company and the National Institutes on Drug Abuse/NIH is the development of buprenorphine for the treatment of opiate addition. I am privileged to have had a role in the development of this safe, effective treatment both during my tenure as the Director of NIDA and subsequently as a NIDA

grantee. Under the auspices of a NIDA funded treatment research project I have utilized buprenorphine as a maintenance therapy and have been very impressed not only with its effectiveness in curtailing heroin use, but as well with its acceptance by patients who would not have considered treatment with methadone. Thus this medication may reach opiate addicts who currently are resistant to enrollment in opiate maintenance programs that use ORLAAM and methadone. I have letters on my desk from patients whose lives have been turned around by the buprenorphine maintenance treatment we have provided them. I have even more letters from opiate addicted people who are asking where they can find such treatment. Because of the approval by the FDA of two buprenorphine preparations and the passage of the Drug Abuse Treatment Act of 2000, it is now possible to give the answer. Find a qualified physician in your area of the country and be seen as a regular patient in their office receiving a prescription for buprenorphine. Tragically, I see young people every day who are in need of medications to ease their need for heroin so that they can become invested in rehabilitation activities that can return their life trajectory to a normal, productive and fulfilling course. Currently the available medications, methadone and ORLAAM, are extremely useful but ensnared in regulations that grossly limit their potential effectiveness. Having a safe, effective narcotic preparation like buprenorphine that can be used by qualified physicians for the treatment of opiate addition that is unfettered by the methadone regulations is a major advance in our ability to provide badly needed services in a cost effective manner.

I am very proud as a resident of the state of Michigan to have Senator Levin as my representative in the United States Senate. He and his staff have worked tirelessly to secure the passage of the Drug Abuse Treatment Act of 2000. This landmark legislation represents a major shift in policy in how we view and treat the problem of opiate addition. This advance in our policies regarding the treatment of opiate addition has been a long time in coming. But thanks to the efforts of Senator Levin, it has finally arrived. I join in celebrating this achievement which has the potential for providing significant help to those attempting to overcome the ravages of opiate addition. Individuals seeking help for their opiate addition do not have much political power and are rarely heard in drug abuse policy debates. Fortunately for them they have a compassionate and steadfast advocate in Senator Levin.

REMARKS OF DR. HERBERT KLEBER AT PRESS CONFERENCE ON FDA APPROVAL OF BUPRENORPHINE/NX

Today marks an important milestone in the treatment of substance dependence disorders. Buprenorphine, both in the combined form with antagonist naloxone and in the mono-form, have just been approved by the Food and Drug Administration, the first therapies approved for in-office prescribing under the Federal Drug Addiction Treatment Act of 2000. The path has been a long and at times torturous one but a careful one. It can hardly be described as a rush to market: my first research paper on buprenorphine was published in 1988 and colleagues had published earlier. During this decade and a half we have learned much about this agent and it's potential for the treatment of narcotic addition. I am very grateful for the help from certain key senators, both in passing the Drug Addition Treatment Act and for their continued encouragement during this long and difficult process. Senator Carl Levin of Michigan has been a special stalwart in this process but the effort has truly been a bipartisan one with Senators Orrin Hatch of Utah and Joseph Biden of Delaware both playing active roles along with Senator Levin.

The importance of this day, however, is much more than the particular medications involved. Buprenorphine to be sure should help in combating opioid dependence in formerly underserved communities. It is estimated that there are up to 1 million opioid dependent individuals in the United States of whom less than 200,000 are in treatment. The annual cost to society of opioid addiction is more than 20 billion dollars. Buprenorphine may increase the likelihood of people who have not currently sought out treatment to do so, thus reducing the enormous toll, both in health and in crime, that addiction takes on society. Injecting drug users and their sexual partners, for example, have become the largest new group of individuals becoming HIV positive. While buprenorphine is neither a panacea nor a magic bullet, it has major advantages in terms of safety, duration of action, and ease of withdrawal in comparison to existing medications on the market. That plus the ability to be treated in the privacy of the doctor's office are all important advances.

The major importance of the FDA approval and the Drug Abuse Treatment Act, however, go well beyond the particular medications and instead to how we think about addiction. Papers by myself and my colleagues have emphasized that opioid dependence as with other addictions is a chronic relapsing disorder, not a character flaw, failure of will, or lack of self-control. These drugs change our brains, changes that can persist long after the individual has stopped taking the drug and lead frequently to relapse. When a patient who cannot stop smoking on his own seeks help from his physician, he is seen as a patient who needs help and the physician will respond with a variety of medications and behavioral interventions. Likewise, it is my hope that with the advent of these medications the treatment of opioid dependence will be able to be mainstreamed. Individuals who are dependent either on street opioids like heroin or on prescription opioids will be able to receive help in doctors' offices and medical clinics. They will hopefully one day be treated with the same dignity with which we treat the patient trying to give up smoking or the diabetic or the hypertensive, all individuals that have chronic relapsing disorders involving both physical and behavioral components.

Addiction is initiated by a voluntary act but this initial voluntary behavior is in many cases shaped by pre-existing genetic factors and there are early brain changes, which may evolve into compulsive drug taking less subject to voluntary control. It is important to recognize, however, that drug dependence erodes but does not erase a dependent individual's responsibility for control of their behavior. Many patients with other chronic illnesses fail to see the importance of their symptoms and thus may ignore physician's advice, fail to comply with medication, and engage in behaviors that exacerbate their illnesses. While such patients may not be as disruptive, demanding, or manipulative as alcohol or drug dependent patients, the patterns of denial of symptoms, failure to comply with medical care and subsequent relapse are not particular to addiction. One thing, however, that does separate addiction from other illnesses is the waiting list for treatment throughout the United States which contradicts assertions that addicted persons do not want help.

Compassion or sympathy is not the basis for the argument that physicians should treat addicted individuals. Medically oriented treatments can be quite effective. In addition, addiction treatments have been effectively combined with legal sanctions such as drug courts and court-mandated treatments. Medical interventions should be taught in medical schools and primary care residencies. If physicians develop and apply the skills available to diagnose, treat, monitor, and refer patients in the early stages of substance dependence, there will be fewer late-stage cases.

I have been involved in treatment and research with substance dependent individuals for over 35 years, initially at Yale University and the last decade at Columbia University. In between I spent approximately 2½ years as the Deputy Director of the Office of National Drug Control Policy under Bill Bennett and the first President Bush. The new era in office-based treatment of opioid dependence is a worthy successor to efforts made by our Office back in the early 1990's to expand the number of individuals in treatment with substance dependence. My appreciation—and that of many future patients—to the legislators and federal agencies that made this possible.

Thank you.

PRESS CONFERENCE PARTICIPANTS, FDA APPROVAL OF BUPRENORPHINE/NALOXONE, OCTOBER 9, 2002, SR 236

Senator Carl Levin.

Senator Orrin Hatch.

Dr. Frank Vocci, Director of the Division of Treatment Research and Development, National Institute on Drug Abuse.

Dr. Steven K. Galson, Deputy Director, Food and Drug Administration's Center for Drug Evaluation and Research.

Dr. Wesley Clark, Director, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration.

Dr. Herbert D. Kleber, Professor of Psychiatry and Director, Division of Substance Abuse, Columbia University.

Dr. James H. Wood, Professor, Department of Psychology and Pharmacology and Director of Drug Addiction Research Projects, University of Michigan.

Dr. Chris-Ellyn Johanson, Professor of Psychiatry and Associate Director of Substance Abuse Research, Wayne State University.

Dr. Charles Schuster, Professor of Psychiatry and Behavioral Neuroscience, Wayne State University.

THE IMPORTANCE OF ENERGY LITERACY TO A NATIONAL ENERGY POLICY

Mr. ALLARD. Mr. President, I wish to bring the Senate's attention to the importance of energy literacy to a national energy policy.

The National Energy Policy Development Group recommended an energy literacy project in the May 2001, National Energy Policy. You can find it on the first page of Chapter Two, entitled ''Striking Home.'' The recommendation states, ''The NEPD

Group recommends that the President direct the Secretary of Energy to explore potential opportunities to develop educational programs related to energy development and use. This should include possible legislation to create public awareness programs about energy. Such programs should be long term in nature, should be funded and managed by the respective energy industries, and should include information on energy's compatibility with a clean environment.''

The legislation currently under consideration in the House/Senate conference addresses a lot of important issues but these are tactical issues relating to energy. In order to better solve the Nation's long-term energy security or energy needs we must address public education.

One of the best ways to go about this would be with a broad based education program as recommended in chapter two. Today's public is far better informed about their energy choices than the public of even a decade ago, but there is always more room to learn. A highly informed public will be able to make better energy choices and will demand a long-term, far-reaching energy policy.

This will require broad based national, and international, public education and information programs on energy issues, including conservation and efficiency, the role energy plays in the economy and the impact energy use has on the environment. There must also be a focus on the interlocking relationship of what are referred to as the 3 Es: energy, economy, and environment.

It is important that all 3 Es be considered simultaneously in order to have credibility and to recognize this interlocking relationship. It is also important that any effort that tries to achieve a cultural change in how society views energy recognize its importance in the public's economic well-being and its role in the public's quality of life.

An excellent example of this is being conducted by the Energy Literacy Project, ELP. The ELP is currently supporting an ongoing research effort at the Colorado School of Mines to identify programs that offer educational material about the interlocking nature of Energy, the Economy and the Environment, the 3 Es. The ELP is a non-profit 501(c)(3) corporation whose goal is to see a cultural change in how society views the role energy plays in its economic well-being and in its quality of life. They have an excellent web site that explains much of their work located at www.energyliteracy.org.

The public wants and deserves sound, reliable information. A sustainable energy policy will be much more easily attained with a knowledgeable public that can make informed, well-reasoned decisions about its choices and a sustainable energy policy.

SKILLED NURSING FACILITIES

Mr. SMITH of Oregon. Mr. President, I would like to raise another issue today which has a major impact on older and disabled Americans and their families, nursing homes. Under current law, Medicare rates for seniors in nursing homes were reduced by ten percent as of October 1, because a series of previously-enacted add-on provisions expired. Let me be clear. On October 1, the average per diem payment to a nursing home to care for a Medicare patient was cut to a level ten percent lower than it was on September 30. The average rate fell from $337/day to slightly more than $300/day. This is a real cut.

This negative quirk results from the fact the Clinton Administration poorly implemented the Balanced Budget Act, BBA, of 1997, and in the process, set Medicare rates for seniors in nursing homes far below the levels Congress set out in the BBA of 1997. Recognizing that the new system was paying much less for nursing home care for Medicare patients than it had intended, Congress passed the Balanced Budget Refinement Act of 1999 and then the Beneficiary Improvement Protection Act of 2000, which provided limited fixes to the payment structure for skilled nursing care through add-on payments. But, because it was expected HCFA, now CMS, would ''refine'' the rates and fix the problem, these add-ons were temporary. However, CMS has not yet acted, and the ''add-on'' provisions have now expired.

Recognizing the pending cuts needed to be prevented, in June, I, along with several of my Senate colleagues, introduced the Medicare Skilled Nursing Beneficiary Protection Act of 2002. Because I felt Congress must ensure beneficiary access to quality care, my bill would protect funding levels for Medicare skilled nursing patients by maintaining payments at 2002 levels going forward.

During the last few years, five of the nation's largest providers of long-term care have filed for Chapter 11 bankruptcy protection. Some of those companies are just now emerging from that wrenching process. Moreover, 353 skilled nursing homes have closed. In my home State of Oregon alone, 23 skilled nursing facilities, SNFs, have closed—a loss of almost 1,500 beds. For a small state like Oregon, this is a significant loss. With the cuts in Medicare funding, a vital segment of our country's health care system is beginning to be thrown, once again, into crisis. More facilities will close. Patients, especially those in rural areas, will find it more difficult to obtain the long-term care services they need.

The instability of skilled nursing facilities is expected to worsen as states reduce Medicaid expenditures in the face of significant budget shortfalls and as private market capital continues to withdraw from the sector. If Congress goes home before re-instating the Medicare payment add-ons, it will result in failures in the sector that will translate to unparalleled access problems for Medicare patients needing care in our nation's skilled nursing facilities. I will do everything I can to ensure quality care for our nation's seniors is not threatened.

CONGRESSIONAL-EXECUTIVE CONSULTATION ON TRADE

Mr. BAUCUS. Mr. President, in the coming weeks, the Finance Committee will be working closely with the Office of the U.S. Trade Representative to develop written Guidelines on consultations between the Administration and Congress in trade negotiations. These Guidelines will be our roadmap for collaboration between the Executive and Legislative Branches on trade negotiations for the next five years. They will be the basis for the partnership of equals called for by the Trade Act of 2002.

The trade negotiation agenda promises to be busy. Even before passage of the Trade Act, work was under way in the Doha Round of WTO negotiations and in the Free Trade Area of the Americas negotiations. USTR also was busy concluding free trade agreements with Chile and Singapore. Since passage of the Trade Act, USTR has expressed the Administration's interest in beginning FTA negotiations with Morocco, Central America, the Southern African Customs Union, and Australia.

This busy agenda requires maximum clarity in the rules governing interaction between the Administration and Congress. Clear rules will form a foundation for a common understanding of how we bring trade agreements from the concept phase to the implementation phase. This common understanding will help ensure a smooth process, with few if any surprises or bumps in the road.

The Trade Act defines the scope of coverage of the contemplated Guidelines on trade negotiations. Specifically, the Guidelines are required to address: the frequency and nature of briefings on the status of negotiations; Member and staff access to pertinent negotiating documents; coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during negotiating sessions, including at negotiation sites; and consultations regarding compliance with and enforcement of trade agreement obligations.

The Guidelines also must identify a time frame for the President's transmittal of labor rights reports concerning the countries with which the United States concludes trade agreements.

The Trade Act contemplates collaboration among USTR, the House Ways and Means Committee and the Senate Finance Committee in developing the Guidelines. I would like to use this opportunity to propose specific provisions that should be included in the Guidelines to maximize the potential for a

true partnership between the Legislative and Executive branches.

The first issue that needs to be addressed is access to negotiating documents. When U.S. negotiators prepare to make an offer to their foreign counterparts, Congressional trade advisers and staff must be able to review the proposed offer in time to provide meaningful input. In general, trade advisers and staff should be able to see such documents not less than two weeks before U.S. negotiators present their offer to our negotiating partners. This will give trade advisers time to convey comments and make recommendations, with a reasonable expectation that their comments and recommendations will receive serious consideration.

By the same token, when another country makes an offer during the course of a negotiating session, that offer should promptly be made available to Congressional trade advisers and staff. This will enable trade advisers to keep abreast of the give-and-take of negotiations and to provide intelligent input into the development of the U.S. position.

Second, Congressional trade advisers and staff should have access to regularly scheduled negotiating sessions. I know that some in the Administration will bridle at this suggestion, citing separation of powers concerns. However, I do not think those concerns are warranted.

I am not suggesting that trade advisers or staff actually engage in negotiations. I am suggesting only that they attend as observers. This level of Congressional involvement in negotiations has well established precedents. A recent study by the Congressional Research Service on the role of the Senate in treaties and other international agreements catalogued instances of Congressional inclusion in delegations stretching back to negotiations with Spain in 1898 and continuing to the present day.

I ask unanimous consent that the relevant pages of this lengthy CRS study be printed in the RECORD at the conclusion of this statement.

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

(See exhibit 1.)

Mr. BAUCUS. In the early part of the last century, Presidents Harding and Hoover actually designated Senators as delegates, not merely observers, to arms limitation negotiations. President Truman included Members of Congress in the delegations that negotiated the establishment of the United Nations and the North Atlantic Treaty.

More recently, a special Senate Arms Control Observers Group was created in 1985 to oversee negotiations that led to the first Strategic Arms Reduction Treaty. It included distinguished members of this body, including Senators LUGAR, STEVENS, Nunn, Pell, Wallop, Moynihan, KENNEDY, Gore, WARNER, and NICKLES. President Reagan embraced this endeavor, precisely because he knew that a close working relationship with the Senate at the beginning of negotiations would increase the likelihood of ratification at the conclusion.

Indeed, the history of Congressional involvement in the negotiation of treaties and other international agreements has its roots in the very origins of our Nation. Until the closing days of the Constitutional Convention of 1787, the Framers had intended for the Senate to have the sole authority to make treaties. And in the Federalist Papers, Alexander Hamilton acknowledged that treaty making ''will be found to partake more of the legislative than of the executive character . . .''

The well-recognized utility of Congressional involvement in treaty and international agreement negotiation applies with even greater force when it comes to international trade. For here, the making of international agreements intersects with the Constitution's express grant of authority to Congress to regulate commerce with foreign nations.

The statute that framed trade negotiations for the last quarter century, the Trade Act of 1974, contemplated a close working relationship between Congress and the Administration. Thus, during the Tokyo Round and Uruguay Round of multinational trade negotiations, staff of the Finance Committee and the House Ways and Means Committee traveled regularly to Geneva. They were included in U.S. Trade Representative staff meetings and observed negotiations of plurilateral and multilateral agreements. They had regular access to cable traffic and other negotiating documents. By all accounts, this process worked well. Staff, and, in turn, Members were kept well informed of the progress of negotiations, which helped to secure Congressional support for the resulting agreements.

In fact, there are numerous illustrations of close interaction between Executive and Legislative Branches in the trade negotiation arena. I myself have attended trade negotiating sessions on a number of occasions. Just last year, my staff and I attended a session of the Free Trade Area of the Americas negotiations in Quebec City. Before that, I attended some sessions of the mid-term meeting of the Uruguay Round negotiations in Montreal. I know that Members of Congress also have been included in delegations to WTO Ministerial meetings in Singapore and Seattle. And, I understand that during the Uruguay Round, Members traveled to Geneva at key junctures in negotiations on trade remedy laws, and were included in the official delegation to a Ministerial meeting in Brussels.

Even in the period from 1994 to 2002, when fast track negotiating authority lapsed along with the express mandate for a Congressional-Executive partnership on trade, Members of Congress sought to remain closely involved. For example, I understand that my friend Senator GRASSLEY sought permission for staff of the General Accounting Office to attend certain negotiations, in order to keep Congress well informed.

Now, fast track has been renewed. Once again, we have an express mandate for a Congressional-Executive partnership on trade. Indeed, the Trade Act of 2002 contemplates an even closer working relationship between Congress and the Administration than the Trade Act of 1974. It is time to revive and strengthen the practices that solidified a close, robust working relationship in the past.

Given the long history of Legislative-Executive partnership in negotiating in a whole host of sensitive areas, given the constitutional role of Congress when it comes to regulation of commerce with foreign nations, and given the policy articulated in the Trade Act of 2002, I see little basis for excluding Congressional observers from trade negotiations.

Third, the Guidelines should set forth a clear schedule and format for consultations in connection with negotiating sessions. At a minimum, negotiators should meet with Congressional advisers' staff shortly before regularly scheduled negotiating sessions and shortly after the conclusion of such sessions. To the extent practicable, the Administration participants in these consultations should be the individuals negotiating on the subjects at issue, as opposed to their supervisors.

Consultations should be an opportunity for negotiators to lay out, in detail, their plan of action for upcoming talks and to receive and respond to input from Congressional advisers. Whenever practicable, consultations should be accompanied by documents pertaining to the negotiation at issue. If advisers of staff make recommendations during consultation sessions, arrangements should be made for negotiators to respond following consideration of those recommendations.

Additionally, to the extent that Congressional advisers or staff are unable to attend negotiating sessions, arrangements should be made to provide briefings by phone during the negotiations.

The key point here is that it is the quality as much as the quantity of negotiations that counts. It matters little that the Administration briefed Congressional advisers a hundred times in connection with a given negotiations, if the briefings amount to impressionistic summaries with no meaningful opportunity for advisers to offer input.

Fourth, the Guidelines must set forth a plan to keep Congressional advisers fully and timely informed of efforts to monitor and enforce trade agreements. In any trade agreement, follow up is critical. If compliance is spotty, the agreement is not worth the paper it is written on. Also, monitoring and enforcement help to identify provisions that might be modified in future trade agreements.

Currently, Congressional advisers get briefed when a formal dispute arises or

sanctions are threatened or imposed. Keeping Congressional advisers in the monitoring and enforcement loop tends to be episodic. It should be systematic.

The Guidelines should provide for consultations with Congressional advisers on monitoring and enforcement at least every two months. These consultations should not just highlight problems. They should provide a complete picture of how the Executive Branch is deploying its monitoring and enforcement resources. They should identify where these efforts are succeeding, as well as where they require reenforcement.

In conclusion, the Trade Act of 2002 represents a watershed in relations between the Executive and Legislative Branches when it comes to trade policy and negotiations. Before the Trade Act, the Executive Branch generally took the lead, and the involvement of Congressional advisers tended to be cursory and episodic. In the Trade Act, Congress sent a clear message that the old way will not do.

From now on, the involvement of Congressional advisers in developing trade policy and negotiations must be in depth and systematic. Congress can no longer be an afterthought. The Trade Act establishes a partnership of equals. It recognizes that Congress's constitutional authority to regulate foreign trade and the President's constitutional authority to negotiate with foreign nations are interdependent. It requires a working relationship that reflects that interdependence.

Our first opportunity to memorialize this new, interdependent relationship is only weeks away. I am very hopeful that the Administration will work closely with us in developing the Guidelines to make the partnership of equals a reality.

EXHIBIT 1

TREATIES AND OTHER INTERNATIONAL AGREEMENTS: THE ROLE OF THE UNITED STATES SENATE

On occasion Senators or Representatives have served as members of or advisers to the U.S. delegation negotiating a treaty. The practice has occurred throughout American history. In September 1898, President William McKinley appointed three Senators to a commission to negotiate a treaty with Spain. President Warren G. Harding appointed Senators Henry Cabot Lodge and Oscar Underwood as delegates to the Conference on the Limitation of Armaments in 1921 and 1922 which resulted in four treaties, and President Hoover appointed two Senators to the London Naval Arms Limitation Conference in 1930.

The practice has increased since the end of the Second World War, in part because President Wilson's lack of inclusion of any Senators in the American delegation to the Paris Peace Conference was considered one of the reasons for the failure of the Versailles Treaty. Four of the eight members of the official U.S. delegation to the San Francisco Conference establishing the United Nations were Members of Congress: Senators Tom Connally and Arthur Vandenberg and Representatives Sol Bloom and Charles A. Eaton.

There has been some controversy over active Members of Congress serving on such delegations. When President James Madison appointed Senator James A. Bayard and Speaker of the House Henry Clay to the commission that negotiated the Treaty of Ghent in 1814, both resigned from Congress to undertake the task. More recently, as in the annual appointment of Senators or Members of Congress to be among the U.S. representatives to the United Nations General Assembly, Members have participated in delegations without resigning, and many observers consider it ''now common practice and no longer challenged.''

One issue has been whether service by a Member of Congress on a delegation violated Article I, Section 6 of the Constitution. This section prohibits Senators or Representatives during their terms from being appointed to a civil office if it has been created or its emoluments increased during their terms, and prohibits a person holding office to be a Member of the Senate or House. Some contend that membership on a negotiating delegation constitutes holding an office while others contend that because of its temporary nature it is not.

Another issue concerns the separation of powers. One view is that as a member of a negotiating delegation a Senator would be subject to the instructions of the President and would face a conflict of interest when later required to vote on the treaty in the Senate. Others contend that congressional members of delegations may insist on their independence of action and that in any event upon resuming their legislative duties have a right and duty to act independently of the executive branch on matters concerning the treaty.

A compromise solution has been to appoint Members of Congress as advisers or observers, rather than as members of the delegation. The administration has on numerous occasions invited one or more Senators and Members of Congress or congressional staff to serve as advisers to negotiations of multilateral treaties. In 1991 and 1992, for example, Members of Congress and congressional staff were included as advisers and observers in the U.S. delegations to the United Nations Conference on Environment and Development and its preparatory meetings. In 1992, congressional staff advisers were included in the delegations to the World Administrative Radio Conference (WARC) of the International Radio Consultative Committee (CCIR) of the International Telecommunications Union.

In the early 1990s, Congress took initiatives to assure congressional observers. The Senate and House each designated an observer group for strategic arms reductions talks with the Soviet Union that began in 1985 and culminated with the Strategic Arms Reduction Treaty (START) approved by the Senate on October 1, 1992. In 1991, the Senate established a Senate World Climate Convention Observer Group. As of late 2000, at least two ongoing groups of Senate observers existed:

1. Senate National Security Working Group.—This is a bipartisan group of Senators who ''act as official observers to negotiations * * * on the reduction or limitation of nuclear weapons, conventional weapons or weapons of mass destruction; the reduction, limitation, or control of missile defenses; or related export controls.''

2. Senate Observer Group on U.N. Climate Change Negotiations.—This is a ''bipartisan group of Senators, appointed by the Majority and Minority Leaders'' to monitor ''the status of negotiations on global climate change and report[ing] periodically to the Senate * * *.''

OUR LADY OF PEACE ACT

Mr. LEVIN. Mr. President, a sensible gun safety measure has been recently passed by our colleagues in the House of Representatives. The ''Our Lady of Peace Act'' was first introduced by Representative CAROLYN MCCARTHY after Reverend Lawrence Penzes and Eileen Tosner were killed at Our Lady of Peace church in Lynbrook, NY on March 12, 2002. These deaths may have been prevented if the assailant's misdemeanor and mental health records were part of an automated and complete background check system.

According to the House Judiciary Committee Report on the bill, 25 States have automated less than 60 percent of their felony criminal conviction records. While many States have the capacity to fully automate their background check systems, 13 States do not automate or make domestic violence restraining orders accessible through the National Instant Criminal Background Check System, otherwise known as NICS. Fifteen States do not automate domestic violence misdemeanor records or make them accessible through NICS. Since 1994, the Brady Law has successfully prevented more than 689,000 individuals from illegally purchasing a firearm. More ineligible firearm purchases could have been prevented, and more shooting deaths may have been avoided had state records been fully automated.

The Our Lady of Peace Act would require Federal agencies to provide any government records with information relevant to determining the eligibility of a person to buy a gun for inclusion in NICS. It would also require states to make available any records that would disqualify a person from acquiring a firearm, such as records of convictions for misdemeanor crimes of domestic violence and individuals adjudicated as mentally defective. To make this possible, this bill would authorize appropriations for grant programs to assist States, courts, and local governments in establishing or improving automated record systems. I hope we can move in this direction this Congress or next.

ASSISTANCE FOR SOUTH DAKOTA MEDICARE BENEFICIARIES AND PROVIDERS

Mr. JOHNSON. Mr. President, one of the key remaining issues of the 107th Congress that I believe must be addressed yet this year is Medicare relief for rural health care providers and beneficiaries. Recently, bipartisan legislation was introduced, called the Beneficiary Access to Care and Medicare Equity Act of 2002, S. 3018, that will provide definitive steps to strengthen South Dakota's rural health care delivery system. I am pleased to be a cosponsor of this bill.

The legislation will provide $43 billion over ten years for provider and beneficiary improvements in the Medicare and Medicaid programs. Earlier

this summer, the House passed a Medicare bill, which provides approximately $30 billion over ten years. The Senate legislation will provide South Dakota with nearly $84.2 million in Medicare improvements for rural hospitals, skilled nursing facilities, home health services, physicians, and beneficiaries alike. Although the Administration has expressed some resistance to working with Congress on Medicare legislation this year, I will continue to fight for passage of this critically important legislation.

As I travel throughout South Dakota, many health care providers and Medicare beneficiaries have expressed concerns regarding inequities with Medicare reimbursements in rural states like South Dakota. It is a travesty that nationwide, rural providers receive less Medicare reimbursement for providing the same services as their urban counterparts. Therefore, I remain committed to improving the equity in Medicare reimbursement levels for rural States, and increasing access to quality, affordable health care for the citizens of South Dakota.

As a member of the Senate Rural Health Caucus, I joined several of my fellow caucus members in sending a letter to the Senate Finance Committee expressing our rural health priorities as compiled from the input that I received from South Dakotans, such as yourself. I was pleased that many of my rural priorities were included in S. 3018, and would ask unanimous consent that the text of this letter be printed in the CONGRESSIONAL RECORD. As well, I ask unanimous consent that the summary of S. 3018 also be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 16, 2002.

Hon. MAX BAUCUS, *Chairman,*
Hon. CHARLES GRASSLEY, *Ranking Member,*
Committee on Finance,
Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER GRASSLEY: As members of the Senate Rural Health Caucus, we write to urge you to take definitive steps this year to strengthen our nation's rural health care delivery system. We are particularly concerned about geographic inequities in Medicare spending, which are caused in part by disparities in current Medicare payment formulas. Related to this, we strongly urge the Committee to address needed rural payment improvements in its Medicare refinement bill.

Nationwide, rural providers receive less Medicare reimbursement for providing the same services as their urban counterparts. According to the latest Medicare figures, Medicare's annual inpatient payments per beneficiary by state of residence range from slightly more than $3,000 in predominately rural states like Wyoming, Idaho and Iowa to over $7,000 in other states.

This problem is compounded by the fact that rural Medicare beneficiaries tend to be poorer and have more chronic illnesses than urban beneficiaries. This inherent vulnerability of rural providers combined with historic funding shortfalls and rising costs has placed additional burdens on an already strained rural health care system.

It is due to these unique circumstances that rural providers and beneficiaries deserve to be the Committee's top priority as it writes legislation to strengthen the Medicare system. We encourage the Committee to give special consideration to those states that are experiencing the lowest aggregate negative Medicare margins. We request the following rural specific provisions be included in the Committee's final Medicare provider legislation:

1. RURAL HOSPITALS

Market Basket Update: Under current law, all hospitals will receive a Medicare payment update in FY2003 of hospital cost inflation minus approximately one-half percent. However, hospitals in rural areas and smaller urban areas have Medicare profit margins far lower than those of hospitals in large urban areas. Therefore, we urge the Committee to provide hospitals located in rural or smaller urban areas with a full inflation update.

Equalize Medicare Disproportionate Share Hospital Payment (DSH) Formula: Hospitals receive add-on payments to help cover the costs of serving a high proportion of uninsured patients. While urban facilities can receive unlimited add-ons corresponding with the amount of patients served, rural add-on payments are capped at 5.25 percent of the total amount of the inpatient payment. We urge the Committee to remove this cap for rural hospitals, bringing their payments in line with the benefits urban facilities receive.

Close Gap Between Urban and Rural ''Standardized Payment'' Levels: Inpatient hospital payments are calculated by multiplying several different factors, including a standardized payment amount. Under current law, hospitals located in cities with more than 1 million people receive a base payment among 1.6 percent higher than those serving smaller populations. We urge the Committee to address this disparity by bringing the rural base payment up to the urban payment level.

Low-Volume Hospital Payment: According to recent data, the current hospital inpatient payment rate has placed low-volume hospitals at a disadvantage because it does not adequately account for the fact that smaller facilities have difficulty achieving the economies of scale of their larger counterparts. To address this problem, we request the Committee create a low-volume inpatient payment adjustment for hospitals that have less than 1,000 annual discharges per year and are located more than 15 miles from another hospital.

Outpatient Payment Improvements: Rural Hospitals are highly dependent on outpatient services for revenue; however, the Medicare Outpatient Prospective Payment System sets payments at 16 percent below costs. We urge the Committee to take the following actions to ensure outpatient stability for rural hospitals.

1. Increase emergency room and APC payments by 10 percent.
2. Limit the pro rata reduction in passthrough payments to 20 percent.
3. Limit the budget neutrality adjustment to no more than 2 percent.
4. Extend current provision that holds small, rural hospitals harmless from the current Outpatient PPS for three more years.
5. Improve and extend transitional corridor payments to rural hospitals.

Wage Index Issues: Medicare's current inpatient hospital payments fail to accurately reflect today's labor costs in rural areas. The Caucus has long been concerned about this issue and its impact on rural hospitals as they strive to recruit and retain key health care personnel. We strongly urge the Committee to address the area wage index disparities with new money.

Current law allows rural facilities located near urban area to receive the higher wage index available to the facilities located in the metropolitan area. However, this wage index ''reclassification'' is available only for inpatient and outpatient services. We believe re-classification should extend to other services offered by hospitals, such as home care and skilled nursing services.

2. CRITICAL ACCESS HOSPITAL PROGRAM IMPROVEMENTS

The Balanced Budget Act of 1997 created the Critical Access Hospital program (CAH) to ensure access to essential health services in underserved rural communities that cannot support a full service hospital. This program has proven to be critically important to rural areas as 667 hospitals across the nation have converted to Critical Access Hospital status. We urge the Committee to include the following modifications to strengthen this critical program.

- Reinstate Periodic Interim Payments (PIP), which provide facilities with a steadier stream of payment in order to improve their cash flow.
- Eliminate the current requirement that CAH-based ambulance services be at least 35 miles from another ambulance service in order to receive cost-based payment.
- Allow for home health services operated by CAHs to be reimbursed on a cost basis, as other CAH services already are.
- Provide cost-based reimbursement for certain clinical diagnostic lab tests furnished by a CAH.
- Provide Medicare coverage to CAHs for certain emergency room on-call providers.
- Allow CAHs to interchange the number of their acute and swing beds as necessary, but still maintain the current 25 bed limit.
- Alleviate payment reductions that will occur as a result of recent cost report changes made by CMS related to the amount of allowable beneficiary coinsurance payments.

3. RURAL HOME HEALTH IMPROVEMENTS

Home health care is a critical element of the continuum of care, allowing Medicare beneficiaries to remain in their homes rather than being hospitalized. Current law provides for a 10 percent payment boost for patients residing in rural areas, to reflect the higher costs due to distance, as well as the reality that there is often only one provider in rural areas. However, this special payment will expire with the current fiscal year.

4. RURAL HEALTH CLINICS

Under current law, rural health clinics receive an all-inclusive payment rate that is capped at approximately $63. Various analyses have suggested that this cap does not appropriately cover the cost of services for more than 50 percent of rural health clinics that the cap should be raised by 25 percent to address this shortfall. We request that the Committee raise the rural health clinic cap to $79.

Certain provider services, such as those offered by physicians, nurse practitioners, physician assistants, and qualified psychologists are excluded from the consolidated payments made to skilled nursing facilities (SNFs) under the prospective payment system. However, the same services provided to SNFs by physicians and other providers employed by rural health clinics are not excluded from the consolidated SNF payment. We request the Committee ensure skilled nursing services offered by rural health clinic providers will receive the same payment treatment as services offered by providers employed in other settings.

5. RURAL PROVIDERS

Rural Physicians: There are several ways to improve the current Medicare Incentive

Payment program to increase payments to rural physicians. Such changes include: placing the burden for determining eligibility for the current 10 percent rural physician bonus payment on the Medicare carrier rather than the individual physician; creating a Medicare Incentive Payment Education program at CMS; and establishing an on-going analysis of the program's ability to improve Medicare beneficiaries' access to physician services. We urge the Committee to make these critical changes to the Medicare Inventive Payment program.

Mental Health Providers: The majority of rural and frontier areas are federally designated mental health professional shortage areas. In many of these underserved communities, a Marriage and Family Therapist or a Licensed Professional Counselor is the only mental health provider available to seniors, but is not able to bill Medicare for their services. We strongly urge the Committee to provide Medicare reimbursement for Licensed Professional Counselors and Marriage and Family Therapists at the rate that Social Workers are paid.

6. OTHER RURAL ISSUES

Ambulance Services: The Balanced Budget Act of 1997 directed the Secretary of Health and Human services to establish a fee schedule payment system for ambulance services. The negotiated rule making committee that was utilized in the regulatory process instructed the Secretary to account for geographic differences and develop a more appropriate coding system. However, the current ambulance payment system does not recognize the unique circumstances of low-volume, rural providers. We strongly urge the Committee to address these issues to ensure access to critical ambulance services in rural and frontier communities.

Pathology Labs: Currently, independent labs can bill Medicare directly for all services. After January 1, 2003 labs will only be able to bill for diagnosis of slides prepared by the lab. The costs of slide preparation must be recovered separately from the hospital. Small, rural hospitals that do not have their own pathology departments and independent labs face increased administrative costs and complexity in this new billing arrangement. We request that the Committee make permanent the grandfather clause enacted in BIPA to allow independent labs to receive direct reimbursement from Medicare.

National Health Service Corps Taxation: The National Health Service Corps program (NHSC) provides either scholarships or loan-repayments to clinicians who agree to serve for at least three years in a designated health professional shortage area. Last year's tax cut exempted NHSC scholarships from taxation, but loan-repayments are still considered taxable income. As a result, almost half of the current NHSC appropriation is spent in the form of stipends to clinicians to offset the tax liability on loan repayments. We strongly urge the Committee to exempt the NHSC loan repayments from taxation.

Flex Reauthorization: As you know, the Balanced Budget Act of 1997 created the Rural Hospital Flexibility program (known as the ''flex'' program) to assist small rural hospitals in making the switch to Critical Access Hospital status (CAH). This program has proven to be very successful in rural areas as it has maintained access to critical care in small communities. Program funds are used by states for Critical Access Hospital designation and assistance, rural health planning and network development, and rural emergency medical services. We urge the Committee to reauthorize this important rural health program.

We greatly appreciate the Committee's past efforts on behalf of our nation's rural health care delivery system. We look forward to continuing to work with you to ensure that all rural providers receive the necessary resources to provide quality health care services to rural seniors.

Sincerely,

Craig Thomas (Co-Chair), Sam Brownback, ——, Byron L. Dorgan, Ben Nelson, ——, Fred H. Thompson, Conrad R. Burns, Jesse Helms, Wayne Allard, Michael Crapo, Chris Bond, James Inhofe, Patrick Leahy, Jeff Sessions, Debbie Stabenow, Paul Wellstone, Mike DeWine, Carl Levin, Ben Nighthorse Campbell, Jean Carnahan.

Tom Harkin (Co-Chair), Tim Johnson, Jeff Bingaman, Maria Cantwell, Mary Landrieu, Larry Craig, Pat Roberts, John Edwards, Blanche Lincoln, Susan Collins, Patty Murray, Mark Dayton, Gordon Smith, Tom Daschle, Tim Hutchinson, Jim Jeffords, ——, Ernest Hollings, Thad Cochran, Kay Bailey Hutchison, Ron Wyden, Orrin Hatch.

THE BENEFICIARY ACCESS TO CARE AND MEDICARE EQUALITY ACT OF 2002

TOTAL COST OVER 10 YEARS: APPROXIMATELY $43 BILLION

NOTE: subtotals below do not sum to $42 billion due to Part B premium and Medicaid interactions and rounding. Part B premium and Medicaid interactions total approximately −$2.5 billion over 10 years.

Title I—Rural Health Care Improvements

(Approx. $12.8 billion over 10 years)

Sec. 101. Full standardized amount for rural and small urban hospitals by FY04 and thereafter.

Sec. 102. Wage index changes: labor-related share for hospitals with a wage index below 1.0 is 68% for FY03 through FY05; labor-related share for hospital with a wage index above 1.0 is held harmless (i.e. remains at current level of 71%).

Sec. 103. Medicare disproportionate share (DSH) payments: increases the maximum DSH adjustment for rural hospitals and urban hospitals with under 100 beds to 10% (phased-in over ten years).

Sec. 104. 1-year extension of hold harmless from outpatient PPS for small rural hospitals.

Sec. 105. 5% add-on for clinic and ER visits for small rural hospitals.

Sec. 106. 2-year extension of reasonable cost payments for diagnostic lab tests in Sole Community Hospitals.

Sec. 107. Critical Access Hospital improvements: (a) Reinstatement of periodic interim payments; (b) Condition for application of special physician payment adjustment; (c) Coverage of costs for certain emergency room on-call providers; (d) Prohibition on retroactive recoupment; (e) Increased flexibility for states with respect to certain frontier critical access hospitals; (f) Permitting hospitals to allocate swing beds and acute care inpatient beds subject to a total limit of 25 beds; (g) Provisions related to certain rural grants; (h) Coordinated survey demonstration program.

Sec. 108. Temporary relief for certain non-teaching hospital for FY03 through FY05 (same as House-passed provision).

Sec. 109. Physician work Geographic Practice Cost Index at 1.0 for CY03 through CY05, holding harmless those areas with work GPCIs over 1.0.

Sec. 110. Make existing Medicare Incentive Payment 10% bonus payments on claims by physicians serving patients in rural Health Professional Shortage Areas automatic, rather than requiring special coding on such claims.

Sec. 111. GAP study on geographic differences in physician payments.

Sec. 112. Extension of 10% rural add-on for home health through FY04.

Sec. 113. 10% add-on for frontier hospice for CY03 through CY07.

Sec. 114. Exclude services provided by Rural Health Clinic-based practitioners from Skilled Nursing Facility consolidated billing.

Sec. 115. Rural Hospital Capital Loan Authorization.

Title II—Provisions Relating to Part A

(Approx. $9.0 billion over 10 years)

Subtitle A—Inpatient Hospital Services

Sec. 201. FY03 inflation adjustment of market basket minus −0.25% for PPS hospitals; full market basket for Sole Community Hospitals.

Sec. 202. Update hospital market basket weights more frequently.

Sec. 203. IME Adjustment: 6.5% in FY03, 6.5% in FY04, 6.0% in FY05.

Sec. 204. Puerto Rico: 75%–25% Federal-Puerto Rico blend beginning in FY 03.

Sec. 205. Geriatric GME programs: certain geriatric residents do not count against caps.

Sec. 206. DSH increase for Pickle hospitals from 35% to 40%.

Subtitle B—Skilled Nursing Facility Services

Sec. 211. Increase to nursing component of RUGs: 15% in FY03, 13% in FY04, 11% in FY05; increase in payment for AIDS patients cared for by SNFs; GAO study.

Sec. 212. Require collection of staffing data; require staffing measure in CMS quality initiative.

Subtitle C—Hospice

Sec. 221. Allow payment for hospice consultation services based on fee schedule set by Secretary; remove one-time limit set by House.

Sec. 222. Authorize use of arrangements with other hospice programs.

Title III—Provisions Relating to Part B

(Approx. $10.0 billion over 10 years)

Subtitle A—Physicians' Services

Sec. 301. Physician payment increase (same as House-passed version); GAO study; MedPAC report.

Sec. 302. Extension of treatment of certain physician pathology services through FY05.

Subtitle B—Other Services

Sec. 311. Competitive bidding for DME: begin national phase-in CY03 for MSAs with over 500,000 people.

Sec. 312. 2-year extension of moratorium on therapy caps.

Sec. 313. Acceleration of reduction of beneficiary copayment for hospital outpatient department services.

Sec. 314. End-Stage Renal Disease: Increase composite rate to 1.2% in CY03 and CY04; composite rate exceptions for pediatric facilities.

Sec. 315. Improved payment for certain mammography services.

Sec. 316. Waiver of Part B late enrollment penalty for certain military retirees and special enrollment period.

Sec. 317. Coverage of cholesterol and blood lipid screening.

Sec. 318. 5% payment increase for rural ground ambulance service, 2% increase for urban ground ambulance services.

Sec. 319. Medical necessity criteria for air ambulance services under ambulance fee schedule.

Sec. 320. Improved payment for thin prep pap tests.

Sec. 321. Coverage of immunsuppressive drugs.

Sec. 322. Geriatric care assessment demonstration program.

Sec. 323. CMS study and recommendations to Congress on revisions to outpatient payment methodology for drugs, devices and biologicals.

Title IV—Provisions Relating to Parts A and B

(Approx. $0.0 billion over 10 years)

Subtitle A—Home Health Services

Sec. 401. Eliminate 15% reduction in payments for home health services.

Sec. 402. Reduce inflation updates in FY03 through FY05; full market basket increases thereafter.

Subtitle B—Other Provisions

Sec. 411. Information technology demonstration project.

Sec. 412. Modifications to the Medicare Payment Advisory Commission.

Sec. 413. Requires CMS to maintain a carrier medical director and carrier advisory committee in every state to ensure access to the local coverage process.

Title V—Medicare+Choice and Related Provisions

(Approx. $2.3 billion over 10 years, including M+C interactions)

Sec. 501. Increase minimum updates to 4% in CY03 and 3% in CY04.

Sec. 502. Clarify Secretary's authority to disapprove certain cost-sharing

Sec. 503. Extend cost contracts for 5 years.

Sec. 504. Extend the Social HMO Demonstration through 2006.

Sec. 505. Extend specialized plans for special needs beneficiaries for 5 years (Evercare).

Sec. 506. Extend 1% entry bonus for M+C for 2 years; bonus does not apply for private fee-for-service or demonstration plans.

Sec. 507. PACE technical fix regarding services furnished by non-contract providers.

Sec. 508. Reference to implementation of certain M+C provisions in 2003.

Title VI—Medicare Appeals, Regulator, and Contracting Improvements

(Approx. $0.0 billion over 10 years)

Subtitle A—Regulatory Reform

Sec. 601. Require status report on interim final rules; limit effectiveness of interim final rules to 12 months with one extension permitted under certain circumstances.

Sec. 602. Requires only prospective compliance with regulation changes.

Sec. 603. Secretary report on legal and regulatory inconsistencies in Medicare.

Subtitle B—Appeals Process Reform

Sec. 611. Requires Secretary to submit detailed plan for transfer of responsibility for medicare appeals from SSA to HHS; GAO evaluation of plan.

Sec. 612. Allows expedited access to judicial review for Medicare appeals involving legal issues that the DAB does not have the authority to decide.

Sec. 613. Allows expedited appeals for certain provider agreement determinations, including terminations.

Sec. 614. Tightens eligibility requirements for QICs and reviewers; ensures notice and improved explanation on determination and redetermination decisions; delays implementation of Section 521 of BIPA for 14 months, but continues implementation of expedited redeterminations; expands CMS discretion on the number of QICs.

Sec. 615. Creates hearing rights in cases of denial or nonrenewal of enrollment agreements; requires consultation before CMS changes provider enrollment forms.

Sec. 616. Permits provider to appeal determinations relating to services rendered to an individual who subsequently dies if there is no other party available to appeal.

Sec. 617. Permits providers to seek appeal of local coverage decisions and to request development of local coverage decisions under certain circumstances.

Subtitle C—Contracting Reform

Sec. 621. Authorizes Medicare contractor reform beginning in October 2004.

Subtitle D—Education and Outreach Improvements

Sec. 631. New education and technical assistance requirements.

Sec. 632. Requires CMS and contractors to provide written responses to health care providers' and beneficiaries' questions with 45 days.

Sec. 633. Suspends penalties and interest payments for providers that have followed incorrect guidance.

Sec. 634. Creates new ombudsmen offices for health care providers and beneficiaries.

Sec. 635. Authorizes beneficiary outreach demonstration.

Subtitle E—Review, Recovery, and Enforcement Reform

Sec. 641. Requires CMS to establish standards for random prepayment audits.

Sec. 642. Requires CMS to enter into overpayment repayment plans. Prevents CMS from recovering overpayments until the second level of appeal is exhausted.

Sec. 643. Establishes a process for the correction of incomplete or missing data without pursuing the appeals process.

Sec. 644. Expands the current waiver of program exclusions in cases where the provider is a sole community physician or sole source of essential health care.

Title VII—Medicaid-SCHIP

(Approx. $10.8 billion over 10 years)

Sec. 701. Extend Medicaid disproportionate share hospital (DSH) inflation updates (for 2001 and 2002) to 2003, 2004 and 2005 allotments; update District of Columbia DSH allotment.

Sec. 702. Raise cap from 1% to 3% for states classified as low Medicaid DSH in FY03 through FY05.

Sec. 703. Five year extension of QI–1 Program.

Sec. 704. Enable public safety net hospitals to access discount drug pricing for inpatient drugs.

Sec. 705. CHIP Redistribution: give states an additional year to spend expiring funds that would otherwise return to the Treasury; continue BIPA arrangement for SCHIP redistribution; establish caseload stabilization pool beginning in FY04; allow certain states to use a portion of unspent SCHIP funds to cover specified Medicaid beneficiaries; GAO study to evaluate program implementation and funding.

Sec. 706. Improvements to Section 1115 waiver process for Medicaid and State Children's Health Insurance Program (SCHIP) waiver.

Sec. 707. Increase the federal medical assistance percentage in Medicaid (FMAP) by 1.3% for 12 months for all states; ''hold harmless'' states scheduled to have a lower FMAP in FY03; $1 billion increase in Social Services Block Grant for FY03.

Title VIII—Other Provisions

(Approx. $0.9 billion over 10 years)

Sec. 801. Extend funding for Special Diabetes Programs for FY04, FY05, and FY06 at $150 million per program per year.

Sec. 802. Disregard of certain payments under the Emergency Supplemental Act, 2000 in the administration of Federal programs and federally assisted programs.

Sec. 803. Create Safety Net Organizations and Patient Advisory Commission.

Sec. 804. Guidance on prohibitions against discrimination by national origin.

Sec. 805. Extend grants to hospitals for EMTALA treatment of undocumented aliens.

Sec. 806. Extend Medicare Municipal Health Services Demonstration for 1 year.

Sec. 807. Provides for delayed implementation of certain provisions.

VETERANS DAY 2002

Mr. FEINGOLD. Mr. President, as the Senate prepares to recess until after the November elections, I would like to take a moment to express my thanks and the thanks of the people of Wisconsin to our Nation's veterans and their families.

The Senate will not be in session on Veterans Day, November 11th. I urge my colleagues and all Americans to take a moment on that day to reflect upon the meaning of that day and to remember those who have served and sacrificed to protect our country and the freedoms that we enjoy as Americans.

Webster's Dictionary defines a veteran as ''one with a long record of service in a particular activity or capacity,'' or ''one who has been in the armed forces.'' But we can also define a veteran as a grandfather or a grandmother, a father or a mother, a brother or a sister, a son or a daughter. Veterans live in all of our communities, and their contributions have touched all of our lives.

November 11 is a date with special significance in our history. On that day in 1918—at the eleventh hour of the eleventh day of the eleventh month—World War I ended. In 1926, a joint resolution of Congress called on the President to issue a proclamation to encourage all Americans to mark this day by displaying the United States flag and by observing the day with appropriate ceremonies.

In 1938, ''Armistice Day'' was designated as a legal holiday ''to be dedicated to the cause of world peace'' by an Act of Congress. This annual recognition of the contributions and sacrifices of our Nation's veterans of World War I was renamed ''Veterans Day'' in 1954 so that we might also recognize the service and sacrifice of those who had fought in World War II and the veterans of all of America's other wars.

Mr. President, our Nation's veterans and their families have given selflessly to the cause of protecting our freedom. Too many have given the ultimate sacrifice for their country, from the battlefields of the Revolutionary War that gave birth to the United States to the Civil War that sought to secure for all Americans the freedoms envisioned by the Founding Fathers. In the last century, Americans fought and died in two world wars and in conflicts in Korea, Vietnam, and the Persian Gulf. They also participated in peacekeeping missions around the globe, some of which are still going on. Today, our men and women in uniform are waging a fight against terrorism. And in the future, our military personnel could be asked to undertake a campaign in Iraq.

As we prepare to commemorate Veterans Day 2002, we should reflect on the

sacrifices—past, present, and future—that are made by our men and women in uniform and their families. We can and should do more for our veterans to ensure that they have a decent standard of living and access to adequate health care.

For those reasons, I am deeply concerned about a memorandum that was sent to Veterans Integrated Service Network Directors by Deputy Under Secretary for Health for Operations and Management Laura Miller in July ordering them to ''ensure that no marketing activities to enroll new veterans occur within your networks.'' The memo continued, ''[i]t is important to attend veteran-focused events as part of our responsibilities, but there is a difference between providing general information and actively recruiting people into the system.''

Deputy Under Secretary Miller's memo states that the increased demand for VA health care services exceeds the VA's current resources. According to the memo, ''In this environment, marketing VA services with such activities as health fairs, veteran open houses to invite new veterans to the facilities, or enrollment displays at VSO, Veteran Service Officer meetings, are inappropriate.''

While it is clear that more funding should be provided for VA health care and other programs, what is inappropriate is for the VA to institute a policy to stop making veterans aware of the health care services for which they may be eligible.

Soon after this memo was issued, I joined with the Senator from Massachusetts (Mr. KERRY) and a number of colleagues to send a letter to the President that expressed concern about the memo and asked that the policy outlined in it be reversed. As of today, Mr. President, more than two months later, we have yet to receive a reply to that letter.

I call on the President and the Secretary of Veterans Affairs to reverse immediately this unacceptable policy.

After the 108th Congress convenes next year, I plan to introduce a comprehensive package of reforms that will help to ensure that our nation's veterans are treated in a fashion that respects and recognizes the contributions that they have made to protect generations of Americans.

I am working to build on two pieces of legislation that I introduced during the 107th Congress. The National I Owe You Act, which I introduced with the Senator from Missouri [Mr. BOND], would require the VA to take more aggressive steps to make veterans aware of the benefits that are owed to them. This legislation, which was inspired by the Wisconsin Department of Veterans Affairs' ''I Owe You'' program, would create programs that identify eligible veterans who are not receiving benefits, notify veterans of changes in benefit programs, and encourage veterans to apply for benefits. The bill also would direct the Secretary of Veterans Affairs to develop an outreach program that encourages veterans and dependents to apply, or to reapply, for federal benefits.

This legislation in no way duplicates the work of County Veterans Service Officers (CVSOs) in my state and other states. The work of CVSOs is indispensable for reaching out to veterans, particularly in rural areas. The I Owe You Act simply calls for the VA to develop a program that encourages veterans to apply for benefits, identify veterans who are eligible but not receiving benefits, and notify veterans of any modifications to benefit programs. The new VA policy that prohibits marketing of health programs underscores the need for legislation in this area.

In addition, I have heard from many Wisconsin veterans about the need to improve claims processing at the VA. They are justifiably angry and frustrated about the amount of time it takes for the Veterans Benefits Administration to process their claims. In some instances, veterans are waiting well over a year. Telling the men and women who served their country in the Armed Forces that they ''just have to wait'' is wrong and unacceptable.

In response to these concerns, I joined with the Senator from Utah (Mr. HATCH) to introduce the Veterans Benefits Administration Improvement Act, which would require the Secretary of Veterans Affairs to submit a comprehensive plan to Congress for the improvement of the processing of claims for veterans compensation and pensions. In addition, every six months afterwards, the Secretary must report to Congress about the status of the program. I remain concerned about claims processing, and will continue to work with the VA and with my colleagues to address this important issue.

I look forward to continuing to meet with veterans and their families around Wisconsin in order to hear directly from them what services they need and what gaps remain in the VA system.

And so, Mr. President, this coming Veterans Day, and throughout the year, let us continue to honor America's great veterans.

Thank you, Mr. President.

WORKPLACE SAFETY IN THE CHEMICAL PROCESSING INDUSTRY

Mr. WELLSTONE. Mr. President, I would like to bring to the Senate's attention a disturbing new Federal study related to chemical plant safety. This report, dated September 24th from the U.S. Chemical Safety and Hazard Investigation Board, describes the hazards of what are called reactive chemicals. These are substances that can react violently, decompose, burn or explode when managed improperly in industrial settings. Process accidents involving reactive chemicals are reported to be responsible for significant numbers of deaths and injuries and considerable property losses in U.S. industries.

The investigation by the independent, non-regulatory board points out significant deficiencies in federal safety regulations that are meant to control the dangers from chemical processes. As the result of these inadequacies, more than half of the serious accidents caused by reactive chemicals occurred in processes that were exempt from the major Federal process safety rules.

These regulations known as the OSHA Process Safety Management standard and the EPA Risk Management Program rule -were mandated in the landmark 1990 Clean Air Act Amendments. Unfortunately, OSHA chose to regulate just a small handful of reactive chemicals only 38 substances out of the many thousands of chemicals used in commerce. EPA for its part did not regulate any reactive chemicals at all.

The tragic results of these omissions now seem apparent. The Chemical Safety Board uncovered 167 serious reactive chemical incidents in the U.S. over the last 20 years. More than half of these occurred after OSHA's rules were adopted in 1992. Serious chemical explosions and fires continue to occur in states around the country. Recent fatal accidents in Texas, Georgia, Pennsylvania, and New Jersey are among those catalogued in the Chemical Safety Board's investigation.

Take the case, for example, of 45-year old Rodney Gott, a supervisor at the Phillips Chemical complex in Pasadena, Texas, outside of Houston. On numerous occasions Mr. Gott was spared as deadly accidents occurred at his plant and those nearby. On one occasion in 1989, 23 of his coworkers were killed during a chemical explosion at his plant. But eleven years later, as he worked next to a 12,000 gallon storage tank containing reactive chemical residues, he fell victim to a huge explosion. Sixty-nine of his colleagues were injured, including some who were burned almost beyond recognition. Rodney Gott never made it out.

As a result of the loophole in OSHA and EPA regulations, many industrial facilities that handle reactive chemicals are not required to follow basic good engineering and safety management practices practices such as hazard analysis, worker training, and maintenance of process equipment.

Frankly, this is hard to understand. These sound to me like practices that should be followed universally in the chemical industry. There should be little disagreement about the need to require these practices wherever dangerous reactive chemicals are in use.

Nonetheless, OSHA has failed to take action to improve its process safety standard. The last administration had regulation of reactive chemicals on its agenda, but did not complete work on the task before leaving office. In December 2001, the new OSHA administration inexplicably dropped rulemaking on reactive chemicals from their published regulatory agenda. I convened

an oversight hearing of the Subcommittee on Employment, Safety and Training in July of this year to examine this issue among others.

OSHA Assistant Secretary John Henshaw appeared at that hearing. While he earlier stated that reactive chemical safety is a ''vital interest'' of the agency, he would not commit to me any particular timetable to put this important rulemaking back on track. I am deeply concerned at OSHA's failure to issue new and revised safety standards on an efficient schedule and at the low priority this item appears to have on OSHA's agenda. As the Chemical Safety Board's compelling statistics make clear, every year of delay on this regulation will cause additional needless deaths among America's working families. And there is ever present risk of a public catastrophe.

The Chemical Safety Board has now issued strong recommendations to both OSHA and EPA to address the safety of reactive chemicals through new regulations. President Bush's new appointee to head the Board, Carolyn Merritt, endorsed both these actions. A 30-year veteran of the chemical industry, she lamented the loss of life from reactive chemicals, noting that ''it is much cheaper to invest in sound safety management systems than to pay the cost of a major accident.'' I hope this is a view that prevails within the administration.

By statute, OSHA and EPA must respond to the Chemical Safety Board's recommendations within 180 days. I urge both Assistant Secretary Henshaw and Administrator Whitman not to wait, but to immediately accept these recommendations and begin enacting new standards. Every day without these standards is another day of peril for workers like Rodney Gott, and for the thousands of people who live and work around chemical facilities nationwide.

The Executive Summary of the Chemical Safety Board's investigation Improving Reactive Hazard Management is too lengthy to include in the record. It can be found on the Chemical Safety Board Web site: http://www.csb.gov/info/docs/2002/ExecutiveSummary.pdf

REALITY CHECK ON BALLISTIC IMAGING

Mr. CRAIG. Mr. President, the Washington, DC, area is in the midst of a terrible crisis. As we all know too well, a murderer has gunned down nine people in cold blood during the past two weeks. Two other victims, including a child, have by the grace of God survived these sick and senseless attacks. Our thoughts and prayers go out to the bereaved, even as we try to comfort and reassure our own families and communities.

I am confident that the deranged person or persons causing all this suffering will be caught. The attempt to hold this area hostage to fear and intimidation will fail, and law enforcement officers will bring the guilty to justice.

As investigators are running down tips and testing forensic evidence, a sudden cry has gone up in some quarters demanding the dramatic expansion of a process known as ''ballistic imaging.'' This technology is a tool employed to assist law enforcement in the analysis of crimes committed with a firearm.

I would like to take a moment to talk about this technology and make sure all our colleagues understand its benefits and limitations. It is easy for good people in the heat and emotion of these troubled times to be swept away by apparently easy solutions to enormously complex problems, and I believe that before we begin to think about expanding ballistic imaging in the United States, we should first take stock of what we do know.

Ballistic imaging technology can be a useful tool in the investigation of crimes committed with firearms. As currently used, forensic experts are able to electronically scan into a database a shell casing recovered from a crime scene to determine if that case matches those from other crime scenes. The technology can serve as a starting point in assisting law enforcement in determining if the same firearm was involved in multiple crimes.

The Federal Government has worked for nearly 10 years on developing an imaging network. The National Integrated Ballistic Information Network, NIBIN, administered by the Bureau of Alcohol, Tobacco, and Firearms, BATF, provides Federal, State, and local law enforcement officials with critical ballistics information on crimes committed with a firearm. This system matches shell casings recovered from crime scenes to ascertain if a firearm has been used in multiple assaults. By focusing strictly on cases recovered from crime scenes, NIBIN cannot be used to build a database of firearm owners, thereby guaranteeing the security and legal rights of millions of Americans who are law-abiding gun owners.

How does it work? When a firearm is discharged, both the shell casing and the bullet traveling down the barrel of the gun are imprinted with distinctive marks. The bullet takes on marks from the barrel's rifling, and the casing is marked by the gun's breech face, firing pin and shell ejector mechanism. Some guns, such as revolvers or single-shot rifles, might not leave ejection marks. These imprints are distinctive to a firearm. A ballistic imaging program can run a casing through its database and select those that offer a close match. A final identification is made visually by a highly trained ballistic examiner. This process does not lend itself to examining bullets from a firearm. Often, bullets are severely damaged on impact. Bullets recovered are usually examined visually by experts.

It is critically important to understand that this is not ''ballistic DNA'' or ''ballistic fingerprinting.'' Unlike DNA or fingerprints that do not change over time, the unique marks that can identify a particular bullet or shell casing can change because of a number of environmental and use factors. Barrels and operating parts of firearms change with use and wear and tear over time. Moreover, a person can, within minutes, use a file to scratch marks in a barrel or breech face, or replace a firing pin, extractor, and barrel thereby giving a firearm a completely ''new'' ballistic identity. In other words, imaging remains a tool, but not a silver bullet, in criminal investigations.

Legitimate concerns have been raised about creating a national database that would store ballistic images from all firearms sold. We know that such a database would involve huge costs to the government, firearms manufacturers, and customers. Furthermore, it raises questions about a legal ''chain of evidence,'' i.e., how to handle and store hundreds of millions of bullets or shell casings without exposing all such evidence to attack by defense lawyers. It could also break existing law by creating a database of law-abiding firearms owners and prove much less effective than NIBIN.

A recent study completed by the California Department of Forensic Services on creating a ballistic imaging network merely on a statewide level stated: ''When applying this technology to the concept of mass sampling of manufactured firearms, a huge inventory of potential candidates will be generated for manual review. This study indicates that the number of candidate cases will be so large as to be impractical and will likely create logistic complications so great that they cannot be effectively addressed.'' The study pointed out that when expanding the database of spent shell casings, the system will generate so many ''hits'' that could be potential matches, it would not be of any use to forensic examiners. Other problems included guns making different markings on casings from different ammunition manufacturers; the shipping, handling, and storage of spent shell casings; the fact that some firearms do not leave marks that can be traced back to that particular firearm; and the requirement of highly-trained personnel for proper operation.

What about the success rate of statewide systems already in operation? Maryland introduced its own ballistic imaging system in 2000. Every new handgun that is sold in the State must be accompanied by spent shell casings for input into the imaging network. According to Maryland budget figures, approximately $5 million has been spent on the system. According to Maryland law enforcement officials, it contains over 11,000 imaged cartridges, has been queried a total of 155 times and has not been responsible for solving any crimes. Meanwhile, in New York, there have been thousands of cartridges entered into their database

and, according to reports, no traces have resulted in criminal prosecutions.

Let me raise one more concern. It is clear that any ballistic imaging network would only be as good as the records it contains. While all the proposals put forward deal with compiling information from new firearms, today in the United States, it is estimated that there are more than 200 million firearms in private hands. It would be impossible to retrieve these firearms for ballistics documentation without violating the constitutional rights of millions of law abiding firearms owners.

All of these considerations should be food for thought to anyone seriously contemplating a national ballistic imaging network. At the very least, they support the conclusion that we should look, and look carefully, before we leap into this system. President Bush is calling for a study of the ballistic imaging technology, and so are some members of Congress. For example, the Ballistic Imaging Evaluation and Study Act, introduced in both the House and Senate by the bipartisan, bicameral team of Representative MELISSA HART and Senator ZELL MILLER, would order the Department of Justice to contract for a study by the National Academy of Sciences, which would examine the many questions surrounding imaging technology and provide a list of recommendations to policymakers and Congress. Enacting legislation to begin a study of this technology should be a priority. The proper allocation of dollars to fight crime is critical to ensuring safe communities, and we should obtain firm scientific conclusions on which to base decisions on how best to deploy this technology.

ADDITIONAL STATEMENTS

IN CELEBRATION OF THE WOMEN AT GROUND ZERO

• Mrs. BOXER. Mr. President, I would like to take this opportunity to share with the Senate my thoughts on 33 women who courageously served as rescue and medical workers, firefighters and police officers in New York City on September 11, 2001.

It is my great honor to recognize the extraordinary contributions made by these rescue workers who bravely worked to save lives at Ground Zero in New York City during the horror of September 11, 2001. The selfless actions of these women helped heal our country during a time of national tragedy. On September 11, we found out as a Nation what heroism truly is, how strong and united we can be, how we can set aside differences for the greater good and work together. And these women helped show us the way.

Some wonderful people in my home State of California are bringing these women to Sonoma County for an all-expense-paid week in the wine country to pay tribute to their heroism. I want to send my warmest thanks to Susan Hagen and Mary Carouba, authors of Women at Ground Zero, who wanted to make sure that the contributions of women rescue workers were recognized and honored along with their male counterparts.

In honor of their incredible efforts on September 11 and the important work they do every day, I am going to read the names of 30 women who worked at Ground Zero and then I will remember 3 women rescue workers who lost their lives on September 11, 2001.

Detective Jennifer Abramowitz; Rose Arce, who is not a rescue worker but who was doing a live broadcast next to Ground Zero on September 11 in order to get vital escape and rescue information out; Lieutenant Doreen Ascatigno; Captain Brenda Berkman; Maureen Brown; Tracy Donahoo; Major Kally Eastman; Bonnie Giebfried; Lieutenant Kathleen Gonczi; Sarah Hallett, PhD; Captain Rochelle ''Rocky'' Jones; Sue Keane; Tracy Lewis; Patty Lucci; Christine Mazzola; Lieutenant Ella McNair; Captain Marianne Monahan; Lieutenant Amy Monroe; Lois Mungay; Captain Janice Olszewski; Carol Paukner; Sergeant Carey Policastro; Mercedes Rivera; Lieutenant Kim Royster; Maureen McArdle-Schulman; Major Molly Shotzberger; JoAnn Spreen; Captain Terri Tobin; Nancy Ramos-Williams; and Regina Wilson.

I also want the following names to be memorialized today: Yamel Merino, Emergency Medical Technician; Captain Kathy Mazza, Commanding Officer of the Police Academy at the Port Authority Police Department; and Moira Smith, police officer with the New York Police Department. All three of these women sacrificed their lives on September 11, 2001 in their heroic efforts to save the lives of others.

None of us is untouched by the terror of September 11, and many Californians were part of each tragic moment of that tragic day. I offer today this tribute to the heroic women who worked tirelessly and selflessly at Ground Zero. I want to assure the families of Yamel Merino, Captain Kathy Mazza, and Officer Moira Smith that their mothers, daughters, aunts, and sisters will not be forgotten. And we will always be grateful to the brave men and women who worked tirelessly and selflessly at Ground Zero.•

IN RECOGNITION OF THE SAN FRANCISCO GIANTS

• Mrs. BOXER. Mr. President, I come before my colleagues today to pay tribute to the San Francisco Giants and their exceptional achievements on their road to the National League Pennant. On October 14, the Giants won the National League Championship Series in the bottom of the ninth inning on three consecutive hits in a rally that began with two outs. This game, and this particular conclusion, were emblematic of their entire season—hard fought, dramatic and filled with contributions from the entire lineup.

Earlier in the season some said that the team did not have a serious chance to make the post-season. One local sports columnist said the Giants should play minor league prospects in September because their situation was effectively hopeless—the Giants were 11½ games out of first place in the Western Division with a week left in August.

Manager Dusty Baker said throughout the season that the Giants were a team of veterans, and he expected them to have a strong second half of the season. He was right, as he has been so many times. After their low mark in August the team went on a run that never ended. The Giants have won 32 of their past 43 games, including eight straight at the end of the season.

This will be the first World Series appearance for the San Francisco Giants since 1989. Their only other trip to the Series was in 1962. Giants fans are rightly thrilled. This has been a special season for the Giants, marked by savvy decisions in the front office, great leadership from the manager, key contributions from the entire team and outstanding fan support. This pennant is a result of organization-wide commitment and effort.

In a world with much cause for anxiety, our national pastime provides a welcome break. I invite my colleagues to join me in saluting the San Francisco Giants, baseball's 2002 National League Champions.•

IN RECOGNITION OF THE ANAHEIM ANGELS

• Mrs. BOXER. Mr. President, I come before my colleagues today to offer my congratulations to the Anaheim Angels on their American League Championship Series victory. The Angels 13 to 5 win on October 13 gives Anaheim its first World Series berth in its 42-year history, a dream come true for Angels' fans around the country.

Throughout the 2002 season, the Angels have demonstrated the grit, dedication and focus that it takes to become champions. Baseball fans across the Nation have fallen in love with this team, not only because of its winning ways, but because of how it wins. It is only appropriate that the Angels' hard work be rewarded with a chance at a World Series Championship.

The road to the World Series was not easy for the Anaheim Angels. Making the playoffs as a wildcard team, nobody expected the Angels to win. When the team matched up against the perennial favorite New York Yankees in the first round of the playoffs, the odds against them grew even greater. However, against all odds, and contrary to the experts who said they could not win, the Anaheim Angels went out and proved everyone wrong.

On the strength of a record-tying inning, and a three home-run night by second baseman Adam Kennedy, the Angels scored 10 runs in the seventh inning to beat a determined Minnesota

Twins team. This come-from-behind win epitomizes the heart of the Angels organization, not only this year but throughout its storied history, a history that came full circle when Jackie Autry, widow of the Angels founder and owner and cowboy legend Gene Autry, presented the team with the League Championship trophy.

The Anaheim Angels symbolize what makes team sports great. The team proved that you do not need the biggest stars or the highest payroll to achieve the greatest of goals. I wish the Angels the best of luck in the World Series, and, on behalf of all the fans, I thank the team for what has already been one of the most memorable baseball seasons ever.●

LILLIAN GOLDMAN

● Mrs. CLINTON. Mr. President, on August 20, New York lost one of its finest citizens. Lillian Goldman was a beautiful woman, inside and out. She was also committed, wise and generous. I was fortunate enough to be Lillian's friend, and I know how much her friendship meant to me and to so many others. I witnessed the effects she had on people and their futures. Four years ago, Lillian gave a significant gift to the 92nd Street Y for the family center. Two years ago, I was privileged to attend the dedication of the Lillian Goldman Law Library at Yale Law School. Among the many things about which she cared was the ability of women to make careers in the law, and especially to be educated at Yale Law School. Not only would she provide the scholarships to make that possible, she would have the foresight to support daycare at the law school, as well.

Women, children and their families, will be indebted to Lillian Goldman, her generosity and her progressivism for many generations to come.●

TRIBUTE TO KATHLEEN CLARK HOYT

● Mr. JEFFORDS. Mr. President, I am here today to honor and congratulate Kathleen Clark Hoyt of Norwich, VT, who will retire from Vermont State government on November 1 after many years of dedicated public service.

Most recently, Kathy Hoyt has served as Secretary of Administration in the cabinet of Governor Howard B. Dean, a position she has held since 1997. As such, she has been one of the most influential forces in our State government.

Kathy Hoyt's years of service date back more than three decades. In her native State of North Carolina, she worked to help fight poverty, create jobs and housing, and provide leadership training for minorities and the poor. After arriving in Vermont in 1968, she went to work with the State Office of Economic Opportunity, devoting herself to such issues as welfare reform and child care. She went on to become Commissioner of the Vermont Department of Employment and Training, and in 1989, she was appointed Chief of Staff and Secretary of Civil and Military Affairs for Gov. Madeleine Kunin.

Kathy Hoyt left State government when Gov. Kunin's term ended in January 1991, but her absence was short-lived. When Gov. Kunin's successor, Gov. Richard Snelling, died in office eight months later, Kathy Hoyt was summoned back to assist incoming Gov. Dean with the sudden transition. Once again, Kathy Hoyt found herself serving as Chief of Staff to a Vermont governor. Her unexpected re-entry in State government would keep her there for nearly a dozen more years.

Of all the tributes that have been made and will be made to Kathy Hoyt, perhaps her contribution to State government was best summed up by Gov. Dean. In a newspaper profile of Kathy Hoyt, Gov. Dean referred to his close confidante simply as ''Saint Kathy.''

I would like to take this opportunity to wish Kathy Hoyt the best in her future endeavors, and to personally thank her for the devotion she has shown to our great State of Vermont.●

IN CELEBRATION OF HISPANIC HERITAGE IN NEW MEXICO

● Mr. DOMENICI. Mr. President, I rise today to recognize the contributions of Hispanic Americans to New Mexico and this great country. I am so proud that New Mexico leads the Nation with the highest Hispanic percentage of population of any State, 42 percent. Of the 50 counties nationwide where Hispanics made up a majority of the population, 43 were located in either New Mexico or Texas. Today New Mexico received the news that five of our own have been named to Hispanic Business magazine's ''100 Most Influential Hispanics'' list. It is no surprise that our State has produced tremendous representation of Hispanic accomplishments on the national scene in the past year. It gives me great pleasure today to acknowledge the many ways Hispanic New Mexicans have made a national name for themselves and our state in military and government service, the arts, education, business, sports, and many other fields.

As our Nation focuses on fighting terrorism around the globe and keeping our homeland safe, we are indebted more than ever to those serving in our military. Currently, more than 100,000 Hispanic Americans serve in our Nation's armed forces, making up about nine percent of our military. Thirty-eight Hispanics have attained the Nation's highest award for valor, the Medal of Honor. Five Hispanic New Mexicans have earned this medal serving in the United States Army, three in World War II, including Private Joseph P. Martinez, of Taos; Private First Class Alejandro R. Renteria Ruiz of Loving, NM, and Private First Class Jose F. Valdez, born in Governador, NM; and two in Vietnam, including Army Specialist Fourth Class Daniel Fernandez of Albuquerque, and Warrant Officer, then Sergeant First Class, Louis R. Rocco, of Albuquerque.

April 2002 marked the 60-year anniversary of the horrific Bataan Death March, a calamitous event that involved 1,817 New Mexicans, with fewer than 900 returning home. Memorials were unveiled in Albuquerque and Las Cruces to commemorate the brave veterans of this horrific ordeal, many of whom were Hispanic. In fact, several of the veterans on which this memorial was based were Hispanic natives of Southern New Mexico who survived the march, Private First Class Jose M. ''Pepe'' Baldonado, and Staff Sergeant Juan T. Baldonado. One of the veterans of this 65-mile forced march and labor camp internment, Ruben Flores of Las Cruces, passed away this year just before the memorial was unveiled. I am pleased that this year we have created a lasting tribute to thank these members of the New Mexico National Guard for their gallant service and valorous sacrifice under conditions too horrific for words, and today I salute them once again.

It has been fantastic for New Mexico that several of our citizens have been appointed by President Bush to serve in important capacities in the Federal Government. But it is also terrific for Hispanics around our nation that many of these individuals happen to be Hispanic. We are seeing greater representation of Hispanics in appointed positions and as candidates in elections around the country, and I'm proud of the New Mexicans who are blazing the trail in government service.

Just to name a few, I am thinking of Lou Gallegos, now Assistant Secretary of Agriculture for Administration; Dr. Cristina Beato, Deputy Assistant Secretary for Health at the Department of Health and Human Services; and Roberto Salazar, head of the Agriculture Department's Food and Nutrition Service. President Bush has also named two qualified Hispanic New Mexicans to serve in the federal judiciary: David Iglesias, United States Attorney for the District of New Mexico and Judge Christina Armijo of the U.S. District Court of New Mexico.

I am so proud of New Mexico's place on center stage in the world of Hispanic arts and culture. A center for Hispanic culture for centuries, Santa Fe has recently drawn renewed attention with its Museum of Spanish Colonial Art. Last month, the Wall Street Journal provided an in-depth look at the unique contributions of this institution to the preservation of Hispanic culture in an article titled Arte Hispanico, saying, ''Though Spanish-colonial artworks are in the collections of many major museums, the Santa Fe museum is uniquely focused on illustrating the cultural connections among people of Spanish descent, showing, for example, how Baroque influences in style and artistic method traveled first from Spain to Mexico and then to New Mexico . . . ''

Likewise, this article highlighted New Mexico's role as home to the Spanish Colonial Arts Society, saying, ''For more than seven decades, the society has purchased historic and contemporary Spanish-colonial artworks and sponsored markets and competitions among living artists, fostering what has grown into a vibrant commercial market for traditional Spanish-colonial arts. Some 300 artists in New Mexico alone continue to make art like their ancestors did . . . Many of the artists participate in the Art Society's annual Spanish market, which drew about 70,000 colonial art aficionados to Santa Fe's plaza earlier this summer.''

Finally, I would be remiss if I did not recognize once again the New Mexican who brought home a National Medal of Arts for 2001, writer Rudolfo Anaya. President Bush honored Rudolfo with this award earlier this year for his accomplishments such as his well-known novel ''Bless Me, Ultima,'' and his work to inspire and promote other Hispanic writers. Rudolfo is a New Mexico treasure, and I want to thank this fellow New Mexican for the fine work he has done.

I would now like to recognize another citizen of our state who has had a hand in inspiring the next generation of New Mexicans. Hispanics make up the fastest growing part of the nation's public school system. Earlier this year, we enacted the most comprehensive education reform law in decades, the No Child Left Behind Act, which will help give teachers and schools the tools and resources they need to do their jobs. Joseph Torrez, the principal for the third through fifth grades in Tucumcari, NM, provides a shining example of how our teachers and principals hold the key to ensuring that no child is left behind. In honor of his outstanding contributions to the community and the education profession, the Department of Education and the National Association of Elementary School Principals selected Joseph as the National Distinguished Principal for New Mexico.

Joseph created an after-school program providing recreational activities and assistance to children at risk of failing in school, as well as job training for their parents. He also helped children at his school become in new community opportunities, such as helping the homeless and visiting senior citizens. I appreciate Joseph's great contribution to his community, and this New Mexican has certainly earned the national recognition he has gained.

New Mexico is leading the pack by leaps and bounds in Hispanic business ownership. Hispanics own 21.5 percent of all firms in our State, the highest percentage of any State, or a total of 28,300 businesses, according to the latest figures released by the Department of Commerce. Not surprisingly, Hispanic New Mexicans made an impressive showing this year in the business honors bestowed by the Minority Business Development Agency, MBDA, of the Department of Commerce.

I want to take this opportunity to commend Deborah Valenzuela Baxter, President and CEO of Integrity Networking Systems, Inc. of Albuquerque, for gaining the prestigious title of Minority Female Entrepreneur of the Year. Under her leadership, an enterprise that began as a two-man operation has blossomed into a highly motivated staff of 40 with revenues of over $20 million in 2001. Carlo Lucero, President of Sparkle Maintenance, Inc. of Albuquerque was named 8(a) Graduate of the Year, after his firm this year put its 36 years of experience in commercial janitorial and building maintenance service to work in a contract for the high-tech clean rooms of Sandia National Laboratories.

Finally, this year marked the retirement of a national great from New Mexico, whose achievements charted new waters for both women and Hispanics in the United States. Nancy Lopez, a Roswell native and one of New Mexico's favorite daughters, won 48 titles on the Ladies Professional Golf Association, LPGA, tour, and was inducted into the LPGA Hall of Fame in 1987. Nancy is a luminary and a pacesetter whose accomplishments give testimony to the power of dreaming big and working persistently.

I mentioned that today Hispanic Business magazine announced five New Mexicans selected for the ''100 Most Influential Hispanics'' list. I have recognized several of their names already, but allow me to include for the record the magazine's list of New Mexican leaders who have blazed the trail in business and their fields: author Rodolfo Anaya; U.S. Department of Agriculture, USDA, Assistant Secretary for Administration Lou Gallegos; LPGA golfer Nancy Lopez; Director of USDA's Food and Nutrition Service, Roberto Salazar; and Eufemia Lucero of the U.S. Postal Service.

In honoring our State's Hispanic heritage, we should be very proud of the New Mexicans whose accomplishments have garnered the national spotlight and appreciation within our State because of the ways they have enriched our lives. I have no doubt that the best is yet to come. I ask that the October 17, 2002 Albuquerque Journal article ''5 New Mexicans make top-100 list'' be printed in the RECORD.

The article follows.

[From the Albuquerque Journal, Oct. 17, 2002]

5 NEW MEXICANS MAKE TOP-100 HISPANIC LIST

(By Charles D. Brunt)

Albuquerque author Rudolfo Anaya, U.S. Department of Agriculture Assistant Secretary for Administration Lou Gallegos, and LPGA Hall of Fame golfer Nancy Lopez have been named to Hispanic Business magazine's annual ''100 Most Influential Hispanics'' list.

Also on the list are Roberto Salazar, who heads the USDA's Food and Nutrition Service, and Eufemia S. Lucero, a longtime administrator with the U.S. Postal Service.

The magazine's October 2002 edition says nominations for the list come from the magazine's staff, nominees themselves, readers and Web-site visitors. Nominees must be U.S. citizens of Hispanic origin and must ''have had recent national impact,'' the magazine says.

''That's something,'' Anaya said of his making the list. ''I think it's kind of far-sighted for a business magazine to include a writer.''

Anaya said people don't usually think of writers as business people.

''We're also part of the economy. I think maybe it's a wake-up call for some of the business organizations here in New Mexico to realize that we're in there punching away,'' Anaya said.

''I told my wife I was No. 1'' on the list, he equipped. ''But she told me it was because my name's Anaya.'' The magazine lists its selections in alphabetical order.

Anaya, widely recognized as the father of Chicago literature, is best known for his New Mexico trilogy ''Bless Me, Ultima,'' ''Tortuga'' and ''Heart of Aztlan'' and a dozen other works. He received the Premio Quinto Sol National Chicano Literary Award for his first novela, ''Bless Me, Ultima,'' in 1972, and the PEN Center West Award for his 1992 novel ''Alburquerque.''

In 2001 Anaya was awarded the National Medal of Arts award by President Bush.

FARMING

Gallegos, who herded sheep on his family's ranch near Amalia in northern Taos County as a child, made the list for the second year in a row.

''It is kind of a feather in one's hat,'' Gallegos said from his Washington office.

Gallegos also wrote an article for the same issue of the magazine outlining the prospects for Hispanic farmers in the United States.

The essence of the article is that, given that the number of Hispanic farmers has doubled in recent years, farming is still a business. The skills necessary to farm successfully have to be upgraded to keep pace, he said.

For 15 months in 1989–90, Gallegos was assistant secretary for policy, management and budget under Interior Secretary Manuel Lujan, Jr., also of New Mexico.

Gallegos was Gov. Gary Johnson's chief of staff from 1994 until May 2001, when he left for Washington.

Gallegos also made the magazine's list in 2001.

HALL OF FAME

Former Roswell resident Lopez first picked up a golf club at age 8 and learned the game from her father, Domingo Lopez, by following him around Roswell's Cahoon Park Golf Course.

When she debuted on the LPGA tour in 1978, she won nine tournaments. During her career, she has added 39 more titles. She was named to the LPGA Hall of Fame in 1987.

Lopez, 45, announced in March that 2002 would be her final full season on the tour.

Lopez lives in Albany, Ga., with her husband of 20 years, Cincinnati Reds coach Ray Knight, and her three daughters.

According to the LPGA, Lopez has earned $2.25 million during her career.

''Without Nancy and her fans, we would not have a $3 million purse today,'' Cora Jane Blanchard, the U.S. Golf Association women's committee chairwoman, told the Journal last summer at the start of the U.S. Women's Open.

IN WASHINGTON

Salazar, a native of Las Vegas, N.M., was state director of the USDA's Rural Development agency in New Mexico before taking the Washington job.

He held senior positions with the New Mexico Economic Development Department and the U.S. Department of Commerce's Minority Business Development Agency.

Lucero was manager of the Postal Service's Executive Resources and Leadership Development Program for two years before being named human resources director.

She also has held several management positions with the Postal Service's Albuquerque District office.●

PORTLAND, OREGON AWARDED DIGITAL TV ZONE

● Mr. SMITH of Oregon. Mr. President, I rise today to congratulate the city of Portland for recently being awarded the ''Digital TV Zone'' distinction by the National Association of Broadcasters and the Consumers Electronics Association.

In Portland my constituents are already served by a number of free, over-the-air, digital signals. Portland stations broadcasting in digital include: KPDX, a Meredith Corporation owned FOX affiliate; KPTV, a FOX owned UPN affiliate; KGW, a Belo Corporation owned NBC affiliate; KOIN, an Emmis Communications owned CBS affiliate; KATU, a Fisher Broadcasting owned ABC affiliate and KOPB, Oregon's local PBS station.

The Digital TV Zone distinction, recognizes Portland as a technology leader for having all of its local network affiliated stations broadcasting in digital.

However, the distinction means more than just that. As part of the Digital TV Zone project, these local stations undertook an awareness campaign to educate Portland consumers about the digital television future. The stations pooled their resources to host digital watch parties in local restaurants and consumer outlets.

The stations posted digital sets in high traffic areas throughout the city like the Rose Garden Arena, the Oregon History Center, and the Portland City Hall. In these venues, Portlanders could see local digital signals displayed in all their glory on High-definition digital television sets.

The stations spent their own revenue airing an advertisement that explains the benefits of digital television to viewers. Some of you may have seen this advertisement. It was entitled ''Time Marches On,'' a reference to how digital television and Portland's digital stations are looking towards the future.

All of these activities worked in tandem to spread the news of digital television among Portland consumers, my constituents.

I am proud of these stations for making the leap into the digital future. I know it is not an inexpensive undertaking. Stations converting to digital must purchase new transmission facilities and often, they must erect new broadcast towers. Once they are on the air in digital, they must broadcast two signals simultaneously: their new digital signal and an analog signal to continue serving viewers who can't yet receive digital signals. Despite the costs, these local Portland stations have invested in digital television and for that they should be commended.

For those who are not familiar with digital television, let me say that it is the next exciting step in TV. Digital television's capacity makes High Definition broadcasting possible, bringing viewers enhanced viewing resolution and sound. Moreover, the capacity can also allow stations to ''multi-cast'' or provide multiple programs simultaneously, giving viewers more programming options and allowing stations to convey even more information over the airwaves.

As with every other technological advance, there will be challenges before consumers can fully benefit from everything digital television offers. The American consumer will need to embrace digital television for it to catch on. That is why I am so proud of these Portland stations. Not only have they invested in the technology of digital television, they have invested to see that the technology takes hold among consumers. These stations are small businesses like any other. They have payroll to fulfill; they must pay overhead. I think it is commendable that they have shown such a commitment to the future of free, over-the-air television through the ''Digital Television Zone'' program.●

ON THE 150TH ANNIVERSARY OF THIRD BAPTIST CHURCH

● Mrs. BOXER. Mr. President, on November 10, 2002, Third Baptist Church of San Francisco will celebrate 150 years of service to the community. I would like to take this opportunity to direct the Senate's attention to this remarkable milestone and reflect about the history of the church and what it means to the people of San Francisco.

Third Baptist Church, formally known as the First Colored Baptist Church of San Francisco, was founded in the home of William and Eliza Davis in August, 1852. Since then, the church has grown and thrived. Today it serves as place of worship for thousands of congregants. In addition, it provides a wide variety of ministries to people of all ages.

As the first black Baptist congregation established west of the Rocky Mountains, Third Baptist has developed into a great source of guidance and strength for the people of San Francisco, especially in the African American Community. It is a place of solace and sanctuary, a place where the spirit and soul can be rejuvenated. And it is a place where people gather to celebrate the great joys of life and share in the fellowship of other parishioners. Not just a part of the community, Third Baptist is a community unto itself.

During the past 150 years, thousands of people have found inspiration through Third Baptist's doors. The church has witnessed many pivotal moments in the history of our state, nation and the African-American community. And with each challenge, it has emerged as a stronger, more vibrant institution.

Third Baptist Church has been blessed with the leadership of many fine pastors. From Reverend Charles Satchell to Reverend Amos C. Brown, the current senior pastor, the Third Baptist Church continues to be a strong voice for those who too often have no voice at all.

I am aware that President Bill Clinton and other dignitaries will be present at this 150th anniversary event. I extend my personal congratulations and thanks for 150 years of devoted service.●

IN COMMEMORATION OF THE AMERICAN INDIAN HERITAGE CELEBRATION

● Mr. BOND. Mr. President, I rise to commemorate the American Indian Heritage Celebration which took place at Frank Vaydik Line Creek Park in Kansas City, MO on October 5th and 6th of 2002, and to recognize the Otoe-Missourina nation. For over 10,000 years, the Kansas City area has been home to several ancient cultures with sites that are recorded with the Archaeological Survey of Missouri and the National Register of Historic Places.

In 1673, when French explorers traveled along what is now the Missouri River, they named the indigenous people living in the area, Oumessourit, meaning ''people of the big wooden dug out canoes.'' Oumessourit, later became Missouri and the state of Missouri would subsequently be named after the natives.

The Missouria's main village was approximately 90 miles east of Kansas City. A related tribe, the Otoe, lived in the area of Kansas City, particularly the ''Northland.'' Along with the Winnebagos and Loway, the Otoe and Missouria were once part of a single nation living in the Great Lakes area. The Otoe and Missouria would later reunite to become the Otoe-Missouria nation and in the late 1800s were relocated to a reservation in Oklahoma.

Lewis and Clark once spoke of the Missouria as ''a remnant of the most numerous nation inhabiting the Missouria''. Today, there are no pure blood Missourias left, only distant decedents which have been absorbed into the Otoe tribe.●

TRIBUTE TO MARGARET CARTER

● Mr. SMITH of Oregon. Mr President, Former Oregon Governor Tom McCall once said, ''Heroes are not giant statues framed against a red sky. They are people who say, ''This is my community, and it's my responsibility to make it better.''

I rise today to pay tribute to Oregon State Senator Margaret Carter, a remarkable woman who truly is a hero, for she has devoted much of her life to making her community and state better.

Senator Carter was honored earlier this week at a dinner saluting her service as President of the Portland Urban

League. Nearly 300 civic and business leaders gathered in Portland to thank Margaret for the leadership she provided to the Urban League during a very crucial time.

I first got to know Margaret when I came to the Oregon State Senate in 1993. At that time, she was serving the fifth of her seven terms in the Oregon State House of Representatives, where she made history as the first African-American woman ever elected to the Oregon House.

Margaret was a Democrat representing inner-city Portland. I was a Republican representing rural Eastern Oregon. Yet, we quickly became friends and decided there were a number of projects on which we could unite our efforts. We have been working together ever since.

An educator by training, Margaret has worked as a youth counselor, the assistant director of a community action agency, and for 27 years she served on the faculty of Portland Community College, where she was a founder of the PCC Skills Center. While in the State Senate, I was proud to work with Margaret to preserve funding for the Skills Center, which is a center of hope for those looking for a better future.

In 2000, Margaret was elected to the Oregon State Senate, having won the nomination of both the Democrat and Republican parties. Her legislative achievements include helping to create a statewide Head Start program and the Oregon Youth Conservation Corps. She was also the chief sponsor of the law that created a state holiday to honor Dr. Martin Luther King, Jr. Indeed, few Oregonians have done more to make Dr. King's dreams a reality that Margaret Carter.

Included among Margaret's many talents is the fact that she has one of the most remarkable singing voices I have ever heard. While I couldn't join in the dinner in her honor this week, I did want to raise my voice here on the Senate floor to pay tribute to a woman who I am honored to call my friend a woman who is a true Oregon hero.●

TRIBUTE TO MARY COX

● Mr. BOND. Mr. President, I congratulate Ms. Mary Cox for being honored as Missouri's Outstanding Older Worker by the Experience Works Senior Workforce Solutions. Mary was nominated by her employer at the Kansas City Public Library in Kansas City, Missouri. In 1997, Mary began working for the library as a trainee with the Jewish Vocational Services and has been there ever since. ''I had no idea what I could do, but after only one week, I knew the library was a place I wanted to work,'' Mary stated. At the library, she entered a fast-paced, highly computerized, and customer service oriented world. Mary spent her first year learning how to shelve books, organize materials, and then received computer training. She loves her work as a library clerk because she continually learns new information and enjoys helping library patrons complete research. Mary says, ''working keeps me strong physically and mentally.'' I commend Mary for her dedication and the Kansas City Public Library's contribution to the Kansas City community.●

TRIBUTE TO ANTHONY LAMAR

● Mr. BOND. Mr. President, I rise to pay tribute to the bravery and courage of Anthony Lamar who saved the life of his schoolmate, fifth grader Walter Britton. While working the tree house, Walter lost his balance and reached back to grab onto a branch, but instead he grabbed a live wire. Anthony pulled Walter off the live wire saving his life and helped Walter home. I commend Anthony for his bravery and courage and hope his example will encourage others to assist those in need.●

TRIBUTE TO MARSHAL JOHN WRIGHT

● Mr. BOND. Mr. President, I rise to pay tribute to Marshal John Wright. On June 20, 2002 a minivan collided with a train killing three adults and the only survivor was a 5½-year-old child named Allison Seymour. Bucklin City Marshal John Wright observed the accident from his police car, about a block and a half away from the railroad tracks and rushed to the wreck. He found Allison Seymour belted in a car seat, crying but conscious and alert. Marshal Wright held Allison's hand and was able to keep her calm until the paramedics arrived to life flight her to Children's Mercy Hospital in Kansas City. Allison's injuries consisted of a broken femur on her right leg and lacerations on her half calf. While at the crash scene, Marshal Wright was at personal risk from the threat of an explosion from leaking gasoline, but his concern was for Allison's welfare. I commend Marshal Wright for his selfless actions and hope his example will encourage others to assist those in need.●

TRIBUTE TO ERIC C. HURST

● Mr. GRASSLEY. Mr. President, I rise today to bring to your attention an outstanding individual, Eric C. Hurst of Minot, ND.

This young man tragically lost his life in an attempt to rescue one of my fellow Iowans. Mr. Hurst loved his job as a canoe guide in the Boundary Waters Canoe Area Wilderness in Minnesota. While working on July 30, 2002, Mr. Hurst witnessed a young lady, Jamie Christenson, drowning in the boundary Waters near Basswood Falls. Without hesitation, Mr. Hurst dove in to rescue Ms. Christenson. Unfortunately, both Mr. Hurst and Ms. Christenson were pulled under water by the strong undercurrent. When they surfaced, revival attempts were futile.

Although this story has a tragic ending, we must not forget the heroism displayed by Eric Hurst. He was willing to try to save Ms. Christenson from the turbulent waters of Basswood Falls without regard to the danger it posed to his own life. This is truly the ultimate sacrifice one can make.

It is with deep respect and great sadness that I recognize Mr. Eric C. Hurst before this body of Congress and this nation for his unselfish act of heroism. Eric Hurst and Jamie Christenson will be missed by the many people they touched in their life and I express my sincere condolences to their families.●

TRIBUTE TO JOSEPH R. DEVINE

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Joseph R. Devine, Chief of Police in Merrimack, NH. Joseph has faithfully served our country for the past 28 years, first in the United States Army and then as a member of the Police Force.

Joseph began his career in law enforcement in 1956 with the Johnston, Rhode Island Police Department. During his tenure then, Joseph proved to be a valuable asset and was rewarded with numerous promotions. Hired originally as a Special officer, Joseph was promoted to Full Time Officer 2 years later, followed by another 3 promotions, eventually leaving him with the rank of Deputy Chief in 1970. His 14 years of dutiful service in Johnston prepared him for his future duties, giving him valuable experience and on the job training.

Joseph later served as the Chief of Police for both St. Johnsbury and Claremont, New Hampshire before settling in the Town of Merrimack. It was there that he has spent the past 21 years making the streets safe for children and adults, patrolling our neighborhoods, and faithfully serving the residents of Merrimack. He will be sorely missed by those who he protected for so many years. Throughout his career, Joseph received numerous awards celebrating his distinguished career, from the VFW Certificate of Appreciation for Community Service to the Life Membership Award from the International Association of Chief of Police to the Professionalism in Law Enforcement Award.

Joseph serves as a positive example to those in law enforcement and to all Granite Staters. He has served his country well and made his family proud. The Town of Merrimack has benefitted greatly from his expertise, and I am confident that in years to come, Joseph will make his expertise and knowledge readily available to the Police Department. It has been an honor and a privilege representing you in the United States Senate. I wish you continued happiness and success in the years to come.●

A TRIBUTE TO DICK SPEES

• Mrs. BOXER. Mr. President, on Saturday, November 16, 2002, the city of Oakland will celebrate the remarkable career in public service of retiring Oakland City Councilmember Dick Spees, who has served on the council with grace, wit and distinction for 24 years. The celebration—2003: A Spees Odyssey will take place at the Chabot Space and Science Center in Oakland.

Councilmember Spees leaves a quarter-century legacy of service to his constituents, as well as council leadership on issues of economic development, marketing, good government, finance, quality of life, public safety, and regional planning.

Among his many accomplishments, he led local efforts to found Chabot Space & Science Center; Oakland-Sharing the Vision; Oakland Tours; the Bay Area Economic Forum; the Bay Area World Trade Center, and the Bay Area Bioscience Center.

He has led campaigns to pass bond measures that have purchased open space, built recreation centers, libraries and cultural facilities, and upgraded emergency response facilities and equipment.

As chair of the City Council's Rules Committee, Dick has shepherded campaign finance reform, the sunshine ordinance, the lobbyist registration ordinance and the formation of the public ethics commission. He has also spearheaded development of the city, State and Federal legislative programs and led advocacy efforts in Sacramento and Washington, DC.

A skilled negotiator, Dick has resolved many contentious issues in District 4 and in the city, including the expansion of Dreyer's Grand Ice Cream, Montclair Lucky Store, Fred Finch Youth Center, and Lincoln Child Center. He negotiated recent amendments to the Residential Rent Arbitration Program.

In the area of economic development, Councilmember Spees has led many of the city's marketing efforts, has collaborated on writing Oakland's telecommunications policy, and has initiated business attraction efforts for telecommunications, digital media, software, and bioscience companies. He has promoted economic development in District 4 through zoning changes, streetscape improvements, utility undergrounding, and outreach to interested developers.

Throughout his career, Dick has represented Oakland on Bay Area regional agencies. He currently serves on the Association of Bay Area Governments, the Bay Area Economic Forum, the Regional Airport Planning Committee, the Bay Area World Trade Center, Oakland Base Reuse Authority, and co-chairs the City-Port Liaison Committee and the BAR T-Oakland Airport Connector Stakeholders Committee.

The people of Oakland are losing a remarkable public servant in Dick Spees, but I suspect that his heart with never be far from the people he has represented so well for so long. I wish the very best to him and his wife Jean.•

NATIONAL SPINA BIFIDA AWARENESS MONTH

• Mr. ALLEN. Mr. President, I rise today to recognize that October is National Spina Bifida Awareness Month and to pay tribute to the more than 70,000 Americans, and their family members, who are currently affected by Spina Bifida, the nation's most common, permanently disabling birth defect.

Spina Bifida affects more than 4,000 pregnancies each year, with more than half ending tragically in abortion. Each year 1500 babies are born with Spina Bifida, a terrible condition in which the spine does not close completely during the first few weeks of pregnancy. The result of this neural tube defect is that most babies suffer from a host of physical, psychological, and educational challenges, including paralysis, developmental delay, numerous surgeries, and living with a shunt in their skulls in an attempt to ameliorate their condition. After decades of poor prognoses and short life expectancy, due to breakthroughs in research, combined with improvements in health care and treatment children with Spina Bifida are now living long enough to become adults with the condition. However, with this extended life expectancy people with Spina Bifida now face new challenges education, job training, independent living, health care for secondary conditions, aging concerns, and other related issues.

Therefore, we must do more to ensure a high quality of life for people with Spina Bifida so more families choose the blessing and joy of having a child with this condition. Fortunately, Spina Bifida is no longer the death sentence it once was and now most people born with Spina Bifida will likely have a normal or near normal life expectancy. The challenge now is to ensure that these individuals have the highest quality of life possible.

One of my constituents, sixteen year-old Gregory Pote, is one of the 70,000 Americans who live with Spina Bifida. Gregory had the pleasure of visiting Capitol Hill this summer to hear his uncle testify before the Senate Subcommittee on Children and Families' hearing on ''Birth Defects: Strategies for Prevention and Ensuring Quality of Life.'' Greg's uncle, Hal Pote, President of the Spina Bifida Foundation, testified that one of his proudest moments was the morning that their family awoke before the crack of dawn and gathered together on the side of a street in Philadelphia to watch Greg carry the Olympic torch earlier this year. Despite this amazing accomplishment, it is important to note that at the age of sixteen Greg has already had more than twenty surgeries. It is my understanding that double-digit numbers for surgeries unfortunately are not unusual for children living with this condition. Therefore, it is essential that we do more to prevent and reduce suffering from Spina Bifida and take all the steps we can to ensure that Greg and the 70,000 other Americans like him who live with Spina Bifida every day can have the most productive and full lives possible.

I would like to commend the Spina Bifida Association of America, SBAA, an organization that has helped people with Spina Bifida and their families for nearly 30 years, works every day, not just in the month of October, to prevent and reduce suffering from this devastating birth defect. The SBAA puts expecting parents in touch with families who have a child with Spina Bifida, and these families answer questions and concerns and help guide expecting parents. The SBAA then works to provide lifelong support and assistance for affected children and their families.

During the month of October the SBAA and its chapters make a special push to increase public awareness about Spina Bifida and teach prospective parents about prevention. Simply by taking a daily dose of the B vitamin, folic acid, found in most multivitamins, women of childbearing age have the power to reduce the incidence of Spina Bifida by up to 75 percent. That such a simple change in habit can have such a profound effect should leave no question as to the importance of awareness and the impact of prevention.

In addition, I would like to commend my Senate colleagues for allocating $2 million in much-needed funding for a National Spina Bifida Program at the National Center for Birth Defects and Developmental Disabilities, NCBDDD, at the Centers for Disease Control and Prevention, CDC, to ensure that those individuals living with Spina Bifida can live active, productive, and meaningful lives. I also am very proud that we in the Senate recently passed by unanimous consent the bipartisan ''Birth Defects and Developmental Disabilities Prevention Act of 2002,'' which takes many critical steps that will work to prevent Spina Bifida and to improve quality of life for individuals and families affected by this terrible birth defect.

I again thank the SBAA and its chapters for their commitment to improve the lives of those 70,000 individuals living with Spina Bifida throughout our Nation. I also wish to thank two nationally respected television journalists, Judy Woodruff and Al Hunt for their caring, meaningful leadership in this important cause. In conclusion, I wish the Spina Bifida Association of America the best of results in its endeavors, and urge all of my colleagues and all Americans to support its important efforts.•

25TH ANNIVERSARY OF THE ENVIRONMENTAL DEFENSE CENTER

• Mrs. BOXER. Mr. President, on Saturday, November 10, the Environmental Defense Center will celebrate its 25th anniversary of action to protect the environment in Santa Barbara and Ventura Counties. I would like to take this moment to reflect on EDC's wonderful work.

For the past quarter century, EDC has served as a powerful voice for the environment. We can look to natural places like the Channel Islands National Park and National Marine Sanctuary and the Los Padres National Forest to see the impact of EDC's work. It has fought for clean air and water, the preservation of our precious wild heritage, and the clean up of military bases and toxic waste sites. It has also played a crucial role in the fight to stop oil drilling off our coast, an issue so important to California.

As a longtime supporter of our nation's environment, I know how crucial it is to protect our natural resources. We must continue to work to both safeguard our environment and maintain a healthy economy. EDC has helped us work toward this goal.

I am pleased to congratulate EDC on this important milestone and wish the staff continued success.•

THE RETIREMENT OF LIEUTENANT RAYMOND GRIFFITH

• Mrs. BOXER. Mr. President, I am pleased to take this moment to reflect on Lieutenant Raymond Griffith's outstanding service on the occasion of his retirement from the Cathedral City Police Department. The Department will honor him on November 8, 2002.

Lieutenant Griffith has had a career devoted to public service spanning more than 33 years. After graduating as Valedictorian from the Los Angeles Police Academy, he began his career at the Orange Police Department and remained there for 15 years. He served the department in many areas, including patrol, training, internal affairs, detectives, juvenile, and nine years in the special weapons unit.

Lieutenant Griffith's expertise equipped him well for the next step in his career, Sergeant of the then-new Cathedral City Police Department. As one of the first employees of the department, Lieutenant Griffith helped get the operation off to a good start. He played a key role in developing policies and procedures, hiring staff and obtaining facilities and equipment. Throughout the agency's 18-year history, Lieutenant Griffith has been seen as a ''founding father'' of the department and an important leader in its operation.

In addition to serving on the police force, Lieutenant Griffith has served as a valued law enforcement instructor and trainer at the College of the Desert, Riverside Community College and at the Police Academy. He has also served our Nation in the United States Marine Corps and the Coast Guard Reserves.

It is clear that Lieutenant Griffith deserves the praise he has received from his colleagues and peers. I extend to him my sincere congratulations for his service to the force, broader community and to our Nation. Although his presence will be missed, he has left a legacy of leadership that will be long remembered.•

OREGON HERO OF THE WEEK

• Mr. SMITH of Oregon. Mr. President, today I pay tribute to a community's extraordinary effort to improve their situation. In the past year, Oregonians have faced innumerable economic challenges. With unemployment rates surpassing all other States, Oregonians have been pushed to the limit. But in the relatively small eastern Oregon community of Baker County, the citizens refused to give in to economic pressures. The Baker Enterprise Growth Initiative, BEGIN, is helping Baker County grow, one business at a time.

BEGIN has helped community Entrepreneurs realize their dreams of running successful small businesses. BEGIN uses simple, yet effective models to help business owners understand the importance of a balance between product, marketing and financial stability. Management becomes a team effort and people are able to succeed at their strengths while relying on others as well.

BEGIN is a community effort and its successes lift the entire region. In August of 2001, the BEGIN Program was awarded the Kaufmann Foundation Pioneer Award for Leadership in Entrepreneurial Promotion at the National Association of Development Organizations' Annual Conference in San Antonio, TX. Members of the Northeast Oregon Economic Development District were also able to present the BEGIN program and accomplishments to the over 200 economic development professionals from across the Nation.

BEGIN has not only provided much needed economic development in Baker County, but has also shown Oregonians, and the entire Nation, that we will overcome this period of economic hardship. BEGIN truly exemplifies the pioneer heritage and nature of Baker County in searching for its own solutions to problems rather than waiting for someone else to come solve their problems for them. I am proud to salute the Baker Enterprise Growth Initiative as the Oregon Hero of the Week.•

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 and a withdrawal which were referred to the Committee on Health, Education, Labor, and Pensions.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 11:02 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 3295. An act to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes.

H.R. 5010. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

H.R. 5011. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

H.J. Res 123. An act making further continuing appropriations for the fiscal year 2003, and for other purposes.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. BYRD).

The following enrolled bills and joint resolution, previously signed by the Speaker of the House, were signed on today, October 17, 2002, by the President pro tempore (Mr. BYRD).

S. 1339. An act to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 2558. An act to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

H.J. Res. 113. A joint resolution recognizing the contributions of Patsy Takemoto Mink.

At. 12:29 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the Senate amendment to House amendment to Senate amendments to the bill (H.R. 3253) to amend title 38, United States Code, to provide for the establishment within the Department of Veterans Affairs of improved emergency medical preparedness, research, and education programs to combat terrorism, and for other purposes.

The message also announced that the House agrees to the amendment of the

Senate to the bill (H.R. 3801) to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4015) to amend title 38, United States Code, to revise and improve employment, training and placement services furnished to veterans, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment:

S. 1533. An act to amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and to establish the Healthy Communities Access Program, which will help coordinate services for the uninsured and underinsured, and for other purposes.

The message further announced that the House has passed the following bills, each without amendment:

S. 1210. An act to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996.

S. 1227. An act to authorize the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Niagara Falls National Heritage Area in the State of New York, and for other purposes.

S. 1270. An act to designate the United States courthouse to be constructed at 8th Avenue and Mill Street in Eugene, Oregon, as the ''Wayne Lyman Morse United States Courthouse.''

S. 1646. An act to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2155. An act to amend title 18, United States Code, to make it illegal to operate a motor vehicle with a drug or alcohol in the body of the driver at a land border port of entry, and for other purposes.

H.R. 5596. An act to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

H.R. 5640. An act to amend title 5, United States Code, to ensure that the right of Federal employees to display the flag of the United States not be abridged.

H.R. 5647. An act to authorize the duration of the base contract of the Navy-Marine Corps Intranet contract to be more than five years but not more than seven years.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 349. Concurrent resolution calling for effective measures to end the sexual exploitation of refugees.

H. Con. Res. 437. Concurrent resolution recognizing the Republic of Turkey for its cooperation in the campaign against global terrorism, for its commitment of forces and assistance to Operation Enduring Freedom and subsequent missions in Afghanistan, and for initiating important economic reforms to build a stable and prosperous economy in Turkey.

H. Con. Res. 479. Concurrent resolution expressing the sense of Congress regarding Greece's contributions to the war against terrorism and its successful efforts against the November 17 terrorist organization.

H. Con. Res. 492. Concurrent resolution welcoming Her Majesty Queen Sirikit of Thailand upon her arrival in the United States.

H. Con. Res. 502. Concurrent resolution expressing the sense of the Congress in support of Breast Cancer Awareness Month, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 17, 2002, she had presented to the President of the United States the following enrolled bills:

S. 1339. An act to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 2558. An act to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, which was referred as indicated:

EC–9394. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, pursuant to law, the Family Court Transition Plan Progress Report; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–358. A resolution adopted by the Township Committee of the Township of Franklin, County of Warren, State of New Jersey relative to the Pledge of Allegiance; to the Committee on the Judiciary.

POM–359. A resolution adopted by the Township of Jackson, State of New Jersey relative to the Pledge of Allegiance; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 606: A bill to provide additional authority to the Office of Ombudsman of the Environmental Protection Agency. (Rept. No. 107–320).

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2018: A bill to establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, and for other purposes. (Rept. No. 107–321).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2499: A Bill to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food, and for other purposes. (Rept. No. 107–322).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2550: A bill to amend the Professional Boxing Safety Act of 1996, and to establish the United States Boxing Administration. (Rept. No. 107–323).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. BIDEN, from the Committee on Foreign Relations:

[Treaty Doc. 107–15 Treaty with Honduras for Return of Stolen, Robbed, and Embezzled Vehicles and Aircraft, with Annexes and Exchange of Notes (Exec. Rept. No. 107–11)]

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the Government of the United States of America and the Government of the Republic of Honduras for the Return of Stolen, Robbed, or Embezzled Vehicles and Aircraft, with Annexes and a related exchange of notes, signed at Tegucigalpa on November 23, 2001 (Treaty Doc. 107–15).

[Treaty Doc. 107–6 Extradition Treaty with Peru (Exec. Rept. No. 107–12)]

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Extradition Treaty with Peru, subject to an understanding and a condition.

The Senate advises and consents to the ratification of the Extradition Treaty Between the United States of America and the Republic of Peru, signed at Lima on July 26, 2001 (Treaty Doc. 107–6; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the condition in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION OF EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—The United States understands that the protections contained in Article XIII concerning the Rule of Speciality would preclude the resurrender of any person extradited to the Republic of Peru from the United States to the International Criminal Court, unless the United States consents to such resurrender; and the United States shall not consent to any such resurrender unless the Statute establishing that Court has entered into force for the United States by and with the advice and consent of the Senate in accordance with Article II, section 2 of the United States Constitution.

Section 3. Condition.

The advice and consent of the Senate under section 1 is subject to the condition that nothing in the Treaty requires or authorizes legislation or other action by the

United States that is prohibited by the Constitution of the United States as interpreted by the United States.

Treaty Doc. 107–4 Extradition Treaty with Lithuania (Exec. Rept. No. 107–13)]

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Extradition Treaty with Lithuania, subject to a condition.

The Senate advises and consents to the ratification of the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Lithuania, signed at Vilnius on October 23, 2001 (Treaty Doc. 107–4; in this resolution referred to as the ''Treaty''), subject to the condition in section 2.

Section 2. Condition.

The advice and consent of the Senate under section 1 is subject to the condition that nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

[Treaty Doc. 107–11 Second Protocol Amending Extradition Treaty with Canada (Exec. Rept. No. 107–14)]

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Second Protocol Amending the Treaty on Extradition Between the Government of the United States of America and the Government of Canada, signed at Ottawa on January 12, 2001 (Treaty Doc. 107–11).

[Treaty Doc. 107–13 Treaty with Belize on Mutual Legal Assistance in Criminal Matters (Exec. Rept. No. 107–15)]

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with Belize on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of Belize on Mutual Legal Assistance in Criminal Matters, signed at Belize, on September 19, 2000, and a related exchange of notes (Treaty Doc. 107–13; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) Limitation on Assistance.—Pursuant to the right of the United States under the Treaty to deny legal assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) Supremacy of the Constitution.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

[Treaty Doc. 107–3 Treaty with India on Mutual Legal Assistance In Criminal Matters (Exec. Rept. No. 107–15)]

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with India on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of India on Mutual Legal Assistance in Criminal Matters, signed at New Delhi on October 17, 2001 (Treaty Doc. 107–3; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

Prohibition on Assistance to the International Criminal Court.—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

[Treaty Doc. 107–9 Treaty with Ireland on Mutual Legal Assistance in Criminal Matters (Exec. Rept. No. 107–15)]

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with Ireland on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 18, 2001 (Treaty Doc. 107–9; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

Prohibition on Assistance to the International Criminal Court.—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

[Treaty Doc. 107–16 Treaty with Liechtenstein on Mutual Legal Assistance in Criminal Matters (Exec. Rept. No. 107–15)]

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with Liechtenstein on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Principality of Liechtenstein on Mutual Legal Assistance in Criminal Matters, and a related exchange of notes, signed at Vaduz on July 8, 2002 (Treaty Doc. 107–16; in this resolution referred to as the ''Treaty''), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

Prohibition on Assistance to the International Criminal Court—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) Limitation on Assistance.—Pursuant to the right of the United States under the Treaty to deny legal assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) Supremacy of the Constitution.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the

United States as interpreted by the United States.

NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Health, Education, Labor, and Pension pursuant to the order of October 17, 2002 and placed on the Executive Calendar.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

David Gelenter, of Connecticut, to be a Member of the National Council on the Arts for a term expiring September 3, 2006, vice Hsin-Ming Fung.

NATIONAL INSTITUTE FOR LITERACY

Juan R. Olivarez, of Michigan, to be a Member of the National Institute for Literacy Advisory Board for a term of one year. (New Position)

Carol C. Gambill, of Tennessee, to be a Member of the National Institute for Literacy Advisory Board for a term of three years. (New Position)

NATIONAL COUNCIL ON DISABILITY

Joel Kahn, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2004, vice Dave Nolan Brown, term expired.

Patricia Pound, of Texas, to be a Member of the National Council on Disability for a term expiring September 17, 2005. (Reappointment)

Linda Wetters, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2003, vice Gerald S. Segal.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

Peggy Goldwater-Clay, of California, to be a Member of the Board of Trustee of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring June 5, 2006. (Reappointment)

NATIONAL MUSEUM SERVICES BOARD

Judith Ann Rapanos, of Michigan, to be a Member of the National Museum Services Board for a term expiring December 6, 2002, vice Kinshasha Holman Conwill, term expired.

Judity Ann Rapanos, of Michigan, to be a Member of the National Museum Services Board for a term expiring December 6, 2007. (Reappointment)

Beth Walkup, of Arizona, to be a Member of the National Museum Services Board for a term expiring December 6, 2003, vice Robert G. Breunig, term expired.

Nancy S. Dwight, of New Hampshire, to be a Member of the National Museum Services Board for a term expiring December 6, 2005, vice Ayse Manyas Kenmore, term expired.

A. Wilson Greene, of Virginia, to be a Member of the National Museum Services Board for a term expiring December 6, 2004, vice Charles Hummel, term expired.

Maria Mercedes Guillemard, of Puerto Rico, to be a Member of the National Museum Services Board for a term expiring December 6, 2005, vice Lisa A. Hembry, term expired.

Peter Hero, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 2006, vice Alice Rae Yelen, term expired.

Thomas E. Lorentzen, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 2006, vice Philip Frost, term expired.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

James M. Stephens, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2005, vice Ross Edward Eisenbrey.

NATIONAL LABOR RELATIONS BOARD

Robert J. Battista, of Michigan, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2007, vice Wilma B. Liebman, term expiring.

Wilma B. Liebman, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2006, vice Peter J. Hurtgen.

Peter Schaumber, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2005, vice Joseph Robert Brame, III, term expired.

The following nomination was discharged from the Committee on Health, Education, Labor and Pensions pursuant to the order of October 17, 2002 and further referred to the Committee on Governmental Affairs for not more than 20 days:

DEPARTMENT OF EDUCATION

John Portman Higgins, of Virginia, to be Inspector General, Department of Education, vice Lorraine Pratte Lewis, resigned.

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. REED (for himself and Mr. FITZGERALD):

S. 3127. A bill to amend the Safe Drinking Water Act to provide assistance to States to support testing of private wells in areas of suspected contamination to limit or prevent human exposure to contaminated groundwater; to the Committee on Environment and Public Works.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 3128. A bill to authorize the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia and its environs to honor members of the Armed Forces of the United States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations; to the Committee on Energy and Natural Resources.

By Mr. CRAPO:

S. 3129. A bill to permit the Secretary of the Interior to enter certain leases for fire capitalization improvements; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Mr. GREGG):

S. 3130. A bill to amend the Federal Food, Drug, and Cosmetic Act to add requirements regarding device reprocessing and reuse; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VOINOVICH (for himself and Mr. FEINGOLD):

S. 3131. A bill to balance the budget and protect the Social Security Trust Fund surpluses; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. CRAIG):

S. 3132. A bill to improve the economy and the quality of life for all citizens by authorizing funds for Federal-aid highways, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. CRAIG):

S. 3133. A bill to amend the Internal Revenue Code of 1986 to make funding available to carry out the Maximum Economic Growth for America Through Highway Funding Act; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. CRAIG):

S. 3134. A bill to amend titles 23 and 49, United States Code, to encourage economic growth in the United States by increasing transportation investments in rural areas, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CARPER (for himself, Mr. CHAFEE, Mr. BREAUX, and Mr. BAUCUS):

S. 3135. A bill to amend the Clean Air Act to establish a national uniform multiple air pollutant regulatory program for the electric generating sector; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 3136. A bill to establish a trust fund for the purpose of making medical benefit payments to current and former residents of Libby, Montana; to the Committee on Environment and Public Works.

By Mr. LEAHY:

S. 3137. A bill to provide remedies for retaliation against whistleblowers making congressional disclosures; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S. 3138. A bill to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SESSIONS (for himself, Mr. GRASSLEY, and Mr. LEAHY):

S. 3139. A bill to provide a right to be heard for participants and beneficiaries of an employee pension benefit plan of a debtor in order to protect pensions of those employees and retirees; to the Committee on the Judiciary.

By Mr. DODD (for himself and Ms. COLLINS):

S. 3140. A bill to assist law enforcement in their efforts to recover missing children and to clarify the standards for State sex offender registration programs; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. KENNEDY, Mrs. MURRAY, Mrs. BOXER, Mr. INOUYE, Mr. AKAKA, and Mr. CORZINE):

S. 3141. A bill to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WELLSTONE (for himself, Mr. BINGAMAN, and Mrs. LINCOLN):

S. 3142. A bill to amend title XIX of the Social Security Act to require drug manufacturers to pay rebates to State prescription drug discount programs as a condition of participation in a rebate agreement for outpatient prescription drugs under the medicaid program, to provide increased rebate payments to State medicaid programs, and for other purposes; to the Committee on Finance.

By Mr. WELLSTONE:

S. 3143. A bill to provide for the establishment of the Consumer and Shareholder Protection Association, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. LINCOLN:

S. 3144. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are

not to be considered available resources under the supplemental security income program; to the Committee on Finance.

By Mr. DODD (for himself, Mr. EDWARDS, and Mr. DEWINE):

S. 3145. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY (for himself and Mrs. CARNAHAN):

S. 3146. A bill to reauthorize funding for the National Center for Missing and Exploited Children, and for other purposes; to the Committee on the Judiciary.

By Mr. DEWINE (for himself, Mr. LEAHY, Mr. GRASSLEY, Ms. CANTWELL, Mr. BROWNBACK, and Mr. DOMENICI):

S. 3147. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 3148. A bill to provide incentives to increase research by private sector entities to develop antivirals, antibiotics and other drugs, vaccines, microbicides, and diagnostic technologies to prevent and treat illnesses associated with a biological, chemical, or radiological weapons attack; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. LEAHY, and Mr. COCHRAN):

S. 3149. A bill to provide authority for the Smithsonian Institution to use voluntary separation incentives for personnel flexibility, and for other purposes; considered and passed.

By Mr. MCCAIN:

S.J. Res. 50. A joint resolution expressing the sense of the Senate with respect to human rights in Central Asia; to the Committee on Foreign Relations.

By Mr. WYDEN:

S.J. Res. 51. A resolution to recognize the rights of consumers to use copyright protected works, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. HAGEL, Mr. HELMS, and Mr. NELSON of Florida):

S. Res. 345. A resolution expressing sympathy for those murdered and injured in the terrorist attack in Bali, Indonesia, on October 12, 2002, extending condolences to their families, and standing in solidarity with Australia in the fight against terrorism; to the Committee on Foreign Relations.

By Mrs. HUTCHISON (for herself and Mr. GRAMM):

S. Res. 346. A resolution celebrating the 90th Birthday of Lady Bird Johnson; to the Committee on the Judiciary.

By Mr. SPECTER:

S. Res. 347. A resolution expressing the sense of the Senate that in order to seize unique scientific opportunities the Federal commitment to biomedical research should be tripled over a ten year period beginning in 1999; to the Committee on Appropriations.

By Mrs. MURRAY:

S. Res. 348. A resolution recognizing Senator Henry Jackson, commemorating the 30th anniversary of the introduction of the Jackson-Vanik Amendment, and reaffirming the commitment of the Senate to combat human rights violations worldwide; to the Committee on Foreign Relations.

By Mr. DODD:

S. Res. 349. A resolution to authorize the printing of a revised edition of the Senate Rules and Manual; considered and agreed to.

By Mrs. FEINSTEIN:

S. Res. 350. A resolution expressing sympathy for those murdered and injured in the terrorist attack in Bali, Indonesia, on October 12, 2002, extending condolences to their families, and standing in solidarity with Australia in the fight against terrorism; considered and agreed to.

By Mrs. BOXER (for herself and Mr. BROWNBACK):

S. Res. 351. A resolution condemning the posting on the Internet of video and pictures of the murder of Daniel Pearl and calling on such video and pictures to be removed immediately; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 352. A resolution to authorize representation by the Senate Legal Counsel in the case of Judicial Watch, Inc. v. William Jefferson Clinton, et al; considered and agreed to.

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 353. A resolution to authorize testimony, document production, and legal representation in United States v. John Murtari; considered and agreed to.

By Mr. CORZINE (for himself, Mrs. CLINTON, and Mr. TORRICELLI):

S. Con. Res. 154. A concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued honoring Gunnery Sergeant John Basilone, a great American hero; to the Committee on Governmental Affairs.

ADDITIONAL COSPONSORS

S. 191

At the request of Mr. FEINGOLD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 191, a bill to abolish the death penalty under Federal Law.

S. 710

At the request of Mr. KENNEDY, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 710, a bill to require coverage for colorectal cancer screenings.

S. 1054

At the request of Mr. KOHL, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1054, a bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs.

S. 1194

At the request of Mr. SPECTER, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1194, a bill to impose certain limitations on the receipt of out-of-State municipal solid waste, to authorize State and local controls over the flow of municipal solid waste, and for other purposes.

S. 1244

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1244, a bill to amend titles XIX and XXI of the Social Security Act to provide for FamilyCare coverage for parents of enrolled children, and for other purposes.

S. 1291

At the request of Mr. HATCH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1291, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien college-bound students who are long term United States residents.

S. 2268

At the request of Mr. MILLER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2520

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 2520, a bill to amend title 18, United States Code, with respect to the sexual exploitation of children.

S. 2626

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2626, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2704

At the request of Mr. AKAKA, his name was added as a cosponsor of S. 2704, a bill to provide for the disclosure of information on projects of the Department of Defense, such as Project 112 and the Shipboard Hazard and Defense Project (Project SHAD), that included testing of biological or chemical agents involving potential exposure of members of the Armed Forces to toxic agents, and for other purposes.

S. 2748

At the request of Mr. CONRAD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2748, a bill to authorize the formulation of State and regional emergency telehealth network testbeds and, within the Department of Defense, a telehealth task force.

S. 2869

At the request of Mr. KERRY, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Texas (Mrs. HUTCHISON), the Senator from California (Mrs. FEINSTEIN), the Senator from New York (Mrs. CLINTON), the Senator from Illinois (Mr. DURBIN), the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. HELMS), the Senator from

Alaska (Mr. MURKOWSKI) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2896

At the request of Mrs. HUTCHISON, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2896, a bill to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

S. 2935

At the request of Ms. LANDRIEU, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2935, a bill to amend the Public Health Service Act to provide grants for the operation of mosquito control programs to prevent and control mosquito-borne diseases.

S. 3018

At the request of Mr. BAUCUS, the names of the Senator from Utah (Mr. HATCH), the Senator from Minnesota (Mr. WELLSTONE) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 3018, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

S. 3031

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 3031, a bill to amend title 23, United States Code, to reduce delays in the development of highway and transit projects, and for other purposes.

S. 3031

At the request of Mr. ENZI, his name was added as a cosponsor of S. 3031, supra.

S. 3031

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 3031, supra.

S. 3034

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 3034, a bill to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes.

S. 3058

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3058, a bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to provide benefits for contractor employees of the Department of Energy who were exposed to toxic substances at Department of Energy facilities, to provide coverage under subtitle B of that Act for certain additional individuals, to establish an ombudsman and otherwise reform the assistance provided to claimants under that Act, and for other purposes.

S. 3096

At the request of Mr. KOHL, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 3096, a bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies.

S. 3102

At the request of Mr. LEAHY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3102, a bill to amend the Communications Act of 1934 to clarify and reaffirm State and local authority to regulate the placement, construction, and modification of broadcast transmission facilities, and for other purposes.

S. 3103

At the request of Mr. LEAHY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3103, a bill to amend the Communications Act of 1934 to clarify and reaffirm State and local authority to regulate the placement, construction, and modification of personal wireless services facilities, and for other purposes.

S. 3105

At the request of Mr. FRIST, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3105, a bill to amend the Public Health Service Act to provide grants for the operation of enhanced mosquito control programs to prevent and control mosquito-borne diseases.

S. 3126

At the request of Mr. KERRY, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 3126, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S.J. RES. 49

At the request of Mr. AKAKA, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S.J. Res. 49, a joint resolution recognizing the contributions of Patsy Takemoto Mink.

S. RES. 334

At the request of Mrs. CLINTON, the names of the Senator from Ohio (Mr. DEWINE), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Res. 334, a resolution recognizing the Ellis Island Medal of Honor.

S. RES. 339

At the request of Mrs. MURRAY, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. DODD), the Senator from Michigan (Mr. LEVIN), the Senator from Washington (Ms. CANTWELL) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. Res. 339, A resolution designating November 2002, as ''National Runaway Prevention Month''.

S. CON. RES. 136

At the request of Mr. BAUCUS, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Carolina (Mr. HELMS), the Senator from Georgia (Mr. CLELAND) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. Con. Res. 136, a concurrent resolution requesting the President to issue a proclamation in observance of the 100th Anniversary of the founding of the International Association of Fish and Wildlife Agencies.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself and Mr. FITZGERALD):

S. 3127. A bill to amend the Safe Drinking Water Act to provide assistance to States to support testing of private wells in areas of suspected contamination to limit or prevent human exposure to contaminated groundwater; to the Committee on Environment and Public Works.

Mr. REED. Mr. President, today I am proud to be joined by my colleague Senator FITZGERALD in introducing the Private Well Testing Assistance Act of 2002. This legislation seeks to protect the health of our Nation's rural families by providing Federal assistance to State health and environmental agencies for sampling of drinking water wells near suspected areas of groundwater contamination.

More than 15.1 million households are served by private drinking water wells in the United States. At times, these wells are affected by serious groundwater contaminants, including industrial solvents, petroleum, nitrates, radon, arsenic, beryllium, chloroform, and gasoline additives such as MTBE.

While private well owners generally are responsible for regular testing of drinking water wells, cases of serious or potentially widespread groundwater contamination often require State agencies to conduct costly tests on numerous wells. Many of these sites are included in the Environmental Protection Agency's Comprehensive Environmental Response, Compensation, and Liability Information System, or CERCLIS, for which Federal funding is available for initial site assessments, but not for subsequent regular sampling to ensure that contaminants have not migrated to additional household wells.

With many State budgets across the country in fiscal crisis, State governments often do not have the resources to provide regular, reliable testing of wells in proximity to suspected areas of contamination. By authorizing EPA

to provide up to $20 million per year to assist State well testing programs, subject to a 20 percent State match, the Private Well Testing Assistance Act will create an incentive for states to improve well monitoring near both new and existing areas of groundwater contamination.

I urge my colleagues to help ensure the health and safety of American families that rely on groundwater for their drinking water needs by supporting this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3127

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 ''Private Well Testing Assistance Act''.

SEC. 2. ASSISTANCE FOR TESTING OF PRIVATE WELLS.

Part E of the Safe Drinking Water Act (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

''SEC. 1459. ASSISTANCE FOR TESTING OF PRIVATE WELLS.

''(a) FINDINGS.—Congress finds that—

''(1) more than 15,100,000 households in the United States are served by private drinking water wells;

''(2) while private well owners generally are responsible for regular testing of drinking water wells for the presence of contaminants, cases of serious or potentially widespread groundwater contamination often require State health and environmental agencies to conduct costly tests on numerous drinking water well sites;

''(3) many of those sites are included in the Comprehensive Environmental Response, Compensation, and Liability Information System of the Environmental Protection Agency, through which Federal funding is available for testing of private wells during initial site assessments but not for subsequent regular sampling to ensure that contaminants have not migrated to other wells;

''(4) many State governments do not have the resources to provide regular, reliable testing of drinking water wells that are located in proximity to areas of suspected groundwater contamination;

''(5) State fiscal conditions, already in decline before the terrorist attacks of September 11, 2001, are rapidly approaching a state of crisis;

''(6) according to the National Conference of State Legislatures—

''(A) revenues in 43 States are below estimates; and

''(B) 36 States have already planned or implemented cuts in public services;

''(7) as a result of those economic conditions, most States do not have drinking water well testing programs in place, and many State well testing programs have been discontinued, placing households served by private drinking water wells at increased risk; and

''(8) the provision of Federal assistance, with a State cost-sharing requirement, would establish an incentive for States to provide regular testing of drinking water wells in proximity to new and existing areas of suspected groundwater contamination.

''(b) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency, acting in consultation with appropriate State agencies.

''(2) AREA OF CONCERN.—The term 'area of concern' means a geographic area in a State the groundwater of which may, as determined by the State—

''(A) be contaminated or threatened by a release of 1 or more substances of concern; and

''(B) present a serious threat to human health.

''(3) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

''(4) POLLUTANT OR CONTAMINANT.—The term 'pollutant or contaminant' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

''(5) SUBSTANCE OF CONCERN.—The term 'substance of concern' means—

''(A) a hazardous substance;

''(B) a pollutant or contaminant;

''(C) petroleum (including crude oil and any fraction of crude oil);

''(D) methyl tertiary butyl ether; and

''(E) such other naturally-occurring or other substances (including arsenic, beryllium, and chloroform) as the Administrator, in consultation with appropriate State agencies, may identify by regulation.

''(c) ESTABLISHMENT OF PROGRAM.—Not later than 90 days after the date of enactment of this section, the Administrator shall establish a program to provide funds to each State for use in testing private wells in the State.

''(d) DETERMINATION OF AREAS OF CONCERN.—Not later than 30 days after the date of enactment of this section, the Administrator shall promulgate regulations that describe criteria to be used by a State in determining whether an area in the State is an area of concern, including a definition of the term 'threat to human health'.

''(e) APPLICATION PROCESS.—

''(1) IN GENERAL.—A State that seeks to receive funds under this section shall submit to the Administrator, in such form and containing such information as the Administrator may prescribe, an application for the funds.

''(2) CERTIFICATION.—A State application described in paragraph (1) shall include a certification by the Governor of the State of the potential threat to human health posed by groundwater in each area of concern in the State, as determined in accordance with the regulations promulgated by the Administrator under subsection (d).

''(3) PROCESSING.—Not later than 15 days after the Administrator receives an application under this subsection, the Administrator shall approve or disapprove the application.

''(f) PROVISION OF FUNDING.—

''(1) IN GENERAL.—If the Administrator approves an application of a State under subsection (e)(3), the Administrator shall provide to the State an amount of funds to be used to test private wells in the State that—

''(A) is determined by the Administrator based on—

''(i) the number of private wells to be tested;

''(ii) the prevailing local cost of testing a well in each area of concern in the State; and

''(iii) the types of substances of concern for which each well is to be tested; and

''(B) consists of not more than $500 per well, unless the Administrator determines that 1 or more wells to be tested warrant the provision of a greater amount.

''(2) COST SHARING.—

''(A) IN GENERAL.—The Federal share of the cost of any test described in paragraph (1) shall not exceed 80 percent.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of any test described in paragraph (1) may be provided in cash or in kind.

''(g) NUMBER AND FREQUENCY OF TESTS.—

''(1) IN GENERAL.—Subject to paragraph (2), in determining the number and frequency of tests to be conducted under this section with respect to any private well in an area of concern, a State shall take into consideration—

''(A) typical and potential seasonal variations in groundwater levels; and

''(B) resulting fluctuations in contamination levels.

''(2) LIMITATION.—Except in a case in which at least 2 years have elapsed since the last date on which a private well was tested using funds provided under this section, no funds provided under this section may be used to test any private well—

''(A) more than 4 times; or

''(B) on or after the date that is 1 year after the date on which the well is first tested.

''(h) OTHER ASSISTANCE.—Assistance provided to test private wells under this section shall be in addition to any assistance provided for a similar purpose under this Act or any other Federal law.

''(i) REPORT.—Not later than 1 year after the date of enactment of this section, the Administrator, in cooperation with the National Ground Water Association, shall submit to Congress a report that describes the progress made in carrying out this section.

''(j) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2003 through 2006, to remain available until expended.

''(2) MINIMUM ALLOCATION.—The Administrator shall ensure that, for each fiscal year, each State receives not less than 0.25 percent of the amount made available under paragraph (1) for the fiscal year.''.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 3128. A bill to authorize the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia and its environs to honor members of the Armed Forces of the United States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations; to the Committee on Energy and Natural Resources.

Mr. VOINOVICH. Mr. President, nearly ten years ago, a group of students at Riverside High School in Painesville, OH watched with horror as a U.S. soldier in Somalia was dragged through the streets of Mogadishu. The students, concerned that there was no memorial in our Nation's capital to honor members of our armed forces who lost their lives during peacekeeping missions such as the one in Somalia, felt compelled to take action.

This group of motivated young people spearheaded a campaign to establish a Pyramid of Remembrance in Washington, DC to honor U.S. servicemen and women who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or convert operations. The students not only proposed the memorial, they created a private non-

profit foundation to raise the money to construct the memorial. The community pulled together, providing legal counsel for the students and private donations to help fund the project. Thanks to their hard work, the proposed Pyramid of Remembrance would be built at no cost to the taxpayer.

In April 2001, the National Capital Memorial Commission, charged with overseeing monument construction in Washington, DC, held hearings about the proposed Pyramid of Remembrance. The Commission recommended that the memorial be constructed on Defense Department land, possibly at Fort McNair. The commissioners also noted that such a memorial would indeed fill a void in our Nation's military monuments.

On May 6, 1999, I spoke on the Senate floor in honor of two brave American soldiers, Chief Warrant Officer Kevin L. Reichert and Chief Warrant Officer David A. Gibbs, who lost their lives when their Apache helicopter crashed into the Albanian mountains during a routine training exercise on May 5, 1999, as U.S. troops joined with our NATO allies in a military campaign against Slobodan Milosevic. As I remarked at that time, the United States owes David, Kevin and so many other service members a debt of gratitude that we will never be able to repay, for they have paid the ultimate sacrifice. As the Bible says in John chapter 15:13, ''Greater love has no man than this, that a man lay down his life for his friends.''

I support the vision of the students at Riverside High School and applaud the work they have done to make the Pyramid of Remembrance a reality. I believe it is our duty to honor American men and women in uniform who have lost their lives while serving their country, whether in peacetime or during war.

I am pleased to introduce in the Senate a companion measure to H.R. 282, introduced in the House of Representatives by Congressman STEVE LATOURETTE, which would authorize the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia or its environs to soldiers who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations.

A monument honoring members of our Armed Forces who have lost their lives in peacetime deserves a place of honor in our Nation's capital. I commend and thank the students in Painesville, their parents, and the teachers and community leaders who have supported them for their hard work and dedication to this cause. The proposed Pyramid of Remembrance would fill a void among memorials in Washington, DC. I encourage my colleagues to support their worthy endeavor and to join me in support of this bill.

I ask unanimous consent 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. 3128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map referred to in section 2(e) of the Commemorative Works Act (40 U.S.C. 1002(e)).

(2) MEMORIAL.—The term ''memorial'' means the memorial authorized to be established under section 2(a).

SEC. 2. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The Pyramid of Remembrance Foundation may establish a memorial on Federal land in the area depicted on the map as ''Area II'' to honor members of the Armed Forces of the United States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).

(2) EXCEPTION.—Subsections (b) and (c) of section 3 of the Commemorative Works Act (40 U.S.C. 1003) shall not apply to the establishment of the memorial.

SEC. 3. FUNDS FOR MEMORIAL.

(a) USE OF FEDERAL FUNDS PROHIBITED.—Except as provided by the Commemorative Works Act (40 U.S.C. 1001 et seq.), no Federal funds may be used to pay any expense incurred from the establishment of the memorial.

(b) DEPOSIT OF EXCESS FUNDS.—The Pyramid of Remembrance Foundation shall transmit to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of the Commemorative Works Act (40 U.S.C. 1008(b)(1))—

(1) any funds that remain after payment of all expenses incurred from the establishment of the memorial (including payment of the amount for maintenance and preservation required under section 8(b) of the Commemorative Works Act (40 U.S.C. 1008(b))); or

(2) any funds that remain on expiration of the authority for the memorial under section 10(b) of that Act (40 U.S.C. 1010(b)).

By Mr. VOINOVICH (for himself and Mr. FEINGOLD):

S. 3131. A bill to balance the budget and protect the Social Security Trust Fund surpluses; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

Mr. VOINOVICH. 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. 3131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Truth in Budgeting and Social Security Protection Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL REFORMS

Sec. 101. Extension of the discretionary spending caps.
Sec. 102. Extension of pay-as-you-go requirement.
Sec. 103. Automatic budget enforcement for measures considered on the floor.
Sec. 104. Point of order to require compliance with the caps and pay-as-you-go.
Sec. 105. Disclosure of interest costs.
Sec. 106. Executive branch report on fiscal exposures.
Sec. 107. Budget Committee sets 302(b) allocations.
Sec. 108. Long-Term Cost Recognition Point of Order.
Sec. 109. Protection of Social Security surpluses by budget enforcement.

TITLE II—REFORM OF BUDGETARY TREATMENT OF FEDERAL INSURANCE PROGRAMS

Sec. 201. Federal insurance programs.

TITLE III—BIENNIAL BUDGETING AND APPROPRIATIONS

Sec. 301. Revision of timetable.
Sec. 302. Amendments to the Congressional Budget and Impoundment Control Act of 1974.
Sec. 303. Amendments to title 31, United States Code.
Sec. 304. Two-year appropriations; title and style of appropriations Acts.
Sec. 305. Multiyear authorizations.
Sec. 306. Government plans on a biennial basis.
Sec. 307. Biennial appropriations bills.
Sec. 308. Report on two-year fiscal period.
Sec. 309. Effective date.

TITLE IV—COMMISSION ON FEDERAL BUDGET CONCEPTS

Sec. 401. Establishment of Commission on Federal Budget Concepts.
Sec. 402. Powers and duties of Commission.
Sec. 403. Membership.
Sec. 404. Staff and support services.
Sec. 405. Report.
Sec. 406. Termination.
Sec. 407. Funding.

TITLE I—GENERAL REFORMS

SEC. 101. EXTENSION OF THE DISCRETIONARY SPENDING CAPS.

(a) IN GENERAL.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking paragraphs (7) through (16) and inserting the following:

''(7) with respect to fiscal years 2004 through 2009 an amount equal to the appropriated amount of discretionary spending in budget authority and outlays for fiscal year 2003 adjusted to reflect inflation;''.

(b) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note) is amended by striking subsection (b).

(c) ADDITIONAL ENFORCEMENT.—Section 205(g) of H. Con. Res. 290 (106th Congress) is repealed.

SEC. 102. EXTENSION OF PAY-AS-YOU-GO REQUIREMENT.

Section 252(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ''enacted before October 1, 2002,'' both places it appears.

SEC. 103. AUTOMATIC BUDGET ENFORCEMENT FOR MEASURES CONSIDERED ON THE FLOOR.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

''BUDGET EVASION POINT OF ORDER

''SEC. 316. (a) DISCRETIONARY CAPS.—It shall not be in order to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that waives or suspends the enforcement of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 or otherwise would alter the spending limits set forth in that section.

''(b) PAY-AS-YOU-GO.—It shall not be in order to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that waives or suspends the enforcement of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 or otherwise would alter the balances of the pay-as-you-go scorecard pursuant to that section.

''(c) DIRECTED SCORING.—It shall not be in order in the Senate to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that directs the scorekeeping of any bill or resolution.

''(d) WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.''.

(b) TABLE OF CONTENTS.—The table of contents for the Congressional Budget Act of 1974 is amended by inserting after the item for section 315 the following:

Sec. 316. Budget evasion point of order.''.

SEC. 104. POINT OF ORDER TO REQUIRE COMPLIANCE WITH THE CAPS AND PAY-AS-YOU-GO.

Section 312(b) of the Congressional Budget Act of 1974 (2 U.S.C. 643(b)) is amended to read as follows:

''(b) DISCRETIONARY SPENDING AND PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any bill or resolution or any separate provision of a bill or resolution (or amendment, motion, or conference report on that bill or resolution) that would—

''(A) exceed any of the discretionary spending limits in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985; or

''(B) for direct spending or revenue legislation, would cause or increase an on-budget deficit for any one of the following three applicable time periods—

(i) the first year covered by the most recently adopted concurrent resolution on the budget;

(ii) the period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget; or

(iii) the period of the 5 fiscal years following the first five fiscal years covered in the most recently adopted concurrent resolution on the budget.

''(2) POINT OF ORDER AGAINST A SPECIFIC PROVISION.—If the Presiding Officer sustains a point of order under paragraph (1) with respect to any separate provision of a bill or resolution, that provision shall be stricken from the measure and may not be offered as an amendment from the floor.

''(3) FORM OF THE POINT OF ORDER.—A point of order under this section may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

''(4) CONFERENCE REPORTS.—If a point of order is sustained under this section against a conference report the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.

''(5) ENFORCEMENT BY THE PRESIDING OFFICER.—In the Senate, if a point of order lies against a bill or resolution (or amendment, motion, or conference report on that bill or resolution) under this section, and no Senator has raised the point of order, and the Senate has not waived the point of order, then before the Senate may vote on the bill or resolution (or amendment, motion, or conference report on that bill or resolution), the Presiding Officer shall on his or her own motion raise a point of order under this section.

''(6) EXCEPTIONS.—This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.''.

SEC. 105. DISCLOSURE OF INTEREST COSTS.

Section 308(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 639(a)(1)) is amended—

(1) in subparagraph (B), by striking ''and'' after the semicolon;

(2) in subparagraph (C), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(D) containing a projection by the Congressional Budget Office of the cost of the debt servicing that would be caused by such measure for such fiscal year (or fiscal years) and each of the 4 ensuing fiscal years.''.

SEC. 106. EXECUTIVE BRANCH REPORT ON FISCAL EXPOSURES.

(a) IN GENERAL.—The President shall submit to the Committees on Appropriations, Budget, Finance, and Governmental Affairs of the Senate, and the Committees on Appropriations, Budget, Government Reform, and Ways and Means of the House of Representatives, not later than 2 weeks before the first Monday in February of each year, a report (in this section referred to as the ''report'') on the fiscal exposures of the United States Federal Government and their implications for long-term financial health. The report shall also be included as part of the Consolidated Financial Statement of the United States Government.

(b) CONTENTS.—

(1) IN GENERAL.—The report shall include fiscal exposures for the following categories of fiscal exposures:

(A) DEBT.—Debt, including—

(i) total gross debt;

(ii) publicly held debt; and

(iii) debt held by Government accounts.

(B) OTHER FINANCIAL LIABILITIES.—Other financial liabilities, including—

(i) civilian and military pensions;

(ii) post-retirement health benefits;

(iii) environmental liabilities;

(iv) accounts payable;

(v) loan guarantees; and

(vi) Social Security benefits due and payable.

(C) FINANCIAL COMMITMENTS.—Financial commitments, including—

(i) undelivered orders; and

(ii) long-term operating leases.

(D) FINANCIAL CONTINGENCIES AND OTHER EXPOSURE.—Financial contingencies and other exposures, including—

(i) unadjudicated claims;

(ii) Federal insurance programs (including both the financial contingency for and risk assumed by such programs);

(iii) net future benefits under Social Security, Medicare Part A, Medicare Part B, and other social insurance programs;

(iv) life cycle costs, including deferred and future maintenance and operating costs associated with operating leases and the maintenance of capital assets;

(v) unfunded portions of incrementally funded capital projects;

(vi) disaster relief; and

(vii) others as deemed appropriate.

(2) ESTIMATES.—Where available, estimates for each exposure should be included. Where reasonable estimates are not available, a range of estimates may be appropriate.

(3) OTHER EXPOSURES.—Exposures that are analogous to those specified in paragraph (1) shall also be included in the exposure categories identified in such paragraph.

(c) FORMAT.—The report shall include a 1-page list of all exposures. Additional disclosures shall include descriptions of exposures, the estimation methodologies and significant assumptions used, and an analysis of the implications of the exposures for the long-term financial outlook. Additional analysis deemed informative may be provided on subsequent pages.

(d) REVIEW WITH CONGRESS.—Following the submission of the report on fiscal exposures to the Senate and the House of Representatives, the Comptroller General shall review and report to the committee reviewing the report on the report, discussing—

(1) the extent to which all required disclosures under this section have been made;

(2) the quality of the cost estimates;

(3) the scope of the information;

(4) the long-range financial outlook; and

(5) any other matters deemed appropriate.

(e) DEFINITIONS.—In this section:

(1) LIABILITIES.—The terms ''liabilities'', ''commitments'', and ''contingencies'' shall be defined in accordance with generally accepted accounting principles and standards of the United States Federal Government.

(2) RISK ASSUMED.—The term ''risk assumed'' means the full portion of the risk premium based on the expected cost of losses inherent in the Government's commitment that is not charged to the insured. For example, the present value of unpaid expected losses net of associated premiums, based on the risk assumed as a result of insurance coverage.

(3) NET FUTURE BENEFIT PAYMENTS.—The term ''net future benefit payments'' means the net present value of negative cashflow. Negative cashflow is to be calculated as the current amount of funds needed to cover projected shortfalls, excluding trust fund balances, over a 75-year period. This estimate should include births during the period and individuals below age 15 as of January 1 of the valuation year.

SEC. 107. BUDGET COMMITTEE SETS 302(b) ALLOCATIONS.

The Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) is amended—

(1) in section 301(e)(2)(F) (2 U.S.C. 632(e)(2)(F)), by striking ''section 302(a)'' and inserting ''subsections (a) and (b) of section 302''; and

(2) in section 302 (2 U.S.C. 633), by striking subsection (b) and inserting the following:

''(b) SUBALLOCATIONS FOR APPROPRIATIONS COMMITTEE.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include suballocations of amounts allocated to the Committees on Appropriations of each amount allocated to those committees under subsection (a) among each of the subcommittees of those committees.''.

SEC. 108. LONG-TERM COST RECOGNITION POINT OF ORDER.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''LONG-TERM COST RECOGNITION POINT OF ORDER

''SEC. 318. (a) CONGRESSIONAL BUDGET OFFICE ANALYSIS.—

''(1) IN GENERAL.—CBO shall, in conjunction with the analysis required by section 402, prepare and submit to the Committees

on the Budget of the House of Representatives and Senate a report on each bill, joint resolution, amendment, motion, or conference report reported by any committee of the House of Representatives or the Senate that contains any cost drivers that CBO concludes are likely to have the effect of increasing the cost path of that measure such that the estimated discounted cash flows of the measure in the 10 years following the 10th year after the measure takes effect would be 150 percent or greater of the level of the estimated discounted cash flows of the measure at the end of the 10 years following the enactment of the measure.

''(2) PROJECTIONS.—Where possible, CBO should use existing long-term projections of cost drivers prepared by the appropriate Federal agency.

''(3) LIMIT.—Nothing in this section requires CBO to develop cost estimates for a measure beyond the 10th year after the measure takes effect.

''(b) COST DRIVERS.—Cost drivers CBO shall consider under subsection (a) include—

''(1) demographic changes;

''(2) new technologies; and

''(3) environmental factors.

''(c) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that CBO determines will increase the level of the estimated discounted cash flows of that measure as reported in subsection (a) by 150 percent or more.''.

SEC. 109. PROTECTION OF SOCIAL SECURITY SURPLUSES BY BUDGET ENFORCEMENT.

(a) REVISION OF ENFORCING DEFICIT TARGETS.—Section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 903) is amended—

(1) in subsection (a), by striking ''(if any remains) if it exceeds the margin'';

(2) by striking subsection (b) and inserting the following:

''(b) EXCESS DEFICIT.—The excess deficit is the deficit for the budget year.'';

(3) by striking subsection (c) and inserting the following:

''(c) ELIMINATING EXCESS DEFICIT.—Each non-exempt account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequesterable budgetary resources in that account at that time by the uniform percentage necessary to eliminate an excess deficit.''; and

(4) by striking subsections (g) and (h).

(b) MEDICARE EXEMPT.—

(1) AMENDMENTS.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in section 253(e)(3)(A), by striking clause (i) and inserting the following:

''(i) the medicare program specified in section 256(d) shall not be reduced; and'';

(B) in section 255(g)(1)(A), by inserting ''Medicare (for purposes of section 253)'' after the item relating to ''Medical facilities''; and

(C) in section 256(d)(1), by striking ''sections 252 and 253'' and inserting ''section 252''.

(2) EXEMPTION.—Medicare shall not be subject to sequester under section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by this section.

(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Notwithstanding section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(j)), the Office of Management and Budget shall use the economic and technical assumptions underlying the report issued pursuant to section 1106 of title 31, United States Code, for purposes of determining the excess deficit under section 253(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by subsection (a).

(d) APPLICATION OF SEQUESTRATION TO BUDGET ACCOUNTS.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(k)) is amended by—

(1) striking paragraph (2); and

(2) redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(e) STRENGTHENING SOCIAL SECURITY POINTS OF ORDER..—

(1) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

''(g) STRENGTHENING SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 13301 of the Budget Enforcement Act of 1990.''.

(2) SUPER MAJORITY REQUIREMENT.—

(A) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(B) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(3) ENFORCEMENT IN EACH FISCAL YEAR.—The Congressional Budget Act of 1974 is amended in—

(A) section 301(a)(7) (2 U.S.C. 632(a)(7)), by striking ''for the fiscal year'' through the period and inserting ''for each fiscal year covered by the resolution''; and

(B) section 311(a)(3) (2 U.S.C. 642(a)(3)), by striking beginning with ''for the first fiscal year'' through the period and insert the following: ''for any of the fiscal years covered by the concurrent resolution.''.

(f) EFFECTIVE DATE.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note) is amended by striking ''253,''.

TITLE II—REFORM OF BUDGETARY TREATMENT OF FEDERAL INSURANCE PROGRAMS

SEC. 201. FEDERAL INSURANCE PROGRAMS.

(a) IN GENERAL.—The Congressional Budget Act of 1974 is amended by adding after title V the following new title:

''TITLE VI—BUDGETARY TREATMENT OF FEDERAL INSURANCE PROGRAMS

''SEC. 601. SHORT TITLE.

''This title may be cited as the 'Federal Insurance Budgeting Act of 2002'.

''SEC. 602. BUDGETARY TREATMENT.

''(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 2008, the budget of the Government submitted pursuant to section 1105(a) of title 31, United States Code, shall be based on the risk-assumed cost of Federal insurance programs.

''(b) BUDGET ACCOUNTING.—For any Federal insurance program—

''(1) the program account shall—

''(A) pay the risk-assumed cost borne by taxpayers to the financing account; and

''(B) pay actual insurance program administrative costs; and

''(2) the financing account shall—

''(A) receive premiums and other income;

''(B) pay all claims for insurance and receive all recoveries; and

''(C) transfer to the program account on not less than an annual basis amounts necessary to pay insurance program administrative costs; and

''(3) a negative risk-assumed cost shall be transferred from the financing account to the program account, and shall be transferred from the program account to the general fund;

''(4) all payments by or receipts of the financing accounts shall be treated in the budget as a means of financing.

''(c) APPROPRIATIONS REQUIRED.—(1) Notwithstanding any other provision of law, insurance commitments may be made for fiscal year 2006 and thereafter only to the extent that new budget authority to cover their risk-assumed cost is provided in advance in an appropriation Act.

''(2) An outstanding insurance commitment shall not be modified in a manner that increases its risk-assumed cost unless budget authority for the additional cost has been provided in advance.

''(3) Paragraph (1) shall not apply to Federal insurance programs that constitute entitlements.

''(d) REESTIMATES.—

''(1) IN GENERAL.—The risk-assumed cost for a fiscal year shall be reestimated in each subsequent year. Such reestimate can equal zero. In the case of a positive reestimate, the amount of the reestimate shall be paid from the program account to the financing account. In the case of a negative reestimate, the amount of the reestimate shall be paid from the financing account to the program account, and shall be transferred from the program account to the general fund. Reestimates shall be displayed as a distinct and separately identified subaccount in the program account.

''(2) APPROPRIATIONS.—There are appropriated such sums as are necessary to fund a positive reestimate under paragraph (1).

''(e) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a Federal insurance program shall be displayed as a distinct and separately identified subaccount in the program account.

''SEC. 603. TIMETABLE FOR IMPLEMENTATION OF ACCRUAL BUDGETING FOR FEDERAL INSURANCE PROGRAMS.

''(a) AGENCY REQUIREMENTS.—Agencies with responsibility for Federal insurance programs shall develop models to estimate their risk-assumed cost by year through the budget horizon and shall submit those models, all relevant data, a justification for critical assumptions, and the annual projected risk-assumed costs to OMB with their budget requests each year starting with the request for fiscal year 2005. Agencies will likewise provide OMB with annual estimates of modifications, if any, and reestimates of program costs.

''(b) DISCLOSURE.—When the President submits a budget of the Government pursuant to section 1105(a) of title 31, United States Code, for fiscal year 2005, OMB shall publish a notice in the Federal Register advising interested persons of the availability of information describing the models, data (including sources), and critical assumptions (including explicit or implicit discount rate assumptions) that it or other executive branch entities would use to estimate the risk-assumed cost of Federal insurance programs and giving such persons an opportunity to submit comments. At the same time, the chairman of the Committee on the Budget shall publish a notice for CBO in the Federal Register advising interested persons of the availability of information describing the models, data (including sources), and critical assumptions (including explicit or implicit discount rate assumptions) that it would use to estimate the risk-assumed cost of Federal insurance programs and giving such interested persons an opportunity to submit comments.

''(c) REVISION.—After consideration of comments pursuant to subsection (b), and in consultation with the Committees on the Budget of the House of Representatives and the Senate, OMB and CBO shall revise the models, data, and major assumptions they would

use to estimate the risk-assumed cost of Federal insurance programs.

''(d) DISPLAY.—

''(1) IN GENERAL.—For fiscal years 2005, 2006, and 2007 the budget submissions of the President pursuant to section 1105(a) of title 31, United States Code, and CBO's reports on the economic and budget outlook pursuant to section 202(e)(1) and the President's budgets, shall for display purposes only, estimate the risk-assumed cost of existing or proposed Federal insurance programs.

''(2) OMB.—The display in the budget submissions of the President for fiscal years 2005, 2006, and 2007 shall include—

''(A) a presentation for each Federal insurance program in budget-account level detail of estimates of risk-assumed cost;

''(B) a summary table of the risk-assumed costs of Federal insurance programs; and

''(C) an alternate summary table of budget functions and aggregates using risk-assumed rather than cash-based cost estimates for Federal insurance programs.

''(3) CBO.—In the second session of the 108th Congress and the 109th Congress, CBO shall include in its estimates under section 308, for display purposes only, the risk-assumed cost of existing Federal insurance programs, or legislation that CBO, in consultation with the Committees on the Budget of the House of Representatives and the Senate, determines would create a new Federal insurance program.

''(e) OMB, CBO, AND GAO EVALUATIONS.—(1) Not later than 6 months after the budget submission of the President pursuant to section 1105(a) of title 31, United States Code, for fiscal year 2007, OMB, CBO, and GAO shall each submit to the Committees on the Budget of the House of Representatives and the Senate a report that evaluates the advisability and appropriate implementation of this title.

''(2) Each report made pursuant to paragraph (1) shall address the following:

''(A) The adequacy of risk-assumed estimation models used and alternative modeling methods.

''(B) The availability and reliability of data or information necessary to carry out this title.

''(C) The appropriateness of the explicit or implicit discount rate used in the various risk-assumed estimation models.

''(D) The advisability of specifying a statutory discount rate (such as the Treasury rate) for use in risk-assumed estimation models.

''(E) The ability of OMB, CBO, or GAO, as applicable, to secure any data or information directly from any Federal agency necessary to enable it to carry out this title.

''(F) The relationship between risk-assumed accrual budgeting for Federal insurance programs and the specific requirements of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(G) Whether Federal budgeting is improved by the inclusion of risk-assumed cost estimates for Federal insurance programs.

''(H) The advisability of including each of the programs currently estimated on a risk-assumed cost basis in the Federal budget on that basis.

''SEC. 604. DEFINITIONS.

''For purposes of this title:

''(1) The term 'Federal insurance program' means a program that makes insurance commitments and includes the list of such programs as to be defined by the budget concepts commission, as required by title IV of the Truth in Budgeting and Social Security Protection Act of 2002.

''(2) The term 'insurance commitment' means an agreement in advance by a Federal agency to indemnify a non-Federal entity against specified losses. This term does not include loan guarantees as defined in title V or benefit programs such as social security, medicare, and similar existing social insurance programs.

''(3)(A) The term 'risk-assumed cost' means the net present value of the estimated cash flows to and from the Government resulting from an insurance commitment or modification thereof.

''(B) The cash flows associated with an insurance commitment include—

''(i) expected claims payments inherent in the Government's commitment;

''(ii) net premiums (expected premium collections received from or on behalf of the insured less expected administrative expenses);

''(iii) expected recoveries; and

''(iv) expected changes in claims, premiums, or recoveries resulting from the exercise by the insured of any option included in the insurance commitment.

''(C) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of the insurance commitment, and the current estimate of the net present value of the remaining cash flows under the terms of the insurance commitment as modified.

''(D) The cost of a reestimate is the difference between the net present value of the amount currently required by the financing account to pay estimated claims and other expenditures and the amount currently available in the financing account. The cost of a reestimate shall be accounted for in the current year in the budget of the Government submitted pursuant to section 1105(a) of title 31, United States Code.

''(E) For purposes of this definition, expected administrative expenses shall be construed as the amount estimated to be necessary for the proper administration of the insurance program. This amount may differ from amounts actually appropriated or otherwise made available for the administration of the program.

''(4) The term 'program account' means the budget account for the risk-assumed cost, and for paying all costs of administering the insurance program, and is the account from which the risk-assumed cost is disbursed to the financing account.

''(5) The term 'financing account' means the nonbudget account that is associated with each program account which receives payments from or makes payments to the program account, receives premiums and other payments from the public, pays insurance claims, and holds balances.

''(6) The term 'modification' means any Government action that alters the risk-assumed cost of an existing insurance commitment from the current estimate of cash flows. This includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of existing insurance commitments.

''(7) The term 'model' means any actuarial, financial, econometric, probabilistic, or other methodology used to estimate the expected frequency and magnitude of loss-producing events, expected premiums or collections from or on behalf of the insured, expected recoveries, and administrative expenses.

''(8) The term 'current' has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(9) The term 'OMB' means the Director of the Office of Management and Budget.

''(10) The term 'CBO' means the Director of the Congressional Budget Office.

''(11) The term 'GAO' means the Comptroller General of the United States.

''SEC. 605. AUTHORIZATIONS TO ENTER INTO CONTRACTS; ACTUARIAL COST ACCOUNT.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $600,000 for each of fiscal years 2002 through 2007 to the Director of the Office of Management and Budget and each agency responsible for administering a Federal program to carry out this title.

''(b) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay the insurance financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate an insurance program. All the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

''(c) APPROPRIATION OF AMOUNT NECESSARY TO COVER RISK-ASSUMED COST OF INSURANCE COMMITMENTS AT TRANSITION DATE.—(1) A financing account is established on September 30, 2007, for each Federal insurance program.

''(2) There is appropriated to each financing account the amount of the risk-assumed cost of Federal insurance commitments outstanding for that program as of the close of September 30, 2007.

''(3) These financing accounts shall be used in implementing the budget accounting required by this title.

''SEC. 606. EFFECTIVE DATE.

''(a) IN GENERAL.—This title shall take effect immediately and shall expire on September 30, 2009.

''(b) SPECIAL RULE.—If this title is not reauthorized by September 30, 2009, then the accounting structure and budgetary treatment of Federal insurance programs shall revert to the accounting structure and budgetary treatment in effect immediately before the date of enactment of this title.''.

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 507 the following new items:

''TITLE VI—BUDGETARY TREATMENT OF FEDERAL INSURANCE PROGRAMS

''Sec. 601. Short title.
''Sec. 602. Budgetary treatment.
''Sec. 603. Timetable for implementation of accrual budgeting for Federal insurance programs.
''Sec. 604. Definitions.
''Sec. 605. Authorizations to enter into contracts; actuarial cost account.
''Sec. 606. Effective date.''.

TITLE III—BIENNIAL BUDGETING AND APPROPRIATIONS

SEC. 301. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

''TIMETABLE

''SEC. 300. (a) IN GENERAL.—Except as provided by subsection (b), the timetable with respect to the congressional budget process for any Congress (beginning with the One Hundred Eighth Congress) is as follows:

''First Session

''On or before:	Action to be completed:
First Monday in February	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after budget submission	Committees submit views and estimates to Budget Committees.
April 1	Budget Committees report concurrent resolution on the biennial budget.
May 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
June 30	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.

''Second Session

''On or before:	Action to be completed:
February 15	President submits budget review.
Not later than 6 weeks after President submits budget review	Congressional Budget Office submits report to Budget Committees.
The last day of the session	Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium.

''(b) SPECIAL RULE.—In the case of any first session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself) begins, the following dates shall supersede those set forth in subsection (a):

''First Session

''On or before:	Action to be completed:
First Monday in April	President submits budget recommendations.
April 20	Committees submit views and estimates to Budget Committees.
May 15	Budget Committees report concurrent resolution on the biennial budget.
June 1	Congress completes action on concurrent resolution on the biennial budget.
July 1	Biennial appropriation bills may be considered in the House.
July 20	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.''.

SEC. 302. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking ''each year'' and inserting ''biennially''.

(b) DEFINITIONS.—

(1) BUDGET RESOLUTION.—Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking ''fiscal year'' each place it appears and inserting ''biennium''.

(2) BIENNIUM.—Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

''(11) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.''.

(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) CONTENTS OF RESOLUTION.—Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) in the matter preceding paragraph (1) by—

(i) striking ''April 15 of each year'' and inserting ''May 15 of each odd-numbered year'';

(ii) striking ''the fiscal year beginning on October 1 of such year'' the first place it appears and inserting ''the biennium beginning on October 1 of such year''; and

(iii) striking ''the fiscal year beginning on October 1 of such year'' the second place it appears and inserting ''each fiscal year in such period'';

(B) in paragraph (6), by striking ''for the fiscal year'' and inserting ''for each fiscal year in the biennium''; and

(C) in paragraph (7), by striking ''for the first fiscal year'' and inserting ''for each fiscal year in the biennium''.

(2) ADDITIONAL MATTERS.—Section 301(b)(3) of such Act (2 U.S.C. 632(b)) is amended by striking ''for such fiscal year'' and inserting ''for either fiscal year in such biennium''.

(3) VIEWS OF OTHER COMMITTEES.—Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting ''(or, if applicable, as provided by section 300(b))'' after ''United States Code''.

(4) HEARINGS.—Section 301(e)(1) of such Act (2 U.S.C. 632(e)) is amended by—

(A) striking ''fiscal year'' and inserting ''biennium''; and

(B) inserting after the second sentence the following: ''On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)), the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.''.

(5) GOALS FOR REDUCING UNEMPLOYMENT.—Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking ''fiscal year'' each place it appears and inserting ''biennium''.

(6) ECONOMIC ASSUMPTIONS.—Section 301(g)(1) of such Act (2 U.S.C. 632(g)(1)) is amended by striking ''for a fiscal year'' and inserting ''for a biennium''.

(7) SECTION HEADING.—The section heading of section 301 of such Act is amended by striking ''annual'' and inserting ''biennial''.

(8) TABLE OF CONTENTS.—The item relating to section 301 in the table of contents set forth in section 1(b) of such Act is amended by striking ''Annual'' and inserting ''Biennial''.

(d) COMMITTEE ALLOCATIONS.—Section 302 of such Act (2 U.S.C. 633) is amended—

(1) in subsection (a)(1) by—

(A) striking ''for the first fiscal year of the resolution,'' and inserting ''for each fiscal year in the biennium,'';

(B) striking ''for that period of fiscal years'' and inserting ''for all fiscal years covered by the resolution''; and

(C) striking ''for the fiscal year of that resolution'' and inserting ''for each fiscal year in the biennium'';

(2) in subsection (f)(1), by striking ''for a fiscal year'' and inserting ''for a biennium'';

(3) in subsection (f)(1), by striking ''first fiscal year'' and inserting ''each fiscal year of the biennium'';

(4) in subsection (f)(2)(A), by—

(A) striking ''first fiscal year'' and inserting ''each fiscal year of the biennium''; and

(B) striking ''the total of fiscal years'' and inserting ''the total of all fiscal years covered by the resolution''; and

(5) in subsection (g)(1)(A), by striking ''April'' and inserting ''May''.

(e) SECTION 303 POINT OF ORDER.—

(1) IN GENERAL.—Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by striking ''first fiscal year'' and inserting ''each fiscal year of the biennium''.

(2) EXCEPTIONS IN THE HOUSE.—Section 303(b)(1) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraph (A), by striking ''the budget year'' and inserting ''the biennium''; and

(B) in subparagraph (B), by striking ''the fiscal year'' and inserting ''the biennium''.

(3) APPLICATION TO THE SENATE.—Section 303(c)(1) of such Act (2 U.S.C. 634(c)) is amended by—

(A) striking ''fiscal year'' and inserting ''biennium''; and

(B) striking ''that year'' and inserting ''each fiscal year of that biennium''.

(f) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking ''fiscal year'' the first two places it appears and inserting ''biennium'';

(2) by striking ''for such fiscal year''; and

(3) by inserting before the period ''for such biennium''.

(g) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305(a)(3) of such Act (2 U.S.C. 636(b)(3)) is amended by striking ''fiscal year'' and inserting ''biennium''.

(h) COMPLETION OF HOUSE ACTION ON APPROPRIATION BILLS.—Section 307 of such Act (2 U.S.C. 638) is amended—

(1) by striking ''each year'' and inserting ''each odd-numbered year'';

(2) by striking ''annual'' and inserting ''biennial'';

(3) by striking ''fiscal year'' and inserting ''biennium''; and

(4) by striking ''that year'' and inserting ''each odd-numbered year''.

(i) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting ''of any odd-numbered calendar year'' after ''July'';

(2) by striking ''annual'' and inserting ''biennial''; and

(3) by striking ''fiscal year'' and inserting ''biennium''.

(j) RECONCILIATION PROCESS.—Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''any fiscal year'' and inserting ''any biennium''; and

(2) in paragraph (1) by striking ''such fiscal year'' each place it appears and inserting ''any fiscal year covered by such resolution''.

(k) SECTION 311 POINT OF ORDER.—

(1) IN THE HOUSE.—Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(A) by striking ''for a fiscal year'' and inserting ''for a biennium'';

(B) by striking ''the first fiscal year'' each place it appears and inserting ''either fiscal year of the biennium''; and

(C) by striking ''that first fiscal year'' and inserting ''each fiscal year in the biennium''.

(2) IN THE SENATE.—Section 311(a)(2) of such Act is amended—

(A) in subparagraph (A), by striking ''for the first fiscal year'' and inserting ''for either fiscal year of the biennium''; and

(B) in subparagraph (B)—

(i) by striking ''that first fiscal year'' the first place it appears and inserting ''each fiscal year in the biennium''; and

(ii) by striking ''that first fiscal year and the ensuing fiscal years'' and inserting ''all fiscal years''.

(3) SOCIAL SECURITY LEVELS.—Section 311(a)(3) of such Act is amended by—

(A) striking ''for the first fiscal year'' and inserting ''each fiscal year in the biennium''; and

(B) striking ''that fiscal year and the ensuing fiscal years'' and inserting ''all fiscal years''.

(l) MDA POINT OF ORDER.—Section 312(c) of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended—

(1) by striking ''for a fiscal year'' and inserting ''for a biennium'';

(2) in paragraph (1), by striking ''first fiscal year'' and inserting ''either fiscal year in the biennium'';

(3) in paragraph (2), by striking ''that fiscal year'' and inserting ''either fiscal year in the biennium''; and

(4) in the matter following paragraph (2), by striking ''that fiscal year'' and inserting ''the applicable fiscal year''.

SEC. 303. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

''(3) 'biennium' has the meaning given to such term in paragraph (11) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).''.

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) SCHEDULE.—The matter preceding paragraph (1) in section 1105(a) of title 31, United States Code, is amended to read as follows:

''(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Seventh Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:''.

(2) EXPENDITURES.—Section 1105(a)(5) of title 31, United States Code, is amended by striking ''the fiscal year for which the budget is submitted and the 4 fiscal years after that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years''.

(3) RECEIPTS.—Section 1105(a)(6) of title 31, United States Code, is amended by striking ''the fiscal year for which the budget is submitted and the 4 fiscal years after that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years''.

(4) BALANCE STATEMENTS.—Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(5) FUNCTIONS AND ACTIVITIES.—Section 1105(a)(12) of title 31, United States Code, is amended in subparagraph (A), by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(6) ALLOWANCES.—Section 1105(a)(13) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(7) ALLOWANCES FOR UNCONTROLLED EXPENDITURES.—Section 1105(a)(14) of title 31, United States Code, is amended by striking ''that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted''.

(8) TAX EXPENDITURES.—Section 1105(a)(16) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(9) FUTURE YEARS.—Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking ''the fiscal year following the fiscal year'' and inserting ''each fiscal year in the biennium following the biennium'';

(B) by striking ''that following fiscal year'' and inserting ''each such fiscal year''; and

(C) by striking ''fiscal year before the fiscal year'' and inserting ''biennium before the biennium''.

(10) PRIOR YEAR OUTLAYS.—Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking ''the prior fiscal year'' and inserting ''each of the 2 most recently completed fiscal years,'';

(B) by striking ''for that year'' and inserting ''with respect to those fiscal years''; and

(C) by striking ''in that year'' and inserting ''in those fiscal years''.

(11) PRIOR YEAR RECEIPTS.—Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking ''the prior fiscal year'' and inserting ''each of the 2 most recently completed fiscal years'';

(B) by striking ''for that year'' and inserting ''with respect to those fiscal years''; and

(C) by striking ''in that year'' each place it appears and inserting ''in those fiscal years''.

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking ''each year'' and inserting ''each even-numbered year''.

(d) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking ''the fiscal year for'' the first place it appears and inserting ''each fiscal year in the biennium for'';

(2) by striking ''the fiscal year for'' the second place it appears and inserting ''each fiscal year of the biennium, as the case may be,''; and

(3) by striking ''that year'' and inserting ''for each year of the biennium''.

(e) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e)(1) of title 31, United States Code, is amended by striking ''ensuing fiscal year'' and inserting ''biennium to which such budget relates''.

(f) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) IN GENERAL.—Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1), by—

(i) striking ''Before July 16 of each year,'' and inserting ''Before February 15 of each even numbered year,''; and

(ii) striking ''fiscal year'' and inserting ''biennium'';

(B) in paragraph (1), by striking ''that fiscal year'' and inserting ''each fiscal year in such biennium'';

(C) in paragraph (2), by striking ''4 fiscal years following the fiscal year'' and inserting ''4 fiscal years following the biennium''; and

(D) in paragraph (3), by striking ''fiscal year'' and inserting ''biennium''.

(2) CHANGES.—Section 1106(b) of title 31, United States Code, is amended by—

(A) striking ''the fiscal year'' and inserting ''each fiscal year in the biennium'';

(B) striking ''April 11 and July 16 of each year'' and inserting ''February 15 of each even-numbered year''; and

(C) striking ''July 16'' and inserting ''February 15 of each even-numbered year.''.

(g) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) IN GENERAL.—Section 1109(a) of title 31, United States Code, is amended—

(A) by striking ''On or before the first Monday after January 3 of each year (on or before February 5 in 1986)'' and inserting ''At the same time the budget required by section 1105 is submitted for a biennium''; and

(B) by striking ''the following fiscal year'' and inserting ''each fiscal year of such period''.

(2) JOINT ECONOMIC COMMITTEE.—Section 1109(b) of title 31, United States Code, is amended by striking ''March 1 of each year'' and inserting ''within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)''.

(h) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended by—

(1) striking ''May 16'' and inserting ''March 31''; and

(2) striking ''year before the year in which the fiscal year begins'' and inserting ''calendar year preceding the calendar year in which the biennium begins''.

SEC. 304. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

''§ 105. Title and style of appropriations Acts

''(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for each fiscal year in the biennium of fiscal years (here insert the fiscal years of the biennium).'.

''(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

''(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).''.

SEC. 305. MULTIYEAR AUTHORIZATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

''AUTHORIZATIONS OF APPROPRIATIONS

''SEC. 319. (a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider—

''(1) any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the appropriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

''(2) in any odd-numbered year, any authorization or revenue bill or joint resolution until Congress completes action on the biennial budget resolution, all regular biennial appropriations bills, and all reconciliation bills.

''(b) APPLICABILITY.—In the Senate, subsection (a) shall not apply to—

''(1) any measure that is privileged for consideration pursuant to a rule or statute;

''(2) any matter considered in Executive Session; or

''(3) an appropriations measure or reconciliation bill.''.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

''Sec. 319. Authorizations of appropriations.''.

SEC. 306. GOVERNMENT PLANS ON A BIENNIAL BASIS.

(a) STRATEGIC PLANS.—Section 306 of title 5, United States Code, is amended—

(1) in subsection (a), by striking ''September 30, 1997'' and inserting ''September 30, 2003'';

(2) in subsection (b)—

(A) by striking ''at least every three years'' and inserting ''at least every 4 years''; and

(B) by striking ''five years forward'' and inserting ''six years forward''; and

(3) in subsection (c), by inserting a comma after ''section'' the second place it appears and adding ''including a strategic plan submitted by September 30, 2003 meeting the requirements of subsection (a)''.

(b) BUDGET CONTENTS AND SUBMISSION TO CONGRESS.—Paragraph (28) of section 1105(a) of title 31, United States Code, is amended by striking ''beginning with fiscal year 1999, a'' and inserting ''beginning with fiscal year 2004, a biennial''.

(c) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter before paragraph (1)—

(i) by striking ''section 1105(a)(29)'' and inserting ''section 1105(a)(28)''; and

(ii) by striking ''an annual'' and inserting ''a biennial'';

(B) in paragraph (1) by inserting after ''program activity'' the following: ''for both years 1 and 2 of the biennial plan'';

(C) in paragraph (5) by striking ''and'' after the semicolon,

(D) in paragraph (6) by striking the period and inserting a semicolon; and inserting ''and'' after the inserted semicolon; and

(E) by adding after paragraph (6) the following:

''(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.'';

(2) in subsection (d) by striking ''annual'' and inserting ''biennial''; and

(3) in paragraph (6) of subsection (f) by striking ''annual'' and inserting ''biennial''.

(d) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Section 9703 of title 31, United States Code, relating to managerial accountability, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking ''annual''; and

(B) by striking ''section 1105(a)(29)'' and inserting ''section 1105(a)(28)'';

(2) in subsection (e)—

(A) in the first sentence by striking ''one or'' before ''years'';

(B) in the second sentence by striking ''a subsequent year'' and inserting ''for a subsequent 2-year period''; and

(C) in the third sentence by striking ''three'' and inserting ''four''.

(e) PILOT PROJECTS FOR PERFORMANCE BUDGETING.—Section 1119 of title 31, United States Code, is amended—

(1) in paragraph (1) of subsection (d), by striking ''annual'' and inserting ''biennial''; and

(2) in subsection (e), by striking ''annual'' and inserting ''biennial''.

(f) STRATEGIC PLANS.—Section 2802 of title 39, United States Code, is amended—

(1) is subsection (a), by striking ''September 30, 1997'' and inserting ''September 30, 2003'';

(2) in subsection (b), by striking ''at least every three years'' and inserting ''at least every 4 years'';

(3) by striking ''five years forward'' and inserting ''six years forward''; and

(4) in subsection (c), by inserting a comma after ''section'' the second place it appears and inserting ''including a strategic plan submitted by September 30, 2003 meeting the requirements of subsection (a)''.

(g) PERFORMANCE PLANS.—Section 2803(a) of title 39, United States Code, is amended—

(1) in the matter before paragraph (1), by striking ''an annual'' and inserting ''a biennial'';

(2) in paragraph (1), by inserting after ''program activity'' the following: ''for both years 1 and 2 of the biennial plan'';

(3) in paragraph (5), by striking ''and'' after the semicolon;

(4) in paragraph (6), by striking the period and inserting ''; and''; and

(5) by adding after paragraph (6) the following:

''(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.''.

(h) COMMITTEE VIEWS OF PLANS AND REPORTS.—Section 301(d) of the Congressional Budget Act (2 U.S.C. 632(d)) is amended by adding at the end ''Each committee of the Senate or the House of Representatives shall review the strategic plans, performance plans, and performance reports, required under section 306 of title 5, United States Code, and sections 1115 and 1116 of title 31, United States Code, of all agencies under the jurisdiction of the committee. Each committee may provide its views on such plans or reports to the Committee on the Budget of the applicable House.''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on March 1, 2003.

(2) AGENCY ACTIONS.—Effective on and after the date of enactment of this Act, each agency shall take such actions as necessary to prepare and submit any plan or report in accordance with the amendments made by this Act.

SEC. 307. BIENNIAL APPROPRIATIONS BILLS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) is amended by adding at the end the following:

''CONSIDERATION OF BIENNIAL APPROPRIATIONS BILLS

''SEC. 320. It shall not be in order in the House of Representatives or the Senate in any odd-numbered year to consider any regular bill providing new budget authority or a limitation on obligations under the jurisdiction of any of the subcommittees of the Committees on Appropriations for only the first fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond 1 year and will be completed or terminated after the amount provided has been expended.''.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

''Sec. 320. Consideration of biennial appropriations bills.''.

SEC. 308. REPORT ON TWO-YEAR FISCAL PERIOD.

Not later than 180 days after the date of enactment of this subpart, the Director of OMB shall—

(1) determine the impact and feasibility of changing the definition of a fiscal year and the budget process based on that definition to a 2-year fiscal period with a biennial budget process based on the 2-year period; and

(2) report the findings of the study to the Committees on the Budget of the House of Representatives and the Senate.

SEC. 309. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in sections 306 and 308 and subsection (b), this title

and the amendments made by this title shall take effect on January 1, 2003, and shall apply to budget resolutions and appropriations for the biennium beginning with fiscal year 2004.

(b) AUTHORIZATIONS FOR THE BIENNIUM.—For purposes of authorizations for the biennium beginning with fiscal year 2004, the provisions of this title and the amendments made by this title relating to 2-year authorizations shall take effect January 1, 2003.

TITLE IV—COMMISSION ON FEDERAL BUDGET CONCEPTS

SEC. 401. ESTABLISHMENT OF COMMISSION ON FEDERAL BUDGET CONCEPTS.

There is established a commission to be known as the Commission on Federal Budget Concepts (referred to in this title as the ''Commission'').

SEC. 402. POWERS AND DUTIES OF COMMISSION.

(a) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The duties of the Commission shall include—

(A) a review of the 1967 report of the President's Commission on Budget Concepts and assessment of the implementation of the recommendations of that report;

(B) identification and evaluation of the structure, concepts, classifications, and bases of accounting of the Federal budget;

(C) identification of any applicable general accounting principles and practices in the private sector and evaluation of their value to budget practices in the Federal sector;

(D) a report that shall include recommendations for modifications to the structure, concepts, classifications, and bases of accounting of the Federal budget that would enhance the usefulness of the budget for public policy and financial planning.

(2) SPECIFIC AREAS OF CONSIDERATION.—Specific areas for consideration by the Commission shall include the following:

(A) Should part ownership by the Government be sufficient to make an entity Federal and to include it in the budget?

(B) When is Federal control of an entity, including control exercised through Federal regulations, sufficient to cause it to be included in the budget?

(C) Are privately owned assets under long-term leases to the Federal Government effectively purchased by the Government during the lease period?

(D) Should there be an ''off-budget'' section of the budget? How should the Federal Government differentiate between spending and receipts?

(E) Should the total costs of refundable tax credits belong on the spending side of the budget?

(F) When should Federal Reserve earnings be reported as receipts or offsetting receipts (negative spending) in the net interest portion of the budget?

(G) What is a ''user fee'' and under what circumstances is it properly an offset to spending or a governmental receipt? What uses do trust funds have?

(H) Do trust fund balances provide misleading information? Do the roughly 200 trust funds add clarity or confusion to the budget process?

(I) Are there better ways than trust fund accounting to identify long-term liabilities?

(J) Should accrual budgetary accounting be adopted for Federal retirement, military retirement, or Social Security and other entitlements?

(K) Are off-budget accounts suitable for capturing accruals in the budget?

(L) What is the appropriate budgetary treatment of—

(i) purchases and sales of financial assets, including equities, bonds, and foreign currencies;

(ii) emergency spending;

(iii) the cost of holding fixed assets (cost of capital);

(iv) sales of physical assets; and

(v) seigniorage on coins and currency?

(M) When policy changes have strong but indirect feedback effects on revenues and other aggregates, should they be reported in budget estimates?

(N) How should the policies that are one-sided bets on economic events (probabilistic scoring) be represented in the budget?

(b) POWERS OF THE COMMISSION.—

(1) CONDUCT OF BUSINESS.—The Commission may hold hearings, take testimony, receive evidence, and undertake such other activities necessary to carry out its duties.

(2) ACCESS TO INFORMATION.—The Commission may secure directly from any department of agency of the United States information necessary to carry out its duties. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(3) POSTAL SERVICE.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 403. MEMBERSHIP.

(a) MEMBERSHIP.—The Commission shall be composed of 12 members as follows:

(1) Three members appointed by the chairman of the Committee on the Budget of the Senate.

(2) Three members appointed by the chairman of the Committee on the Budget of the House of Representatives.

(3) Three members appointed by the ranking member of the Committee on the Budget of the Senate.

(4) Three members appointed by the ranking member of the Committee on the Budget of the House of Representatives.

(b) QUALIFICATIONS AND TERM.—

(1) QUALIFICATIONS.—Members appointed to the Commission pursuant to subsection (a) shall—

(A) have expertise and experience in the fields or disciplines related to the subject areas to be considered by the Commission; and

(B) not be Members of Congress.

(2) TERM OF APPOINTMENT.—The term of an appointment to the Commission shall be for the life of the Commission.

(3) CHAIR AND VICE CHAIR.—The Chair and Vice Chair may be elected from among the members of the Commission. The Vice Chair shall assume the duties of the Chair in the Chair's absence.

(c) MEETINGS; QUORUM; AND VACANCIES.—

(1) MEETINGS.—The Commission shall meet at least once a month on a day to be decided by the Commission. The Commission may meet at such other times at the call of the Chair or of a majority of its voting members. The meetings of the Commission shall be open to the public, unless by public vote, the Commission shall determine to close a meeting or any portion of a meeting to the public.

(2) QUORUM.—A majority of the voting membership shall constitute a quorum of the Commission, except that 3 or more voting members may conduct hearings.

(3) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was filled under subsection (a).

(d) COMPENSATION AND EXPENSES.—Members of the Commission shall serve without pay for their service on the Commission, but may receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code.

SEC. 404. STAFF AND SUPPORT SERVICES.

(a) STAFF.—With the advance approval of the Commission, the executive director may appoint such personnel as is appropriate. The staff of the Commission shall be appointed without regard to political affiliation and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates.

(b) EXECUTIVE DIRECTOR.—The Chairman shall appoint an executive director, who shall be paid the rate of basic pay for level II of the Executive Schedule.

(c) EXPERTS AND CONSULTANTS.—With the advance approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(d) TECHNICAL AND ADMINISTRATIVE ASSISTANCE.—Upon the request of the Commission—

(1) the head of any agency, office, or establishment within the executive or legislative branches of the United States shall provide, without reimbursement, such technical assistance as the Commission determines is necessary to carry out its duties; and

(2) the Administrator of the General Services Administration shall provide, on a reimbursable basis, such administrative support services as the Commission may require.

(e) DETAIL OF FEDERAL PERSONNEL.—Upon the request of the Commission, the head of an agency, office, or establishment in the executive or legislative branch of the United States is authorized to detail, without reimbursement, any of the personnel of that agency, office, or establishment to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the employment status or privileges of that employee.

(f) CBO.—The Director of the Congressional Budget Office shall provide the Commission with its latest research on the accuracy of its past budget and economic projections as compared to those of the Office of Management and Budget and, if possible, those of private sector forecasters. The Commission shall work with the Directors of the Congressional Budget Office and the Office of Management and Budget in their efforts to explain the factors affecting the accuracy of budget projections.

SEC. 405. REPORT.

Not later than _____, the Commission shall transmit a report to the President and to each House of Congress. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative actions as it considers appropriate. No finding, conclusion, or recommendation may be made by the Commission unless approved by a majority of those voting, a quorum being present. At the request of any Commission member, the report shall include that member's dissenting findings, conclusions, or recommendations.

SEC. 406. TERMINATION.

The Commission shall terminate 30 days after the date of transmission of the report required in section 405.

SEC. 407. FUNDING.

There are authorized to be appropriated not more than $1,000,000 to carry out this title. Sums so appropriated shall remain available until expended.

Mr. FEINGOLD. Mr. President, I am pleased to join today with my Colleague from Ohio, Mr. VOINOVICH, to introduce the Truth in Budgeting and Social Security Protection Act of 2002.

This bill collects a variety of budget process ideas to help protect Social Security, promote balanced budgets, and improve government accounting practices. I hope that this effort will help spur greater debate and action to restore fiscal discipline.

Our government's finances have taken a dire turn in the last year-and-a-half. While in January of last year the Congressional Budget Office projected that, in the fiscal year just ended, fiscal year 2002, the government would run a unified budget surplus of $313 billion, now it projects a unified budget deficit of $157 billion.

And not counting Social Security surpluses, the picture is even worse. While in January of last year CBO projected that for fiscal year 2002, the government would run a surplus of $142 billion, without using Social Security surpluses, now it projects a deficit of $314 billion, not counting Social Security.

We must stop running deficits because they cause the government to use the surpluses of the Social Security Trust Fund for other government purposes, rather than to pay down the debt and help our Nation prepare for the coming retirement of the Baby Boom generation.

And we must stop running deficits because every dollar that we add to the Federal debt is another dollar that we are forcing our children to pay back in higher taxes or fewer government benefits. When the government in this generation chooses to spend on current consumption and to accumulate debt for our children's generation to pay, it does nothing less than rob our children of their own choices. We make our choices to spend on our wants, but we saddle them with debts that they must pay from their tax dollars and their hard work. And the government should not do that.

That is why I am joining with my Colleague from Ohio to introduce this bill to improve the budget process today. We need to strengthen the budget process. We need to do more.

Our bill would: extend the discretionary spending caps and the pay-as-you-go rules for 5 years, strengthen the enforcement of those budget rules, help protect Social Security surpluses, institute biennial budgeting, improve accounting for long-term costs of legislation, improve accounting for federal insurance programs, highlight the full expenses, including interest costs, of spending or tax cuts, and create a new commission to study the budget process.

Together, these budget process proposals would go a long way toward increasing the responsibility of the Federal budget. I hope that between now and the beginning of the next Congress, my Colleagues and observers of the budget process will review these proposals, perhaps build on them, and then join with us in a major effort to strengthen the budget process next year.

We must stop using Social Security surpluses to fund other government programs. We must stop piling up debt for our children to pay off. We must enact major reforms of the budget process.

I hope that this effort will contribute to those ends.

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. CRAIG):

S. 3132. A bill to improve the economy and the quality of life for all citizens by authorizing funds for Federal-aid highways, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr. CRAIG):

S. 3133. A bill to amend the Internal Revenue Code of 1986 to make funding available to carry out the Maximum Economic Growth for America Through Highway Funding Act; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce two bills, the Maximum Economic Growth for America Through Highway Funding Act'', or ''MEGA FUND ACT''—Parts one and two.

The MEGA FUND ACT is intended to do exactly what its name suggest, increase Federal investment in our Nation's highway system. That is an important objective. Highway investments create jobs, increase the productivity of our economy, and improve the quality of life for all Americans.

In 1998 Congress passed one of the most successful and bipartisan bills in recent memory, the ''Transportation Equity Act for the 21st Century'', better known as ''TEA–21.'' I am honored to have been an author of that piece of legislation.

The MEGA FUND ACT builds on the success of the highway elements of TEA–21, keeping nearly all of its structure in place and increasing funding levels.

There are several major aspects of this legislation.

First, the MEGA FUND ACT significantly increases highway program levels. The principal feature of the bill is its increased funding for the program, something that will help all States and all citizens. Under TEA–21, as amended, the total obligation authority for FY 2003 is $28.485 billion.

Under the 6 years of the MEGA FUND ACT, the comparable program level would grow to $34.839 billion in FY 2004 and to $41.839 billion by FY 2009.

These funding increases will be enabled by enactment of legislation that I have already introduced with Senator CRAPO, S. 2678, the Mega Trust Act and S. 3097, MEGA INNOVATE ACT.

While these program levels represent a substantial increase, the needs of our highway system are even greater. So, the program levels in the bill represent only a down payment on the investment in highways that is needed to improve our economy through commerce and job creation, increase personal mobility and make our roads safer.

Second, the MEGA FUND ACT continues the basic program structure and formulas from TEA–21. The current TEA–21 minimum guarantee formula is extended.

Also, the bill would continue to focus funding on the core programs administered by the States: Interstate Maintenance, National Highway System, Surface Transportation Program, Bridge, Congestion Mitigation and Air Quality Improvement, and the Minimum Guarantee. These key programs would constitute approximately the same proportion of the overall program as under TEA–21.

Third, a new category is added to aid states in overcoming economic and demographic barriers. The bill would create a new program, at $2 billion annually, to assist States in dealing with certain economic and demographic hardships.

This would be a new type of program, not subject to the minimum guarantee. It is not keyed to specific project types but to types of problems facing States. States with very high growth rates, high population density, low population density, or low per capita incomes, for example, face real challenges.

This different approach lets States facing those problems receive funds and pick the projects. Every one of the 50 States would receive significant funding under this program every year.

The MEGA FUND ACT continues firewalls and improves RABA. One of the great contributions of TEA–21 is that it provides the highway program protection under the budget procedures of Congress.

These ''firewall'' provisions enable our citizens to be confident that highway taxes will be invested in highways, not saved or diverted.

TEA–21 also established Revenue Aligned Budget Authority, or RABA. The principle of RABA is that, if funds available for the highway program exceed expectations, then additional money can be put to work in the highway program. This bill would continue those important provisions with improvements.

One key improvement is the elimination of so-called ''negative RABA.'' Under the bill, there are only automatic upward adjustments in obligation levels under RABA. These adjustments would still take place when the Highway Account balance is financially stronger than initially estimated.

Another key reform would focus RABA calculations on the actual balance in the Highway Account, rather than on annual revenues.

This important reform will help ensure that monies in the Highway Account of the Highway Trust Fund are invested and not allowed to build up to a large balance. Today's RABA did not preclude a build up of funds in the

Highway Account, delaying the delivery of needed highway investments to our citizens.

The MEGA FUND ACT increased the stability of distributions to states under the allocation programs. The bill includes proposed revisions to several so-called ''allocation'' programs that will increase funding for all States.

Today, large portions of the program funds that are not apportioned to States are distributed on a discretionary basis. This bill would leave portions of the program subject to discretion, but move the allocation programs, collectively, in a general direction that would provide States greater certainty that they will be participating in allocation program funds.

Specifically, the bill makes modest changes to the Intelligent Transportation System, ITS, program and to the Transportation and Community and System Preservation Pilot, TCSP, program, to ensure that some of those funds find their way into every State.

Another modest change will ensure that each State with a border receives at least some funding under the borders and corridors programs, and that States with significant public lands receive at least some public lands discretionary funding.

Let me say a few things about what is not addressed in this bill. The MEGA FUND ACT sets forth an outline for the highway program. It does not address the transit program that is within the jurisdiction of the Banking Committee, or the highway safety programs within the jurisdiction of the Commerce Committee, or the revenue for the highway program that is within the jurisdiction of the Finance Committee.

My proposals for those issues are in previous bills that I have introduced—MEGA RED TRANS, MEGA SAFE, MEGA STREAM, MEGA TRUST, MEGA INNOVATE and today, MEGA FUND, Part II. Those are important matters that also must be addressed as part of the final overall legislation that will extend and build upon TEA–21.

As for MEGA FUND Part II, this bill although short and simple, actually represents the most important step in any reauthorization bill. MEGA FUND, Part II allows the funding program set forth in MEGA FUND Part I to be spend from the Highway Trust Fund.

Without this important step, Congress can write formulas until Christmas, but no money can actually be sent to the states and spent. The ability to spend this money requires a change to the Internal Revenue Code that makes those Highway Trust Funds available for payment. MEGA FUND PART II takes care of that.

In summary, the MEGA FUND ACT stays close to the successful program structure of TEA–21 and maintains its apportionment formulas. It would significantly increase funding for the program as a whole, continue budgetary firewalls and strengthen RABA, and provide some extra funds to all States through the economic and demographic barriers program and through some innovations in other programs not subject to the minimum guarantee.

I ask unanimous consent that a section-by-section analysis of both bills be printed in the RECORD.

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

S. 3132

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 ''Maximum Economic Growth for America Through Highway Funding Act'' or the ''MEGA Fund Act''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) PROGRAMS SUBJECT TO MINIMUM GUARANTEE.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $4,864,000,000 for fiscal year 2004, $5,020,000,000 for fiscal year 2005, $5,176,000,000 for fiscal year 2006, $5,333,000,000 for fiscal year 2007, $5,645,000,000 for fiscal year 2008, and $5,958,000,000 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103(b) of title 23, United States Code, $5,836,000,000 for fiscal year 2004, $6,024,000,000 for fiscal year 2005, $6,212,000,000 for fiscal year 2006, $6,399,000,000 for fiscal year 2007, $6,774,000,000 for fiscal year 2008, and $7,150,000,000 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of title 23, United States Code, $4,173,000,000 for fiscal year 2004, $4,307,000,000 for fiscal year 2005, $4,442,000,000 for fiscal year 2006, $4,576,000,000 for fiscal year 2007, $4,844,000,000 for fiscal year 2008, and $5,112,000,000 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of title 23, United States Code, $6,809,000,000 for fiscal year 2004, $7,028,000,000 for fiscal year 2005, $7,247,000,000 for fiscal year 2006, $7,466,000,000 for fiscal year 2007, $7,903,000,000 for fiscal year 2008, and $8,341,000,000 for fiscal year 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, $1,654,000,000 for fiscal year 2004, $1,707,000,000 for fiscal year 2005, $1,760,000,000 for fiscal year 2006, $1,813,000,000 for fiscal year 2007, $1,919,000,000 for fiscal year 2008, and $2,026,000,000 for fiscal year 2009.

(6) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 14501 of title 40, United States Code, $450,000,000 for each of fiscal years 2004 through 2009.

(7) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code, $75,000,000 for each of fiscal years 2004 through 2009.

(8) HIGH PRIORITY PROJECTS PROGRAM.—For the high priority projects program under section 117 of title 23, United States Code, $1,000,000,000 for each of fiscal years 2004 through 2009.

(b) ASSISTANCE IN OVERCOMING ECONOMIC AND DEMOGRAPHIC BARRIERS.—For the program to provide assistance in overcoming economic and demographic barriers under section 139 of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,000,000,000 for each of fiscal years 2004 through 2009.

(c) ADDITIONAL PROGRAMS.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of title 23, United States Code, $300,000,000 for each of fiscal years 2004 through 2009.

(B) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of title 23, United States Code, $350,000,000 for each of fiscal years 2004 through 2009.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of title 23, United States Code, $300,000,000 for each of fiscal years 2004 through 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of title 23, United States Code, $35,000,000 for each of fiscal years 2004 through 2009.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT PROGRAM.—For the national corridor planning and development program under section 1118 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 161) $100,000,000 for each of fiscal years 2004 through 2009.

(3) COORDINATED BORDER INFRASTRUCTURE PROGRAM.—For the coordinated border infrastructure program under section 1119 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 163) $100,000,000 for each of fiscal years 2004 through 2009.

(4) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) $50,000,000 for each of fiscal years 2004 through 2009.

(5) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of title 23, United States Code, $30,000,000 for each of fiscal years 2004 through 2009.

(6) HIGHWAY USE TAX EVASION PROJECTS.—For highway use tax evasion projects under section 143 of title 23, United States Code, $40,000,000 for each of fiscal years 2004 through 2009.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 1214(r) of the Transportation Equity Act for the 21st Century (112 Stat. 209) $130,000,000 for each of fiscal years 2004 through 2009.

(d) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 223) is amended—

(1) by striking ''1999 and'' and inserting ''1999,''; and

(2) by inserting before the period at the end the following: '', and $50,000,000 for each of fiscal years 2004 through 2009''.

(e) NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.—Section 1224(d) of the Transportation Equity Act for the 21st Century (112 Stat. 837) is amended by striking ''2003'' and inserting ''2009''.

(f) SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.—Section 157(g)(1) of title 23, United States Code, is amended—

(1) by striking ''2002, and'' and inserting ''2002,''; and

(2) by inserting before the period at the end the following: '', and $115,000,000 for each of fiscal years 2004 through 2009''.

(g) RESEARCH PROGRAMS.—The following sums are authorized to be appropriated out

of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—For carrying out sections 502, 506, 507, and 508 of title 23, United States Code, $103,000,000 for each of fiscal years 2004 through 2009.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—For carrying out section 503 of title 23, United States Code, $50,000,000 for each of fiscal years 2004 through 2009.

(3) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code, $20,000,000 for each of fiscal years 2004 through 2009.

(4) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $31,000,000 for each of fiscal years 2004 through 2009.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 5204, 5205, 5206, and 5207 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 453) $110,000,000 for each of fiscal years 2004 through 2009.

(6) ITS DEPLOYMENT.—For carrying out sections 5208 and 5209 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 458) $140,000,000 for each of fiscal years 2004 through 2009.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—For carrying out section 5505 of title 49, United States Code, $32,000,000 for each of fiscal years 2004 through 2009.

(h) FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.—Section 104 of title 23, United States Code, is amended by adding at the end the following:

''(m) FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.—

''(1) DEDUCTIONS.—For each of fiscal years 2004 through 2009, whenever an apportionment is made of the sums made available for expenditure on each of the surface transportation program under section 133, the bridge program under section 144, the congestion mitigation and air quality improvement program under section 149, and the Interstate and National Highway System program, the Secretary shall make proportionate deductions from those programs, in a total amount equal to $75,000,000, to be used to pay the costs of a future strategic highway research program established under paragraph (2).

''(2) PROGRAM.—The Secretary shall establish and carry out a future strategic highway research program.

''(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under the future strategic highway research program shall be 80 percent (unless the Secretary determines otherwise with respect to a project).

''(4) AVAILABILITY OF AMOUNTS.—The amounts deducted under paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that the funds shall remain available until expended.''.

(i) MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.—Section 322(h)(1)(B)(i) of title 23, United States Code, is amended—

(1) by striking ''2002, and'' and inserting ''2002,''; and

(2) by inserting before the period at the end the following: '', and such sums as are necessary for fiscal year 2004 and each fiscal year thereafter''.

(j) TIFIA.—Section 188 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)(E), by striking ''fiscal year 2003'' and inserting ''each of fiscal years 2003 through 2009''; and

(B) in paragraph (2), by striking ''2003'' and inserting ''2009''; and

(2) in the table contained in subsection (c), by striking the item relating to fiscal year 2003 and inserting the following:

''2003	$2,600,000,000
''2004	$2,600,000,000
''2005	$2,600,000,000
''2006	$2,600,000,000
''2007	$2,600,000,000
''2008	$2,600,000,000
''2009	$2,600,000,000.''.

SEC. 3. OBLIGATION CEILING.

(a) IN GENERAL.—Section 1102 of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 115) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(7) $34,000,000,000 for fiscal year 2004;

''(8) $35,000,000,000 for fiscal year 2005;

''(9) $36,000,000,000 for fiscal year 2006;

''(10) $37,000,000,000 for fiscal year 2007;

''(11) $39,000,000,000 for fiscal year 2008; and

''(12) $41,000,000,000 for fiscal year 2009.'';

(2) in subsection (b)(8), by striking ''through 2007'' and inserting ''through 2009'';

(3) in subsection (c)—

(A) by striking ''For each of fiscal years 1998 through 2003,'' and inserting ''Except as otherwise provided, for fiscal year 1998 and each fiscal year thereafter,'';

(B) in paragraph (1)—

(i) by striking ''Code, and amounts'' and inserting ''Code, amounts''; and

(ii) by inserting before the semicolon at the end the following: ''or, for fiscal year 2004 and each fiscal year thereafter, amounts authorized for the Indian reservation roads program under section 204 of title 23, United States Code''; and

(C) in paragraph (5), by striking ''this Act'' and inserting ''this Act, the Maximum Economic Growth for America Through Highway Funding Act,'';

(4) in subsection (d), by striking ''2003'' and inserting ''2009'';

(5) in subsection (e)—

(A) by striking ''Obligation'' and inserting the following:

''(1) IN GENERAL.—Obligation'';

(B) in paragraph (1) (as designated by subparagraph (A)), by striking ''and under title V of this Act'' and inserting ''under title V of this Act, and under the Maximum Economic Growth for America Through Highway Funding Act''; and

(C) by adding at the end the following:

''(2) LIMITATION FOR FISCAL YEARS 2004 THROUGH 2009.—Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 2(f) of the Maximum Economic Growth for America Through Highway Funding Act, and section 104(m) of title 23, United States Code, shall not exceed $561,000,000 for each of fiscal years 2004 through 2009.'';

(6) in the first sentence of subsection (f), by striking ''2003'' and inserting ''2009'';

(7) in subsection (h)—

(A) by striking ''Limitations on obligations imposed by subsection (a)'' and inserting the following:

''(1) FISCAL YEARS 1998 THROUGH 2003.—Limitations on obligations imposed by paragraphs (1) through (6) of subsection (a)''; and

(B) by adding at the end the following:

''(2) FISCAL YEARS 2004 THROUGH 2009.—

''(A) IN GENERAL.—Limitations on obligations imposed by paragraphs (7) through (12) of subsection (a) for a fiscal year shall be increased by an amount equal to the amount of any increase for the fiscal year determined under section 4(b)(5) of the Maximum Economic Growth for America Through Highway Funding Act.

''(B) DISTRIBUTION OF INCREASES.—Any increase under subparagraph (A) shall be distributed in accordance with this section.''; and

(8) in subsection (i)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(7) $450,000,000 for fiscal year 2004;

''(8) $470,000,000 for fiscal year 2005;

''(9) $490,000,000 for fiscal year 2006;

''(10) $510,000,000 for fiscal year 2007;

''(11) $530,000,000 for fiscal year 2008; and

''(12) $550,000,000 for fiscal year 2009.''.

(b) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—Section 104(a)(1) of title 23, United States Code, is amended—

(1) by inserting ''the lesser of'' after ''in an amount not to exceed'';

(2) in subparagraph (A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and indenting appropriately; and

(B) by striking ''(A) 1⅙ percent'' and inserting the following:

''(A) the sum of—

''(i) 1⅙ percent'';

(3) by striking ''(B) one-third'' and inserting the following:

''(ii) one-third'';

(4) in subparagraph (A)(ii) (as so designated), by striking the period at the end and inserting ''; or''; and

(5) by adding at the end the following:

''(B) the amount specified for the applicable fiscal year in section 1102(i) of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 118) for use as described in subparagraph (A).''.

SEC. 4. RELIABLE HIGHWAY PROGRAM LEVELS; REVISIONS TO REVENUE ALIGNED BUDGET AUTHORITY.

(a) SENSE OF THE SENATE RELATING TO REFORM OF REVENUE ALIGNED BUDGET AUTHORITY.—

(1) FINDINGS.—The Senate finds that—

(A) the experience under the Transportation Equity Act for the 21st Century (112 Stat. 107) with respect to revenue aligned budget authority (referred to in this subsection as ''RABA'') has been that, while RABA has produced increases in highway program obligation levels in some fiscal years, RABA also—

(i) has allowed the balance in the Highway Trust Fund (other than the Mass Transit Account) to grow since the date of enactment of the Transportation Equity Act for the 21st Century;

(ii) does not provide a mechanism to allow that balance to be expended for the benefit of the public; and

(iii) has resulted in unexpectedly large annual differences, or estimated differences, in highway program obligation authority as compared with the levels specified in section 1102 of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 115); and

(B) Congress has taken legislative action to reject the implementation of estimates that would have resulted in ''negative'' RABA.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that the provisions of budget legislation pertaining to the highway program should be amended—

(A) to improve predictability and stability in the levels of highway program obligation authority;

(B) to facilitate the expenditure of funds in the Highway Trust Fund (other than the Mass Transit Account); and

(C) to eliminate the possibility of reductions in the levels of highway program obligation authority being imposed automatically, so that any reductions are solely the prerogative of Congress.

(b) RELIABLE HIGHWAY PROGRAM LEVELS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no spending limits other than the spending limits specified in this subsection may be imposed, for any of fiscal years 2004 through 2009, on budget accounts or portions of budget accounts that are subject to the obligation limitations and the exemptions from obligation limitations that are specified in section 1102 of the Transportation Equity Act for the 21st Century (23 U.S.C. 104 note; 112 Stat. 115).

(2) AMOUNT OF OBLIGATION AUTHORITY.—For each of fiscal years 2004 through 2009, the limitation on obligation authority for the budget accounts described in paragraph (1) shall be equal to the sum of—

(A) the limitation for that fiscal year specified in section 1102(a) of the Transportation Equity Act for the 21st Century;

(B) all amounts exempt from that limit under section 1102(b) of that Act; and

(C) the amount of any increase for the fiscal year under paragraph (5).

(3) OUTLAYS.—For each of fiscal years 2004 through 2009, the limitation on outlays for the budget accounts described in paragraph (1) shall be the level of outlays necessary to accommodate outlays resulting from obligations for that fiscal year under paragraph (2) and obligations from prior fiscal years.

(4) ANNUAL REPORT ON ESTIMATED BALANCE IN HIGHWAY ACCOUNT.—In the submission by the President of the budget of the United States Government under section 1105 of title 31, United States Code, for each of fiscal years 2005 through 2009, the President shall include an estimate of the balance that will be in the Highway Account of the Highway Trust Fund (as defined in section 9503(e)(5)(B) of the Internal Revenue Code of 1986) at the end of fiscal year 2009.

(5) INCREASE BASED ON FUND BALANCE.—

(A) ESTIMATE FOR FISCAL YEAR 2005.—In the submission by the President of the budget of the United States Government under section 1105 of title 31, United States Code, for fiscal year 2005, if the estimate described in paragraph (4) is that, but for this subparagraph, the balance in the Highway Account of the Highway Trust Fund at the end of fiscal year 2009 will be in excess of $7,000,000,000, the amount specified in section 1102(a)(8) of the Transportation Equity Act for the 21st Century shall be deemed to have been increased by an amount equal to 50 percent of the amount of the estimated excess.

(B) ESTIMATE FOR FISCAL YEAR 2006.—In the submission by the President of the budget of the United States Government under section 1105 of title 31, United States Code, for fiscal year 2006, if the estimate described in paragraph (4) is that, but for this subparagraph, the balance in the Highway Account of the Highway Trust Fund at the end of fiscal year 2009 will be in excess of $6,500,000,000, the amount specified in section 1102(a)(9) of the Transportation Equity Act for the 21st Century shall be deemed to have been increased by an amount equal to 50 percent of the amount of the estimated excess.

(C) ESTIMATE FOR FISCAL YEAR 2007.—In the submission by the President of the budget of the United States Government under section 1105 of title 31, United States Code, for fiscal year 2007, if the estimate described in paragraph (4) is that, but for this subparagraph, the balance in the Highway Account of the Highway Trust Fund at the end of fiscal year 2009 will be in excess of $6,000,000,000, the amount specified in section 1102(a)(10) of the Transportation Equity Act for the 21st Century shall be deemed to have been increased by an amount equal to 50 percent of the amount of the estimated excess.

(D) ESTIMATE FOR FISCAL YEAR 2008.—In the submission by the President of the budget of the United States Government under section 1105 of title 31, United States Code, for fiscal year 2008, if the estimate described in paragraph (4) is that, but for this subparagraph, the balance in the Highway Account of the Highway Trust Fund at the end of fiscal year 2009 will be in excess of $5,500,000,000, the amount specified in section 1102(a)(11) of the Transportation Equity Act for the 21st Century shall be deemed to have been increased by an amount equal to 50 percent of the amount of the estimated excess.

(E) ESTIMATE FOR FISCAL YEAR 2009.—In the submission by the President of the budget of the United States Government under section 1105 of title 31, United States Code, for fiscal year 2009, if the estimate described in paragraph (4) is that, but for this subparagraph, the balance in the Highway Account of the Highway Trust Fund at the end of fiscal year 2009 will be in excess of $5,000,000,000, the amount specified in section 1102(a)(12) of the Transportation Equity Act for the 21st Century shall be deemed to have been increased by an amount equal to the amount of the estimated excess.

(6) NO EFFECT ON BYRD RULE.—Nothing in this subsection affects section 9503(d) of the Internal Revenue Code of 1986.

(c) SENSE OF THE SENATE SUPPORTING RELIABLE PROGRAM LEVELS IN ADDITIONAL BUDGET ACCOUNTS.—It is the sense of the Senate that the Act reauthorizing highway, highway safety, and transit programs for fiscal years beginning with fiscal year 2004 should include, in addition to the budgetary protections for the highway program provided under subsection (b), appropriate budgetary protections for highway safety and transit programs.

(d) CONFORMING AMENDMENTS TO REVENUE ALIGNED BUDGET AUTHORITY.—Section 110 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting ''FOR FISCAL YEARS 2000 THROUGH 2003'' after ''ALLOCATION''; and

(ii) by striking ''fiscal year 2000 and each fiscal year thereafter'' and inserting ''each of fiscal years 2000 through 2003'';

(B) in paragraph (2)—

(i) by inserting ''FOR FISCAL YEARS 2001 THROUGH 2003'' after ''REDUCTION''; and

(ii) by striking ''fiscal year 2000 or any fiscal year thereafter'' and inserting ''any of fiscal years 2000 through 2002''; and

(C) by adding at the end the following:

''(3) ALLOCATIONS FOR FISCAL YEARS 2005 THROUGH 2009.—For any of fiscal years 2005 through 2009, if an increase is made to the level of obligation authority under section 4(b)(5) of the Maximum Economic Growth for America Through Highway Funding Act, the Secretary shall allocate for the fiscal year an amount equal to the amount of the increase.''; and

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking ''for'' the second place it appears; and

(ii) by inserting ''(112 Stat. 107), the Maximum Economic Growth for America Through Highway Funding Act'' after ''21st Century'';

(B) in paragraph (2), by striking ''subsection (a)(1)'' and inserting ''paragraph (1) or (3) of subsection (a), as applicable,''; and

(C) in paragraph (4), by striking ''subsection (a)(1)'' and inserting ''paragraph (1) or (3) of subsection (a), as applicable,''.

SEC. 5. ASSISTANCE IN OVERCOMING ECONOMIC AND DEMOGRAPHIC BARRIERS.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 138 the following:

''§ 139. Assistance in overcoming economic and demographic barriers

''(a) DEFINITIONS.—In this section:

''(1) HIGH-GROWTH STATE.—The term 'high-growth State' means a State that has a population according to the 2000 decennial census that is at least 25 percent greater than the population for the State according to the 1990 decennial census.

''(2) HIGH-POPULATION-DENSITY STATE.—The term 'high-population-density State' means a State in which the number of individuals per principal arterial mile is greater than 75 percent of the number of individuals per principal arterial mile in the 50 States and the District of Columbia, as determined using population according to the 2000 decennial census.

''(3) HIGHWAY STATISTICS.—

''(A) IN GENERAL.—The term 'Highway Statistics' means the Highway Statistics published by the Federal Highway Administration for the most recent calendar or fiscal year for which data are available, which most recent calendar or fiscal year shall be determined as of the first day of the fiscal year for which any calculation using the Highway Statistics is made.

''(B) TERMS.—Any reference to a term that is used in the Highway Statistics is a reference to the term as used in the Highway Statistics as of September 30, 2002.

''(4) LOW-INCOME STATE.—The term 'low-income State' means a State that, according to Table PS–1 of the Highway Statistics, has a per capita income that is less than the national average per capita income.

''(5) LOW-POPULATION-DENSITY STATE.—The term 'low-population-density State' means a State in which the number of individuals per principal arterial mile is less than 75 percent of the number of individuals per principal arterial mile in the 50 States and the District of Columbia, as determined using population according to the 2000 decennial census.

''(6) NATIONAL AVERAGE PER CAPITA INCOME.—The term 'national average per capita income' means the average per capita income for the 50 States and the District of Columbia, as specified in the Highway Statistics.

''(7) PRINCIPAL ARTERIAL MILES.—The term 'principal arterial miles', with respect to a State, means the principal arterial miles (including Interstate and other expressway or freeway system miles) in the State, as specified in Table HM–20 of the Highway Statistics.

''(8) STATE.—The term 'State' means each of the 50 States.

''(9) STATE WITH EXTENSIVE ROAD OWNERSHIP.—The term 'State with extensive road ownership' means a State that owns more than 80 percent of the total Federal-aid and non-Federal-aid mileage in the State according to Table HM–14 of the Highway Statistics.

''(b) ESTABLISHMENT.—There is established a program to assist States that face certain economic and demographic barriers in meeting transportation needs.

''(c) ALLOCATION OF FUNDS.—For each of fiscal years 2004 through 2009, funds made available to carry out this section shall be allocated as follows:

''(1) LOW-INCOME STATES.—For each fiscal year, each low-income State shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(A) $600,000,000; and

''(B) the ratio that—

''(i) the difference between—

''(I) the national average per capita income; and

''(II) the per capita income of the low-income State; bears to

''(ii) the sum of the differences determined under clause (i) for all low-income States.

''(2) HIGH-GROWTH STATES.—For each fiscal year, each high-growth State shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(A) $75,000,000; and

''(B) the ratio that—

''(i) the percentage by which the population of the high-growth State according to the 2000 decennial census exceeds the population of the high-growth State according to the 1990 decennial census; bears to

''(ii) the sum of the percentages determined under clause (i) for all high-growth States.

''(3) LOW-POPULATION-DENSITY STATES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, each low-population-density State shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(i) $625,000,000; and

''(ii) the ratio that—

''(I) the quotient obtained by dividing—

''(aa) the number of principal arterial miles in the State; by

''(bb) the population of the low-population-density State according to the 2000 decennial census; bears to

''(II) the sum of the quotients determined under subclause (I) for all low-population-density States.

''(B) MAXIMUM ALLOCATION.—

''(i) IN GENERAL.—If the allocation for a low-population-density State under subparagraph (A) is greater than $35,000,000, the allocation of the low-population-density State shall be reduced to $35,000,000.

''(ii) USE OF EXCESS ALLOCATIONS.—

''(I) REALLOCATION.—Subject to subclause (II), the funds in addition to the $35,000,000 that would have been allocated to a low-population-density State but for clause (i) shall be reallocated among the low-population-density States that were allocated less than $35,000,000 under subparagraph (A) in accordance with the proportionate shares of those low-population-density States under subparagraph (A).

''(II) ADDITIONAL REALLOCATIONS.—If a reallocation under subclause (I) would result in the receipt by any low-population-density State of an amount greater than $35,000,000 under this paragraph—

''(aa) the allocation for the low-population-density State shall be reduced to $35,000,000; and

''(bb) the amounts in excess of $35,000,000 shall be subject to 1 or more further reallocations in accordance with that subclause so that no low-population-density State is allocated more than $35,000,000 under this paragraph.

''(4) HIGH-POPULATION-DENSITY STATES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, each high-population-density State shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(i) $625,000,000; and

''(ii) the ratio that—

''(I) the quotient obtained by dividing—

''(aa) the population of the high-population-density State according to the 2000 decennial census; by

''(bb) the number of principal arterial miles in the State; bears to

''(II) the sum of the quotients determined under subclause (I) for all high-population-density States.

''(B) MAXIMUM ALLOCATION.—

''(i) IN GENERAL.—If the allocation for a high-population-density State under subparagraph (A) is greater than $35,000,000, the allocation of the high-population-density State shall be reduced to $35,000,000.

''(ii) USE OF EXCESS ALLOCATIONS.—

''(I) REALLOCATION.—Subject to subclause (II), the funds in addition to the $35,000,000 that would have been allocated to a high-population-density State but for clause (i) shall be reallocated among the high-population-density States that were allocated less than $35,000,000 under subparagraph (A) in accordance with the proportionate shares of those high-population-density States under subparagraph (A).

''(II) ADDITIONAL REALLOCATIONS.—If a reallocation under subclause (I) would result in the receipt by any high-population-density State of an amount greater than $35,000,000 under this paragraph—

''(aa) the allocation for the high-population-density State shall be reduced to $35,000,000; and

''(bb) the amounts in excess of $35,000,000 shall be subject to 1 or more further reallocations in accordance with that subclause so that no high-population-density State is allocated more than $35,000,000 under this paragraph.

''(5) STATES WITH EXTENSIVE ROAD OWNERSHIP.—For each fiscal year, each State with extensive road ownership shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(A) $75,000,000; and

''(B) the ratio that—

''(i) the total Federal-aid and non-Federal-aid mileage owned by each State with extensive road ownership according to Table HM–14 of the Highway Statistics; bears to

''(ii) the sum of the mileages determined under clause (i) for all States with extensive road ownership.

''(d) TREATMENT OF ALLOCATED FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), funds allocated to a State under this section for a fiscal year shall be treated for program administrative purposes as if the funds—

''(A) were funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144; and

''(B) were apportioned to the State in the same ratio that the State is apportioned funds under the sections specified in subparagraph (A) for the fiscal year.

''(2) PROGRAM ADMINISTRATIVE PURPOSES.—Program administrative purposes referred to in paragraph (1)—

''(A) include—

''(i) the Federal share;

''(ii) availability for obligation; and

''(iii) except as provided in subparagraph (B), applicability of deductions; and

''(B) exclude—

''(i) calculation of the minimum guarantee under section 105; and

''(ii) applicability of the deduction for the future strategic highway research program under section 104(m).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 138 the following:

''139. Assistance in overcoming economic and demographic barriers.''.

SEC. 6. EMERGENCY RELIEF.

Section 125 of title 23, United States Code, is amended—

(1) in subsection (c)(1), by striking ''Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980,'' and inserting ''Not more than $100,000,000 is authorized to be obligated in any of fiscal years 1981 through 2003, and not more than $200,000,000 is authorized to be obligated in fiscal year 2004 or any fiscal year thereafter,''; and

(2) by adding at the end the following:

''(g) PROTECTION OF HIGHWAY TRUST FUND.—Effective beginning on the earlier of October 1, 2003, or the date of enactment of this subsection, notwithstanding any other provision of law, if an Act is enacted that provides for an amount in excess of $200,000,000 for any fiscal year for the emergency fund authorized by this section (including any Act that states that provision of that amount in excess of $200,000,000 is 'notwithstanding any other provision of law'), that Act shall be applied so that all funds for that fiscal year for the program established by this section in excess of $200,000,000—

''(1) shall be derived from the general fund of the Treasury, and not from the Highway Trust Fund (other than the Mass Transit Account); but

''(2) shall be administered by the Secretary in all other respects as if the funds were appropriated from the Highway Trust Fund (other than the Mass Transit Account).''.

SEC. 7. INCREASED STABILITY OF DISTRIBUTION UNDER ALLOCATION PROGRAMS.

(a) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT PROGRAM.—Section 1118 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 161) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

''(g) MINIMUM ALLOCATIONS TO BORDER STATES.—Notwithstanding any other provision of law, in allocating funds under this section for fiscal year 2004 and each fiscal year thereafter, the Secretary shall ensure that not less than 2 percent of the funds made available to carry out the program under this section are allocated to each border State (as defined in section 1119(e)).''.

(b) COORDINATED BORDER INFRASTRUCTURE PROGRAM.—Section 1119 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 163) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) MINIMUM ALLOCATIONS TO BORDER STATES.—Notwithstanding any other provision of law, in allocating funds under this section for fiscal year 2004 and each fiscal year thereafter, the Secretary shall ensure that not less than 2 percent of the funds made available to carry out the program under this section are allocated to each border State.''.

(c) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 221) is amended by adding at the end the following:

''(f) MINIMUM ALLOCATIONS TO STATES.—Notwithstanding any other provision of law, in allocating funds made available under this section for fiscal year 2004 and each fiscal year thereafter, the Secretary shall ensure that the total of the allocations to each State (including allocations to the metropolitan planning organizations and local governments in the State) under this section is not less than the product obtained by multiplying—

''(1) 50 percent of the percentage specified for the State in section 105 of title 23, United States Code, for the fiscal year; and

''(2) the total amount of funds made available to carry out this section for the fiscal year.''.

(d) MINIMUM ALLOCATIONS TO STATES FOR ITS DEPLOYMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for fiscal year 2004

and each fiscal year thereafter, in allocating funds made available under section 2(f)(6), the Secretary shall ensure that the total of the allocations to each State using those funds is not less than the product obtained by multiplying—

(A) 50 percent of the percentage specified for the State in section 105 of title 23, United States Code, for the fiscal year; and

(B) the total amount of funds made available under section 2(f)(6).

(2) USE OF FUNDS FOR BOTH TYPES OF PROJECTS.—In administering funds available for allocation under section 2(f)(6), the Secretary shall encourage States to carry out both—

(A) projects eligible under section 5208 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 458); and

(B) projects eligible under section 5209 of that Act.

SEC. 8. HISTORIC PARK ROADS AND PARKWAYS.

(a) IN GENERAL.—Section 202(c) of title 23, United States Code, is amended—

(1) by striking ''(c) On'' and inserting the following:

''(c) PARK ROADS AND PARKWAYS.—

''(1) IN GENERAL.—On''; and

(2) by adding at the end the following:

''(2) HISTORIC PARK ROADS AND PARKWAYS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) NATIONAL PARK.—The term 'national park' means an area of land or water administered by the National Park Service that is designated as a national park.

''(ii) RECREATION VISIT.—The term 'recreation visit' means the entry into a national park for a recreational purpose of an individual who is not—

''(I) an employee of the Federal Government, or other individual, who has business in the national park;

''(II) an individual passing through the national park for a purpose other than visiting the national park; or

''(III) an individual residing in the national park.

''(iii) RECREATION VISITOR DAY.—The term 'recreation visitor day' means a period of 12 hours spent in a national park by an individual making a recreation visit to the national park.

''(B) ALLOCATION.—Notwithstanding paragraph (1), for fiscal year 2004 and each fiscal year thereafter, the first $100,000,000 authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for park roads and parkways for the fiscal year shall be allocated for projects to reconstruct, rehabilitate, restore, resurface, or improve to applicable safety standards any highway that meets the criteria specified in subparagraph (C).

''(C) ELIGIBILITY CRITERIA.—The criteria referred to in subparagraph (B) are that—

''(i) the highway provides access to or is located in a national park;

''(ii) the highway was initially constructed before 1940; and

''(iii) as determined using data provided by the National Park Service averaged over the 3 most recent years for which the data are available, the national park to which the highway provides access or in which the highway is located is used more than 1,000,000 recreation visitor days per year.

''(D) PRIORITY.—In funding projects eligible under subparagraphs (B) and (C), the Secretary shall give priority to any project on a highway that is located in or provides access to a national park that—

''(i) is adjacent to a national park of a foreign country; or

''(ii) is located in more than 1 State.

''(E) FEDERAL-STATE COOPERATION IN PROJECT DEVELOPMENT.—Projects to be carried out under this paragraph shall be developed cooperatively by the Secretary and the State in which a national park is located.

''(F) SUPPORT BY THE SECRETARY.—The Secretary shall provide the maximum feasible support to ensure prompt development and implementation of projects under this paragraph.

''(G) RESERVATION OF FUNDS FOR PROJECTS OUTSIDE NATIONAL PARKS.—

''(i) IN GENERAL.—For each fiscal year, not less than 40 percent of the funds allocated under this paragraph shall be used for projects described in subparagraph (B) on highways that are located outside national parks but provide access to national parks.

''(ii) USE OF EXCESS FUNDS.—If the Secretary determines that funds set aside under clause (i) are in excess of the needs for reconstruction, rehabilitation, restoration, resurfacing, or improvement of the highways described in that clause, the funds set aside under that clause may be used for transit projects that serve national parks with highways (including access highways) that meet the criteria specified in subparagraph (C).

''(H) AVAILABILITY OF AMOUNTS.—Funds allocated under this paragraph shall remain available until expended.

''(I) RELATIONSHIP TO OTHER LAW.—Nothing in this paragraph reduces the eligibility or priority of a project under any other provision of this title or other law.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out projects that—

(1) are eligible for funding under section 202(c)(2) of title 23, United States Code; but

(2) are not fully funded from funds made available under paragraph (1) or (2) of section 202(c) of that title.

SEC. 9. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 206 the following:

''§ 207. Cooperative Federal lands transportation program

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—There is established the cooperative Federal lands transportation program (referred to in this section as the 'program').

''(2) PROJECTS.—

''(A) LOCATIONS.—Funds available for the program under subsection (d) may be used for projects, or portions of projects, on highways that—

''(i) are owned or maintained by States or political subdivisions of States; and

''(ii) cross, are adjacent to, or lead to federally owned land or Indian reservations (including Corps of Engineers reservoirs), as determined by the State.

''(B) SELECTION.—The projects shall be selected by a State after consultation with the Secretary and each affected local or tribal government.

''(C) TYPES OF PROJECTS.—A project selected by a State under this section—

''(i) shall be on a highway or bridge owned or maintained by the State or 1 or more political subdivisions of the State; and

''(ii) may be—

''(I) a highway or bridge construction or maintenance project eligible under this title; or

''(II) any eligible project under section 204(h).

''(b) DISTRIBUTION OF FUNDS FOR PROJECTS.—

''(1) IN GENERAL.—

''(A) DETERMINATIONS BY THE SECRETARY.—The Secretary—

''(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and the heads of other agencies as appropriate (including the Chief of Engineers), shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

''(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

''(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

''(I) the percentage for the State determined under clause (i); by

''(II) the sum determined under clause (ii).

''(B) ADJUSTMENT.—The Secretary shall—

''(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

''(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

''(2) AVAILABILITY TO STATES.—For each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State in an amount equal to the amount obtained by multiplying—

''(A) the percentage for the State, if any, determined under paragraph (1); by

''(B) the funds made available for the program under subsection (d) for the fiscal year.

''(c) TRANSFERS.—Notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section to the allocations of the State under section 202 for use in carrying out projects on any Federal lands highway that is located in the State.

''(d) FUNDING.—

''(1) IN GENERAL.—Notwithstanding section 202 or any other provision of law, for fiscal year 2004 and each fiscal year thereafter, the Secretary shall transfer for use in accordance with this section an amount equal to 50 percent of the funds that would otherwise be allocated for the fiscal year under the first sentence of section 202(b).

''(2) CONTRACT AUTHORITY.—Funds transferred for use in accordance with this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 207 and inserting the following:

''207. Cooperative Federal lands transportation program.''.

SEC. 10. MISCELLANEOUS PROGRAM IMPROVEMENTS.

(a) FEDERAL SHARE.—

(1) IN GENERAL.—Section 120 of title 23, United States Code, is amended—

(A) in subsection (b), by striking ''the percentage that the area of all such lands in such State'' each place it appears and inserting ''twice the percentage that the area of all such lands in the State'';

(B) in subsection (f)—

(i) by striking ''and with the Department of the Interior'' and inserting '', the Department of the Interior, and the Department of Agriculture''; and

(ii) by striking ''and national parks and monuments under the jurisdiction of the Department of the Interior'' and inserting '', national parks, national monuments, and national forests under the jurisdiction of the Department of the Interior or the Department of Agriculture''; and

(C) by adding at the end the following:

''(m) MULTISTATE WEIGHT ENFORCEMENT IMPROVEMENTS.—The Federal share of the

cost of any project described in section 101(a)(3)(H) shall be 100 percent if the project is to be used, or is carried out jointly, by more than 1 State.''.

(2) HIGH PRIORITY PROJECTS PROGRAM.—Section 117(c) of title 23, United States Code, is amended by striking ''80 percent'' and inserting ''the share applicable under section 120(b)''.

(3) HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM.—Section 144 of title 23, United States Code, is amended by striking subsection (f).

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 162(f) of title 23, United States Code, is amended by striking ''80 percent'' and inserting ''the share applicable under section 120(b)''.

(5) STATE PLANNING AND RESEARCH.—Section 505(c) of title 23, United States Code, is amended by striking ''80 percent'' and inserting ''the share applicable under section 120(b),''.

(6) INTELLIGENT TRANSPORTATION SYSTEM INTEGRATION PROGRAM.—Section 5208 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 458) is amended by striking subsection (f) and inserting the following:

''(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b) of title 23, United States Code.''.

(7) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE DEPLOYMENT.—Section 5209 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 461) is amended by striking subsection (e) and inserting the following:

''(e) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b) of title 23, United States Code.''.

(b) INCREASED FLEXIBILITY IN ADDRESSING RAILWAY-HIGHWAY CROSSINGS.—Section 130(e) of title 23, United States Code, is amended by striking the first sentence and inserting the following: ''Funds authorized for or expended under this section may be used for installation of protective devices at railway-highway crossings.''.

(c) FLEXIBILITY IN IMPROVING AIR QUALITY.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''for any project eligible under the surface transportation program under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would be eligible under this section if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''; and

(2) in paragraph (2), by striking ''for any project in the State eligible under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would be eligible under this section if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''.

(d) BROADENED TIFIA ELIGIBILITY.—Section 182(a)(3) of title 23, United States Code, is amended—

(1) in subparagraph (A)(i), by striking ''$100,000,000'' and inserting ''$25,000,000'';

(2) by striking ''PROJECT COSTS'' and all that follows through ''to be eligible'' and inserting the following: ''PROJECT COSTS.—To be eligible'';

(3) by striking subparagraph (B); and

(4) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting appropriately.

(e) STATE ROLE IN SELECTION OF FOREST HIGHWAY PROJECTS.—Section 204(a) of title 23, United States Code, is amended by adding at the end the following:

''(7) STATE ROLE IN SELECTION OF FOREST HIGHWAY PROJECTS.—Notwithstanding any other provision of this title, no forest highway project may be carried out in a State under this chapter unless the State concurs in the selection of the project.''.

(f) HISTORIC BRIDGE ELIGIBILITY.—Section 144(o) of title 23, United States Code, is amended—

(1) in paragraph (3), by inserting ''200 percent of'' after ''shall not exceed''; and

(2) in paragraph (4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting appropriately;

(B) by striking ''Any State'' and inserting the following:

''(A) IN GENERAL.—Any State'';

(C) in the second sentence—

(i) by striking ''Costs incurred'' and inserting the following:

''(B) ELIGIBILITY AS REIMBURSABLE PROJECT COSTS.—

''(i) IN GENERAL.—Costs incurred''; and

(ii) by inserting ''200 percent of'' after ''not to exceed''; and

(D) by striking the third sentence and inserting the following:

''(ii) AMOUNT.—If a State elects to use funds apportioned under this section to support the relocation of a historic bridge, the eligible reimbursable project costs shall be equal to the greater of the Federal share that would be available for the construction of a new bicycle or pedestrian bridge or 200 percent of the cost of demolition of the historic bridge.

''(iii) EFFECT.—Nothing in clause (ii) creates an obligation on the part of a State to preserve a historic bridge.''.

SEC. 11. MISCELLANEOUS PROGRAM EXTENSIONS AND TECHNICAL AMENDMENTS.

(a) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION.—Section 104(d)(2)(A) of title 23, United States Code, is amended by striking ''for a fiscal year'' and inserting ''for each of fiscal years 1998 through 2003''.

(b) MINIMUM GUARANTEE.—Section 105 of title 23, United States Code, is amended in subsections (a), (d), and (f) by striking ''2003'' each place it appears and inserting ''2009''.

(c) HIGH PRIORITY PROJECTS PROGRAM.—Section 117 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(B) by striking ''Of amounts made available to carry out this section,'' and inserting the following:

''(2) AVAILABILITY OF FUNDS FOR FISCAL YEARS 1998 THROUGH 2003.—Of the funds made available to carry out this section for each of fiscal years 1998 through 2003,''; and

(C) by adding at the end the following:

''(3) AVAILABILITY OF FUNDS FOR FISCAL YEARS 2004 THROUGH 2009.—

''(A) IN GENERAL.—For each of fiscal years 2004 through 2009, the Secretary shall allocate the funds made available to carry out this section to each of the 50 States and the District of Columbia in accordance with the percentage specified for each such State and the District of Columbia under section 105.

''(B) USE OF FUNDS.—Funds allocated in accordance with subparagraph (A) may be used for any project eligible under this chapter that is designated by the State transportation department as a high priority project.''; and

(2) in subsection (b), by striking ''For'' and inserting ''With respect to funds made available to carry out this section for each of fiscal years 1998 through 2003, for''.

(d) HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM.—Section 144(g)(1) of title 23, United States Code, is amended by adding at the end the following:

''(D) FISCAL YEARS 2004 THROUGH 2009.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 2004 through 2009, all but $100,000,000 shall be apportioned as provided in subsection (e). That $100,000,000 shall be available at the discretion of the Secretary.''.

(e) DISADVANTAGED BUSINESS ENTERPRISES.—Section 1101(b)(1) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 113) is amended by striking ''of this Act'' and inserting ''of this Act and the Maximum Economic Growth for America Through Highway Funding Act''.

(f) PUERTO RICO HIGHWAY PROGRAM.—Section 1214(r)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 209) is amended by inserting '', and funds authorized by section 2(b)(7) of the Maximum Economic Growth for America Through Highway Funding Act for each of fiscal years 2004 through 2009,'' after ''2003''.

SEC. 12. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act take effect on October 1, 2003.

S. 3133

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 ''Maximum Economic Growth for America Through Highway Funding Part II Act'' or the ''MEGA Fund Part II Act''.

SEC. 2. AUTHORIZATION TO MAKE FUNDING AVAILABLE FROM THE HIGHWAY TRUST FUND.

Section 9503(c)(1) of the Internal Revenue Code of 1986 (relating to expenditures from the Highway Trust Fund) is amended—

(1) in the first sentence—

(A) by striking ''2003'' and inserting ''2009'';

(B) in subparagraph (D), by striking ''or'' at the end;

(C) in subparagraph (E), by striking the period at the end and inserting '', or''; and

(D) by adding at the end the following:

''(F) authorized to be paid out of the Highway Trust Fund under the Maximum Economic Growth for America Through Highway Funding Act.''; and

(2) in the second sentence, by striking ''TEA 21 Restoration Act'' and inserting ''Maximum Economic Growth for America Through Highway Funding Act''.

MEGA FUND ACT—SECTION-BY-SECTION ANALYSIS

SECTION 1, SHORT TITLE

This section sets forth the title of the bill.

SECTION 2. AUTHORIZATION OF APPROPRIATIONS

Subsection (a) would authorize the programs subject to the Minimum Guarantee. The 5 principal apportioned programs of TEA–21—Interstate Maintenance, National Highway System, Surface Transportation Program, Bridge, Congestion Mitigation and Air Quality Improvement (CMAQ)—would be significantly increased. Collectively, they would grow from $20.2 billion for FY 2003 to $28.6 billion by FY 2009. Also, they would maintain their current proportion to one another. The Appalachian Highway program would be continued at present levels of $450 million annually and the Recreational Trails program increased to $75 million annually. A technical and conforming provision in section 11 of the bill would extend the Minimum

Guarantee program—which would grow considerably by operation of its own terms.

The High Priority Projects program would be continued but reduced from nearly $1.8 billion in FY 2003 to a still-generous $1 billion for each of FYs 2004–2009. The bill does not pretend that high priority projects will go away, but tries to set a realistic goal of reducing them, providing States a wider role in administering the program.

Subsection (b) would authorize $2 billion annually for the new economic and demographic barriers program set forth in section 5 of the bill.

Subsection (c) would authorize additional programs. The borders program and the corridors program would be separately authorized, at $100 million annually each. Federal lands highways programs are reauthorized and increased to the following annual levels: Indian Reservation Roads, $300 million; Public Land Highways, $350 million; Park Roads, $300 million; and Refuge Roads, $35 million. The programs for ferry boats and terminals, scenic byways, and highways in Puerto Rico would be reauthorized at increased annual levels of $50 million, $30 million, and $130 million, respectively.

The program to combat highway use tax evasion would be significantly increased, from $5 million today to $40 million annually from FYs 2004–2009. This is an important investment. Improved compliance with highway tax obligations will increase revenues available for the program.

Subsection (d) would double, to $50 million annual, the TCSP program. Subsection (e) would continue the National Historic Bridge Preservation program at $10 million annually. Subsection (f) would continue the program for incentive grants for seat belt use at $115 million annually. Subsection (g) would continue current research programs at current levels. Subsection (h) would authorize $75 million annually for 6 years for a new Future Strategic Highway Research Program (''FSHRP''). Subsection (i) would continue the current authorization for magnetic levitation deployment of such sums as may be necessary. Subsection (j) would continue authorization for the TIFIA program at current levels of $130 million annually.

SECTION 3, OBLIGATION CEILING

This section amends the obligation ceiling provision of TEA–21 to set the obligation limit for FYs 2004–2009 and to make a handful of changes. The non-technical provisions of the section include the following.

Paragraph (a)(1) sets the annual obligation ceilings, starting at $34 billion for FY 2004 and rising gradually to $39 billion for FY 2008 and $41 billion for FY 2009. Paragraph (a)(2) continues current exemptions from the obligation ceiling. Paragraph (a)(3) includes an amendment that would newly provide the Indian Reservation Roads program with obligation authority equal to authorizations. Paragraph (a)(5) would continue the practice of setting a separate obligation limit for research. Paragraph (a)(7) would provide for obligation authority to be increased when called for by the terms of the RABA provision. Paragraph (a)(8) would set a distinct obligation limit on administrative expenses.

SECTION 4, RELIABLE HIGHWAY PROGRAM LEVELS; REVISIONS TO REVENUE ALIGNED BUDGET AUTHORITY

Subsection (a) of section 4 sets forth the Sense of the Senate as to why RABA should be continued but improved. Subsection (a) recites that under current law the balance in the Highway Account has grown, denying the public the benefit of the user taxes paid. It also recites that the RABA calculation mechanism has led to annual program levels that differ widely from prior estimates. In addition, the current law produced an estimate of large ''negative RABA'' for fiscal year 2003, a result that Congress found to be totally unacceptable. Congress proceeded to eliminate FY 2003 negative RABA through enactment of legislation (section 1402 of Public Law No. 107–206).

Subsection (b) would carry forward firewalls and continue and improve RABA. Paragraphs (b)(1)–(3) would continue firewalls. They would make clear that no spending limits may be imposed to limit highway program obligations below the level of the obligation limit for that year, plus amounts exempt from the obligation limit for that year, plus any applicable upward adjustment due to RABA. The provisions would also protect any outlays made pursuant to the protected obligation (and exempt) levels.

Paragraphs (b)(4) and (5) would continue and improve RABA. Under the provisions there would be no negative RABA. As a result, States and the public would be able to count on receiving at least the specified program levels.

The determination of whether additional funding would be automatically provided, above the levels set in the obligation provision, would be based on the balance in the Highway Account, not based on current year revenue. Under current law, with program levels keyed to Highway Account income, the current balance is locked up. One can only access Account income, not the balance, even though the user taxes residing in the Account were paid with the expectation that they would be invested in the highway program.

As to the specifics of potential upward adjustment in obligation authority under this provision, a key point of reference for the calculations is that Congress should attempt to achieve a prudent, though not overly cautious balance in the Highway Account of approximately $5 billion at the end of FY 2009. As the bill properly deletes negative RABA, it takes a cautious approach to allowing positive RABA in the initial years of the bill, not paying out all funds.

Thus, as provided in paragraph (5) if, when the FY 2005 budget is submitted, it is estimated that, but for upward adjustment of obligation levels, the balance in the Account as of the close of fiscal year 2009 would exceed $7 billion, then there would be an upward adjustment in FY 2005 obligation levels of 50% of the estimated excess over that $7 billion balance.

However, as the RABA payments are geared towards the fund balance, the 50% of any calculated ''excess'' for a year that is ''forgone'' in that year is not ''lost'' to the highway program, only delayed in release, if the estimates hold firm over the years. By FY 2009, the provision would pay out as RABA, the full excess over a $5 billion balance in the Highway Account.

This approach constrains upward adjustments in RABA obligations during the early years of the bill out of respect for the possibility that revenues could be disappointing during the later years of the bill. But this approach still allows the currently large balance in the Highway Account to be put to work.

Subsection (b) concerns budgetary protection only for the highway program, as it was developed in conjunction with provisions concerning that program. Subsection (b) does not establish specific budget protections for highway safety and transit programs. Accordingly, subsection (c) of this section includes a Sense of the Senate resolution that appropriate protections for such programs, developed in conjunction with proposals for such programs, should be included in final legislation reauthorizing highway and transit programs.

SECTION 5, ASSISTANCE IN OVERCOMING ECONOMIC AND DEMOGRAPHIC BARRIERS

Section 5 would create a new type of program that would provide $2 billion per year to assist States in overcoming certain economic and demographic characteristics that can make it more difficult to meet transportation challenges.

Five challenges are recognized under this section: low population density ($625 million), high population density ($625 million), low income ($600 million), high population growth ($75 million), and high levels of State road ownership ($75 million). In each category, the amount of funds distributed to a State is increased when the degree of the challenge is more extreme.

Once received by a State, these funds are to be treated as if received in the same proportion as the State's apportionments under the Interstate Maintenance, National Highway System, Surface Transportation Program, Bridge, Congestion Mitigation and Air Quality programs and would be subject to the administrative rules governing those programs.

SECTION 6, EMERGENCY RELIEF

The Emergency Relief program, 23 U.S.C. 125, has been under funded for years. This section would double the Emergency Relief authorization from the Highway Account of the Highway Trust Fund from $100 million to $200 million annually. It also includes language limiting the Highway Account's annual contribution to the program to a maximum of that level. This in no way limits the ability of the Congress to respond rapidly to emergencies, but it does address the degree to which the Highway Account should be financing the response.

SECTION 7, INCREASED STABILITY OF DISTRIBUTION UNDER ALLOCATION PROGRAMS

Under this section States would be provided assurance of receiving at least some funding under some of these programs, while leaving some funding for treatment on a discretionary basis. Thus, under subsections (c) and (d), 50 per cent of the funds for the TCSP and ITS deployment programs would be distributed to the States based on their Minimum Guarantee percentage shares, leaving the balance for discretionary distribution. As these programs grow, it is appropriate to move in the direction of mainstreaming their distribution, so that all States participate.

In addition, under subsections (a) and (b), concerning the separately funded border infrastructure and corridor programs, each border state, within the meaning of the border program, would receive at least 2 per cent of the program's funds. This leaves most of the funds for discretionary distribution but ensures some participation by the border states in these programs.

SECTION 8, HISTORIC PARK ROADS AND PARKWAYS

This section would ensure that, in the administration of the park roads and parkways program, older and intensively used national parks receive some priority in funding. There are major parks, national treasures, where the roads in the parks or providing access to them were initially constructed before 1940 and are in need of serious attention. This provision focuses on such parks that handle many visitors, specifically those with over 1 million visitor days per year. The bill does not ignore other park and parkway needs, as the proposed increase represents an increase apart from this section's requirement that some funds be dedicated to these high-use, old infrastructure parks.

SECTION 9, COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM

This section would ensure that at least some of the discretionary public lands funding goes to States with significant public

lands holdings, in proportion to the extent to which the land in such States is owned by the Federal Government (or held by the Federal Government in trust). The provision should make the delivery of our public lands highway projects more effective and efficient. While leaving significant funds for discretionary distribution, by making the distribution of some funds more regular, the provision would allow States to work with Federal agencies on projects on a longer term and more regular basis.

SECTION 10, MISCELLANEOUS PROGRAM IMPROVEMENTS

This section contains a number of modest program improvements. Under subsection (c) a State that has the flexibility to use CMAQ funds for highway projects in attainment areas could use those funds for projects in attainment areas that would help prevent pollution. Subsection (e) would codify current practice, under which forest highway projects are not undertaken in a State without the concurrence of the State. Subsection (d) would allow small States the potential to participate in the TIFIA credit program, by lowering the project threshold under that program to $25 million from $100 million. Subsection (b) would increase State flexibility in choosing rail-highway crossing projects. Subsection (a) would correct anomalies in highway statutes that result in inadequate recognition of the economic difficulties facing States with large Federal land holdings.

States with significant Federal lands have greater difficulty raising the non-Federal match for Federal projects due to the restrictions on the use of Federal lands for economic activity and the inability of the States to tax such lands. Thus, the basic rule in title 23 of the U.S. Code has long been that the non-Federal match is reduced in such States. Yet careful review of title 23 reveals many provisions, including even the bridge program, which do not follow this general rule. This section would update the Federal lands match provision, to reflect the greater difficulty in raising match faced by such States and to ensure that the principle of the reduced match for Federal lands States is applied to all major elements of the highway program.

The subsection on Historic Bridges would allow states to use bridge program funds up to an amount not to exceed 200 percent of the cost of demolishing a historic bridge. Additionally, this subsection repeals the prohibition on the use of Federal-aid highway funds in the future, for projects associated with such bridges after the bridge has been donated.

This flexibility does not create an obligation on the state to fund preservation or relocation of a historic bridge.

SECTION 11, MISCELLANEOUS PROGRAM EXTENSIONS AND TECHNICAL REVISIONS

This largely technical section would: not extend a takedown of surface transportation program funds that has been used to support a narrow class of projects; continue the Minimum Guarantee program, the discretionary bridge program, Puerto Rico highway program, and the DBE program. Given overall funding increases, the provision does not extent the Interstate Maintenance Discretionary program, further increasing funds available to all the States under that program. It establishes a placeholder for distribution of funds for high priority projects.

SECTION 12, EFFECTIVE DATE

Under this section the provisions of the bill would take effect on October 1, 2003.

MEGA FUND ACT, PART II—SECTION-BY-SECTION ANALYSIS

SECTION 1, SHORT TITLE

This section sets forth the title of the bill.

SECTION 2

This section amends section 9503(c) of the United States Internal Revenue Code to allow expenditures pursuant to the Mega Fund Act to be available from the Highway Trust Fund.

By Mr. BAUCUS (for himself, Mr. CRAPO, and Mr CRAIG):

S. 3134. A bill to amend titles 23 and 49, United States Code, to encourage economic growth in the United States by increasing transportation investments in rural areas, and for other purposes; to the Committee on Environment and Public Works.

Mr. BAUCUS. Mr. President I rise today to introduce a bill to help rural America. Now I am always trying to help Montana, but this bill will help every State. Today I introduce the MEGA RURAL ACT, Maximum Economic Growth for America Through Rural Transportation Investment.

Quite simply, there are rural transportation needs not being met nationwide. This bill addresses those needs.

This is the eighth bill in a series of bills that Senator CRAPO and I are introducing to highlight our proposals on reauthorization of TEA 21—the Transportation Equity Act for the 21st Century.

So far we've introduced a series of MEGA ACTs, Maximum Economic Growth for America Through different types of investments and policy changes. In the past 6 months I have introduced MEGA TRUST, MEGA RED TRANS, MEGA FUND, Parts I and II, MEGA SAFE, MEGA STREAM and MEGA INNOVATE. Today it's the MEGA RURAL ACT.

The first provision in the MEGA RURAL Act will help states overcome certain rural hardships. In the same manner as the MEGA FUND ACT addresses this, the MEGA RURAL ACT would create a new program, at $2 billion annually, to assist States in dealing with certain economic and demographic barriers.

This would be a new type of program, not subject to the minimum guarantee, that is not keyed to specific project types but to types of problems facing States. States with low population density, or low per capita incomes, for example, face real challenges. While the provision also addresses some problems faced by non-rural States, this new section will give real help to rural States.

The different approach of this program lets States facing those problems receive funds and pick the projects. Every one of the 50 States would receive significant funding under this program every year.

The second issue that the MEGA RURAL ACT addresses is that of rural roads. I've been hearing from County Commissioners from Montana as well as other States, about how much they need direct funding for local roads.

These localities are hard pressed for funds and many of these roads are unsafe. This bill, just as the MEGA SAFE ACT does, would establish a pilot program, at $200 million annually from FY 2004–2009, to address safety on rural local roads. Funds could be used only on local roads and rural minor collectors, roads that are not Federal-aid highways.

The program does not affect distribution of funds among States, as funds will be distributed to each of the 50 States in accord with their relative formula share under 23 U.S.C. 105. Funds could be used only for projects or activities that have a safety benefit. By January 1, 2009 the Secretary of Transportation is to report on progress under the provision and whether any modifications are recommended.

Finally, just as the MEGA RED TRANS ACT does, the MEGA RURAL ACT would ensure that, as Federal transit programs are reauthorized, increased funding is provided to meet the needs of the elderly and disabled and of rural and small urban areas.

There is no question that our nation's large metropolitan areas have substantial transit needs that will receive attention as transit reauthorization legislation is developed. But the transit needs of rural and smaller areas, and of our elderly and disabled citizens, also require additional attention and funding.

The bill would provide that additional funding in a way that does not impact other portions of the transit program. For example, while the bill would at least double every State's funding for the elderly and disabled transit program by FY 2004, nothing in the bill would reduce funding for any portion of the transit program or for any State.

To the contrary, the bill would help strengthen the transit program as a whole by providing that the Mass Transit Account of the Highway Trust Fund is credited with the interest on its balance. This is a key provision in the MEGA TRUST Act the MEGA RED TRANS Act, and now the MEGA RURAL ACT.

Specifically, the bill would set modest minimum annual apportionments, by State, for the elderly and disabled transit program, the rural transit program, and for States that have urbanized areas with a population of less than 200,000.

It would ensure that each State that has a small urbanized area receives a minimum of $11 million for these three programs.

It is not a large amount of money but, for my State of Montana it is double what we get for those programs currently. For some other States it is more than four times what they receive.

The bill would also establish a $30 million program for essential bus service, to help connect citizens in rural communities to the rest of the world by facilitating transportation between rural areas and airports and passenger rail stations.

I am very aware of the role that public transit plays in the lives of rural citizens and the elderly and disabled.

When most people hear the word ''transit'' they think of a light rail system. But in rural areas transit translates to buses and vanpools.

Its about time that these issues are being addressed for rural America. Thank You.

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. 3134

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 ''Maximum Economic Growth for America Through Rural Transportation Investment Act'' or the ''MEGA Rural Act''.

SEC. 2. ASSISTANCE IN OVERCOMING ECONOMIC AND DEMOGRAPHIC BARRIERS.

(a) IN GENERAL.—Title 23, United States Code, is amended by inserting after section 138 the following:

''§ 139. Assistance in overcoming economic and demographic barriers

''(a) DEFINITIONS.—In this section:

''(1) HIGH-GROWTH STATE.—The term 'high-growth State' means a State that has a population according to the 2000 Census that is at least 25 percent greater than the population for the State according to the 1990 Census.

''(2) HIGH-POPULATION-DENSITY STATE.—The term 'high-population-density State' means a State in which the number of individuals per principal arterial mile is greater than 75 percent of the number of individuals per principal arterial mile in the 50 States and the District of Columbia, as determined using population according to the 2000 Census.

''(3) HIGHWAY STATISTICS.—

''(A) IN GENERAL.—The term 'Highway Statistics' means the Highway Statistics published by the Federal Highway Administration for the most recent calendar or fiscal year for which data are available, which most recent calendar or fiscal year shall be determined as of the first day of the fiscal year for which any calculation using the Highway Statistics is made.

''(B) TERMS.—Any reference to a term that is used in the Highway Statistics is a reference to the term as used in the Highway Statistics as of September 30, 2002.

''(4) LOW-INCOME STATE.—The term 'low-income State' means a State that, according to Table PS–1 of the Highway Statistics, has a per capita income that is less than the national average per capita income.

''(5) LOW-POPULATION-DENSITY STATE.—The term 'low-population-density State' means a State in which the number of individuals per principal arterial mile is less than 75 percent of the number of individuals per principal arterial mile in the 50 States and the District of Columbia, as determined using population according to the 2000 Census.

''(6) NATIONAL AVERAGE PER CAPITA INCOME.—The term 'national average per capita income' means the average per capita income for the 50 States and the District of Columbia, as specified in the Highway Statistics.

''(7) PRINCIPAL ARTERIAL MILES.—The term 'principal arterial miles', with respect to a State, means the principal arterial miles (including Interstate and other expressway or freeway system miles) in the State, as specified in Table HM–20 of the Highway Statistics.

''(8) STATE.—The term 'State' means each of the 50 States.

''(9) STATE WITH EXTENSIVE ROAD OWNERSHIP.—The term 'State with extensive road ownership' means a State that owns more than 80 percent of the total Federal-aid and non-Federal-aid mileage in the State according to Table HM–14 of the Highway Statistics.

''(b) ESTABLISHMENT.—There is established a program to assist States that face certain economic and demographic barriers in meeting transportation needs.

''(c) ALLOCATION OF FUNDS.—For each of fiscal years 2004 through 2009, funds made available to carry out this section shall be allocated as follows:

''(1) LOW-INCOME STATES.—For each fiscal year, each low-income State shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(A) $600,000,000; and

''(B) the ratio that—

''(i) the difference between—

''(I) the national average per capita income; and

''(II) the per capita income of the low-income State; bears to

''(ii) the sum of the differences determined under clause (i) for all low-income States.

''(2) HIGH-GROWTH STATES.—For each fiscal year, each high-growth State shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(A) $75,000,000; and

''(B) the ratio that—

''(i) the percentage by which the population of the high-growth State according to the 2000 Census exceeds the population of the high-growth State according to the 1990 Census; bears to

''(ii) the sum of the percentages determined under clause (i) for all high-growth States.

''(3) LOW-POPULATION-DENSITY STATES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, each low-population-density State shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(i) $625,000,000; and

''(ii) the ratio that—

''(I) the quotient obtained by dividing—

''(aa) the number of principal arterial miles in the State; by

''(bb) the population of the low-population-density State according to the 2000 Census; bears to

''(II) the sum of the quotients determined under subclause (I) for all low-population-density States.

''(B) MAXIMUM ALLOCATION.—

''(i) IN GENERAL.—If the allocation for a low-population-density State under subparagraph (A) is greater than $35,000,000, the allocation of the low-population-density State shall be reduced to $35,000,000.

''(ii) USE OF EXCESS ALLOCATIONS.—

''(I) REALLOCATION.—Subject to subclause (II), the funds in addition to the $35,000,000 that would have been allocated to a low-population-density State but for clause (i) shall be reallocated among the low-population-density States that were allocated less than $35,000,000 under subparagraph (A) in accordance with the proportionate shares of those low-population-density States under subparagraph (A).

''(II) ADDITIONAL REALLOCATIONS.—If a reallocation under subclause (I) would result in the receipt by any low-population-density State of an amount greater than $35,000,000 under this paragraph—

''(aa) the allocation for the low-population-density State shall be reduced to $35,000,000; and

''(bb) the amounts in excess of $35,000,000 shall be subject to 1 or more further reallocations in accordance with that subclause so that no low-population-density State is allocated more than $35,000,000 under this paragraph.

''(4) HIGH-POPULATION-DENSITY STATES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each fiscal year, each high-population-density State shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(i) $625,000,000; and

''(ii) the ratio that—

''(I) the quotient obtained by dividing—

''(aa) the population of the high-population-density State according to the 2000 Census; by

''(bb) the number of principal arterial miles in the State; bears to

''(II) the sum of the quotients determined under subclause (I) for all high-population-density States.

''(B) MAXIMUM ALLOCATION.—

''(i) IN GENERAL.—If the allocation for a high-population-density State under subparagraph (A) is greater than $35,000,000, the allocation of the high-population-density State shall be reduced to $35,000,000.

''(ii) USE OF EXCESS ALLOCATIONS.—

''(I) REALLOCATION.—Subject to subclause (II), the funds in addition to the $35,000,000 that would have been allocated to a high-population-density State but for clause (i) shall be reallocated among the high-population-density States that were allocated less than $35,000,000 under subparagraph (A) in accordance with the proportionate shares of those high-population-density States under subparagraph (A).

''(II) ADDITIONAL REALLOCATIONS.—If a reallocation under subclause (I) would result in the receipt by any high-population-density State of an amount greater than $35,000,000 under this paragraph—

''(aa) the allocation for the high-population-density State shall be reduced to $35,000,000; and

''(bb) the amounts in excess of $35,000,000 shall be subject to 1 or more further reallocations in accordance with that subclause so that no high-population-density State is allocated more than $35,000,000 under this paragraph.

''(5) STATES WITH EXTENSIVE ROAD OWNERSHIP.—For each fiscal year, each State with extensive road ownership shall receive an allocation under this paragraph that is equal to the product obtained by multiplying—

''(A) $75,000,000; and

''(B) the ratio that—

''(i) the total Federal-aid and non-Federal-aid mileage owned by each State with extensive road ownership according to Table HM–14 of the Highway Statistics; bears to

''(ii) the sum of the mileages determined under clause (i) for all States with extensive road ownership.

''(d) TREATMENT OF ALLOCATED FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), funds allocated to a State under this section for a fiscal year shall be treated for program administrative purposes as if the funds—

''(A) were funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144; and

''(B) were apportioned to the State in the same ratio that the State is apportioned funds under the sections specified in paragraph (1) for the fiscal year.

''(2) PROGRAM ADMINISTRATIVE PURPOSES.—Program administrative purposes referred to in paragraph (1)—

''(A) include—

''(i) the Federal share;

''(ii) availability for obligation; and

''(iii) except as provided in subparagraph (B), applicability of deductions; and

''(B) exclude—

''(i) calculation of the minimum guarantee under section 105; and

''(ii) applicability of the deduction for the future strategic highway research program under section 104(m).''.

(b) ASSISTANCE IN OVERCOMING ECONOMIC AND DEMOGRAPHIC BARRIERS.—For the program to provide assistance in overcoming economic and demographic barriers under section 139 of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,000,000,000 for each of fiscal years 2004 through 2009.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 138 the following:

''139. Assistance in overcoming economic and demographic barriers.''.

SEC. 3. RURAL LOCAL ROADS SAFETY PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) IN GENERAL.—

(A) ELIGIBLE ACTIVITY.—

(i) IN GENERAL.—The term ''eligible activity'' means a project or activity that—

(I) is carried out only on public roads that are functionally classified as rural local roads or rural minor collectors (and is not carried out on a Federal-aid highway); and

(II) provides a safety benefit.

(ii) INCLUSIONS.—The term ''eligible activity'' includes—

(I) a project or program such as those described in section 133(d)(1) of title 23, United States Code;

(II) road surfacing or resurfacing;

(III) improvement or maintenance of local bridges;

(IV) road reconstruction or improvement;

(V) installation or improvement of signage, signals, or lighting;

(VI) a maintenance activity that provides a safety benefit (including repair work, striping, surface marking, or a similar safety precaution); or

(VII) acquisition of materials for use in projects described in any of subclauses (I) through (VI).

(B) PROGRAM.—The term ''program'' means the rural local roads safety pilot program established under subsection (b).

(C) STATE.—The term ''State'' does not include the District of Columbia or Puerto Rico.

(2) OTHER TERMS.—Except as otherwise provided, terms used in this section have the meanings given those terms in title 23, United States Code.

(b) ESTABLISHMENT.—The Secretary shall establish a rural local roads safety pilot program to carry out eligible activities.

(c) ALLOCATION OF FUNDS WITH RESPECT TO STATES.—For each fiscal year, funds made available to carry out this section shall be allocated by the Secretary to the State transportation department in each of the States in the ratio that—

(1) the relative share of the State under section 105 of title 23, United States Code, for a fiscal year; bears to

(2) the total shares of all 50 States under that section for the fiscal year.

(d) ALLOCATION OF FUNDS WITHIN STATES.—Each State that receives funds under subsection (c) shall allocate those funds within the State as follows:

(1) COUNTIES.—Except as provided in paragraph (2) and subject to paragraph (3), a State shall allocate to each county in the State an amount in the ratio that—

(A) the public road miles within the county that are functionally classified as rural local roads or rural minor collectors; bears to

(B) the total of all public road miles within all counties in the State that are functionally classified as rural local roads or rural minor collectors.

(2) ALTERNATIVE FORMULA FOR ALLOCATION.—Paragraph (1) shall not apply to a State if the State transportation department certifies to the Secretary that the State has in effect an alternative formula or system for allocation of funds received under subsection (c) (including an alternative formula or system that permits allocations to political subdivisions or groups of political subdivisions, in addition to individual counties, in the State) that—

(A) was developed under the authority of State law; and

(B) provides that funds allocated to the State transportation department under this section will be allocated within the State in accordance with a program that includes selection by local governments of eligible activities funded under this section.

(3) ADMINISTRATIVE EXPENSES.—Before allocating amounts under paragraph (1) or (2), as applicable, a State transportation department may retain not more than 10 percent of an amount allocated to the State transportation department under subsection (c) for administrative costs incurred in carrying out this section.

(e) PROJECT SELECTION.—

(1) BY COUNTY.—If an allocation of funds within a State is made under subsection (d)(1), counties within the State to which the funds are allocated shall select eligible activities to be carried out using the funds.

(2) BY STATE ALTERNATIVE.—If an allocation of funds within a State is made under subsection (d)(2), eligible activities to be carried out using the funds shall be selected in accordance with the State alternative.

(f) FEDERAL SHARE.—The Federal share of the cost of an eligible activity carried out under this section shall be 100 percent.

(g) REPORT.—Not later than January 1, 2009, after providing States, local governments, and other interested parties an opportunity for comment, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(1) describes progress made in carrying out the program; and

(2) includes recommendations as to whether the program should be continued or modified.

(h) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of an eligible activity under this section shall be determined in accordance with this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2004 through 2009.

SEC. 4. MINIMUM LEVEL OF FUNDING FOR ELDERLY AND DISABLED PROGRAM.

Section 5310 of title 49, United States Code, is amended—

(1) in subsection (b), in the first sentence, by striking the period at the end and inserting the following: '', provided that, for fiscal years 2004, 2005, and 2006, each State shall receive annually, of the amounts apportioned under this section, a minimum of double the amount apportioned to the State in fiscal year 2003 or $1,000,000, whichever is greater, and that for fiscal years 2007, 2008, and 2009, each State shall receive annually, of the amounts apportioned under this section, a minimum equal to the minimum required to be apportioned to the State for fiscal year 2006 plus $500,000.''; and

(2) by adding at the end the following:

''(k) AMOUNTS FOR OPERATING ASSISTANCE.—Amounts made available under this section may be used for operating assistance.

''(l) AVAILABLE FUNDS.—Notwithstanding any other provision of law, of the aggregate amounts made available by and appropriated under this chapter, the amount made available to provide transportation services to elderly individuals and individuals with disabilities under this section in each of fiscal years 2004 through 2009, shall be not less than the amount necessary to match the minimum apportionment levels required by subsection (b).''.

SEC. 5. MINIMUM LEVEL OF FUNDING FOR RURAL PROGRAM.

Section 5311 of title 49, United States Code, is amended—

(1) in subsection (c), in the first sentence, by striking the period at the end and inserting the following: '', provided that none of the 50 States shall receive, from the amounts annually apportioned under this section, an apportionment of less than $5,000,000 for each of fiscal years 2004, 2005, and 2006, and $5,500,000 for each of fiscal years 2007, 2008, and 2009.''; and

(2) by adding at the end the following:

''(k) AMOUNTS.—Notwithstanding any other provision of law, of the aggregate amounts made available by and appropriated under this chapter, the amount made available for the program established by this section in each of fiscal years 2004 through 2009 shall be not less than the sum of—

''(1) the amount made available for all States for such purpose for fiscal year 2003; and

''(2)(A) for each of fiscal years 2004, 2005, and 2006, the amount equal to the difference between $5,000,000 and the apportionment for fiscal year 2003, for each of those individual States that were apportioned less than $5,000,000 under this section for fiscal year 2003; or

''(B) for each of fiscal years 2007, 2008, and 2009, the amount equal to the difference between $5,500,000 and the apportionment for fiscal year 2003, for each of those individual States that were apportioned less than $5,500,000 under this section for fiscal year 2003.''.

SEC. 6. ESSENTIAL BUS SERVICE.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code, is amended by adding at the end the following:

''§ 5339. Essential bus service

''(a) IN GENERAL.—The Secretary shall establish a program under which States shall provide essential bus service between rural areas and primary airports, as defined in section 47102, and between rural areas and stations for intercity passenger rail service, and appropriate intermediate or nearby points.

''(b) ELIGIBLE ACTIVITIES.—Eligible activities under the program established by this section shall include—

''(1) planning and marketing for intercity bus transportation;

''(2) capital grants for intercity bus shelters, park and ride facilities, and joint use facilities;

''(3) operating grants, including direct assistance, purchase of service agreements, user-side subsidies, demonstration projects, and other means; and

''(4) enhancement of connections between bus service and commercial air passenger service and intercity passenger rail service.

''(c) AVAILABILITY OF FUNDS.—Amounts made available pursuant to this section shall remain available until expended.

''(d) RELATIONSHIP TO SECTION 5311.—Amounts for the program established by this

section shall be apportioned to the States in the same proportion as amounts apportioned to the States under section 5311. Section 5311(j) applies to this section.

''(e) FUNDS.—Notwithstanding any other provision of law, of the aggregate amounts made available by and appropriated under this chapter—

''(1) for fiscal years 2004, 2005, and 2006, $30,000,000 of the total for each fiscal year shall be for the implementation of this section; and

''(2) for fiscal years 2007, 2008, and 2009, $35,000,000 of the total for each fiscal year shall be for the implementation of this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 49, United States Code, is amended by adding at the end the following:

''5339. Essential bus service.''.

SEC. 7. MINIMUM LEVEL OF FUNDING FOR URBANIZED AREAS WITH A POPULATION OF LESS THAN 200,000.

(a) MINIMUM APPORTIONMENT.—Section 5336(a)(1) of title 49, United States Code, is amended by striking ''mile; and'' and inserting the following: ''mile,

provided that the apportionments under this paragraph shall be modified to the extent required so that urbanized areas that are eligible under this paragraph and are located in a State in which all urbanized areas in the State eligible under this paragraph collectively receive apportionments totaling less than $5,000,000 in any of fiscal years 2004, 2005, or 2006, or less than $5,500,000 in any of fiscal years 2007, 2008, or 2009, shall each have their apportionments increased, proportionately, to the extent that, collectively, all of the urbanized areas in the State that are eligible under this paragraph receive, of the amounts apportioned annually under this paragraph, $5,000,000 for each of fiscal years 2004, 2005, and 2006, and $5,500,000 for each of fiscal years 2007, 2008, and 2009; and''.

(b) FUNDS.—Section 5307 of title 49, United States Code, is amended by adding at the end the following:

''(o) FUNDS.—Notwithstanding any other provision of law, of the aggregate amounts made available by and appropriated under this chapter, in each of fiscal years 2004 through 2009, the amount made available for the program established by this section shall be not less than the sum of—

''(1) the amount made available for such purpose for fiscal year 2003; and

''(2) the amount equal to the sum of the increase in apportionments for that fiscal year over fiscal year 2003, to urbanized areas with a population of less than 200,000, in affected States, attributable to the operation of section 5336(a)(1).''.

SEC. 8. LEVEL PLAYING FIELD FOR GOVERNMENT SHARE.

(a) IN GENERAL.—Chapter 53 of title 49, United States Code (as amended by section 6) is amended by adding at the end the following:

''§ 5340. Government share

''With respect to amounts apportioned or otherwise distributed for fiscal year 2004 and each subsequent fiscal year, the Government share of eligible transit project costs or eligible operating costs, shall be the greater of—

''(1) the share applicable under other provisions of this chapter; or

''(2) the share that would apply, in the State in which the transit project or operation is located, to a highway project under section 133 of title 23.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 49, United States Code, is amended by adding at the end the following:

''5340. Government share.''.

SEC. 9. INTEREST CREDITED TO MASS TRANSIT ACCOUNT.

Section 9503(f)(2) of the Internal Revenue Code of 1986 (relating to the Highway Trust Fund) is amended by striking the period at the end and inserting the following: '', provided that after September 30, 2003, interest accruing on the balance in the Mass Transit Account shall be credited to such account.''.

By Mr. CARPER (for himself, Mr. CHAFEE, Mr. BREAUX, and Mr. BAUCUS):

S. 3135. A bill to amend the Clean Air Act to establish a national uniform multiple air pollutant regulatory program for the electric generating sector; to the Committee on Environment and Public Works.

Mr. CARPER. Mr. President, this past June, at an EPW Committee markup, I joined the majority of committee members in reporting out legislation to reduce harmful emissions from our Nation's power plants. At that time, I offered, and then withdrew an alternate, comprehensive, 4-emission approach. Since then, along with representatives from electric generators who would be impacted by such legislation, and some leaders in the environmental community, I have worked to strengthen my amendment even further. The result is the Clean Air Planning Act. I rise today to introduce this bill, and am pleased to be joined by Senators CHAFEE, BEAUX, and BAUCUS.

The bill takes a market-based approach that would aggressively reduce emissions of sulfur dioxide, SO_2, nitrogen oxides, NO_X, carbon dioxide, CO_2, and mercury from electrical power generators. This approach also would provide planning and regulatory certainty to electric generators, who are required to achieve these reductions. It is mindful of the fact that coal fuels approximately 50 percent of our Nation's electricity and contributes a disproportionate share of emissions, and will remain the leading source of reliable, affordable electricity for decades to come.

The public health and environmental impacts of SO_2, NO_X, and mercury have been well documented. While there is bipartisan agreement that emissions of these three pollutants from power plants need further control, there is some disagreement over how much and how fast. The Clean Air Planning Act would establish significant caps on total emissions of these pollutants, but the caps would be phased in to provide the industry the time needed to meet the caps. In addition, the bill includes a flexible trading system to allow the caps to be attained most efficiently.

There is also a growing consensus that greenhouse gases such as CO_2 emissions from power plants are contributing to climate change. The time has come to set up mechanisms that will address these emissions without impeding economic growth. The Clean Air Planning Act establishes the modest goal of capping CO_2 emissions from electrical generators at 2001 levels by 2012. Generators can meet that goal with a flexible system that allows both trading between generators.

The bill also includes flexible options to reduce the costs of controlling carbon dioxide emissions through international projects and through forest and agricultural projects that can sequester carbon from the atmosphere while also providing additional environmental benefits. Part of the task ahead is to get better analysis that helps determine the right parameters for these flexibility provisions, so that the bill provides a smooth least-cost transition for the industry yet also delivers a meaningful incentive for improved efficiency and reduced emissions from power plants.

In the context of comprehensive legislation that will achieve significant reductions in emissions from power plants, some existing regulatory requirements should be updated. This bill carefully updates some New Source Review requirements to eliminate redundancy while retaining strict environmental protections.

I have heard from several experts in recent weeks who have studied provisions of this bill as it was being developed, and I plan to engage them in further discussions in the weeks and months ahead. I appreciate their willingness to help keep this important topic moving forward. This is a complex issue, one that should be of great importance to electric generators, environmental leaders, State and local regulators, and to each of us here in the Senate. There are numerous complicated issues in this legislation such as the proper extent of crediting off system carbon reductions, equitable allocation of allowances, appropriate regulatory streamlining, and prevention of local impacts, and we invite assistance from all who want to help us address these issues.

Today, America's power plants will emit over 6 million tons of harmful emissions. They will also power the world's most productive economy. Reducing emissions while retaining affordable electricity is the goal of the Clean Air Planning Act, and I urge my colleagues to join me in this effort. I look forward to developing consensus within the Senate next year and passing strong, comprehensive legislation.

Thank you, Mr. President. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 3135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Clean Air Planning Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Integrated air quality planning for the electric generating sector.

Sec. 4. New source review program.
Sec. 5. Revisions to sulfur dioxide allowance program.
Sec. 6. Relationship to other law.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) fossil fuel-fired electric generating facilities, consisting of facilities fueled by coal, fuel oil, and natural gas, produce nearly ⅔ of the electricity generated in the United States;

(2) fossil fuel-fired electric generating facilities produce approximately ⅔ of the total sulfur dioxide emissions, ⅓ of the total nitrogen oxides emissions, ⅓ of the total carbon dioxide emissions, and ⅓ of the total mercury emissions, in the United States;

(3)(A) many electric generating facilities have been exempt from the emission limitations applicable to new units based on the expectation that over time the units would be retired or updated with new pollution control equipment; but

(B) many of the exempted units continue to operate and emit pollutants at relatively high rates;

(4) pollution from existing electric generating facilities can be reduced through adoption of modern technologies and practices;

(5) the electric generating industry is being restructured with the objective of providing lower electricity rates and higher quality service to consumers;

(6) the full benefits of competition will not be realized if the environmental impacts of generation of electricity are not uniformly internalized; and

(7) the ability of owners of electric generating facilities to effectively plan for the future is impeded by the uncertainties surrounding future environmental regulatory requirements that are imposed inefficiently on a piecemeal basis.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect and preserve the environment and safeguard public health by ensuring that substantial emission reductions are achieved at fossil fuel-fired electric generating facilities;

(2) to significantly reduce the quantities of mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides that enter the environment as a result of the combustion of fossil fuels;

(3) to encourage the development and use of renewable energy;

(4) to internalize the cost of protecting the values of public health, air, land, and water quality in the context of a competitive market in electricity;

(5) to ensure fair competition among participants in the competitive market in electricity that will result from fully restructuring the electric generating industry;

(6) to provide a period of environmental regulatory stability for owners and operators of electric generating facilities so as to promote improved management of existing assets and new capital investments; and

(7) to achieve emission reductions from electric generating facilities in a cost-effective manner.

SEC. 3. INTEGRATED AIR QUALITY PLANNING FOR THE ELECTRIC GENERATING SECTOR.

The Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

"TITLE VII—INTEGRATED AIR QUALITY PLANNING FOR THE ELECTRIC GENERATING SECTOR

''Sec. 701. Definitions.
''Sec. 702. National pollutant tonnage limitations.
''Sec. 703. Nitrogen oxide and mercury allowance trading programs.
''Sec. 704. Carbon dioxide allowance trading program.

"SEC. 701. DEFINITIONS.

''In this title:

''(1) AFFECTED UNIT.—

''(A) MERCURY.—The term 'affected unit', with respect to mercury, means a coal-fired electric generating facility (including a cogenerating facility) that—

''(i) has a nameplate capacity greater than 25 megawatts; and

''(ii) generates electricity for sale.

''(B) NITROGEN OXIDES AND CARBON DIOXIDE.—The term 'affected unit', with respect to nitrogen oxides and carbon dioxide, means a fossil fuel-fired electric generating facility (including a cogenerating facility) that—

''(i) has a nameplate capacity greater than 25 megawatts; and

''(ii) generates electricity for sale.

''(C) SULFUR DIOXIDE.—The term 'affected unit', with respect to sulfur dioxide, has the meaning given the term in section 402.

''(2) CARBON DIOXIDE ALLOWANCE.—The term 'carbon dioxide allowance' means an authorization allocated by the Administrator under this title to emit 1 ton of carbon dioxide during or after a specified calendar year.

''(3) COVERED UNIT.—The term 'covered unit' means—

''(A) an affected unit;

''(B) a nuclear generating unit with respect to incremental nuclear generation; and

''(C) a renewable energy unit.

''(4) GREENHOUSE GAS.—The term 'greenhouse gas' means—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;

''(D) hydrofluorocarbons;

''(E) perfluorocarbons; and

''(F) sulfur hexafluoride.

''(5) INCREMENTAL NUCLEAR GENERATION.—The term 'incremental nuclear generation' means the difference between—

''(A) the quantity of electricity generated by a nuclear generating unit in a calendar year; and

''(B) the quantity of electricity generated by the nuclear generating unit in calendar year 1990;

as determined by the Administrator and measured in megawatt hours.

''(6) MERCURY ALLOWANCE.—The term 'mercury allowance' means an authorization allocated by the Administrator under this title to emit 1 pound of mercury during or after a specified calendar year.

''(7) NEW RENEWABLE ENERGY UNIT.—The term 'new renewable energy unit' means a renewable energy unit that has operated for a period of not more than 3 years.

''(8) NEW UNIT.—The term 'new unit' means an affected unit that has operated for not more than 3 years and is not eligible to receive—

''(A) sulfur dioxide allowances under section 417(b);

''(B) nitrogen oxide allowances or mercury allowances under section 703(c)(2); or

''(C) carbon dioxide allowances under section 704(c)(2).

''(9) NITROGEN OXIDE ALLOWANCE.—The term 'nitrogen oxide allowance' means an authorization allocated by the Administrator under this title to emit 1 ton of nitrogen oxides during or after a specified calendar year.

''(10) NUCLEAR GENERATING UNIT.—The term 'nuclear generating unit' means an electric generating facility that—

''(A) uses nuclear energy to supply electricity to the electric power grid; and

''(B) commenced operation in calendar year 1990 or earlier.

''(11) RENEWABLE ENERGY.—The term 'renewable energy' means electricity generated from—

''(A) wind;

''(B) organic waste (excluding incinerated municipal solid waste);

''(C) biomass (including anaerobic digestion from farm systems and landfill gas recovery);

''(D) fuel cells; or

''(E) a hydroelectric, geothermal, solar thermal, photovoltaic, or other nonfossil fuel, nonnuclear source.

''(12) RENEWABLE ENERGY UNIT.—The term 'renewable energy unit' means an electric generating facility that uses exclusively renewable energy to supply electricity to the electric power grid.

''(13) SEQUESTRATION.—The term 'sequestration' means the action of sequestering carbon by—

''(A) enhancing a natural carbon sink (such as through afforestation); or

''(B)(i) capturing the carbon dioxide emitted from a fossil fuel-based energy system; and

''(ii)(I) storing the carbon in a geologic formation or in a deep area of an ocean; or

''(II) converting the carbon to a benign solid material through a biological or chemical process.

''(14) SULFUR DIOXIDE ALLOWANCE.—The term 'sulfur dioxide allowance' has the meaning given the term 'allowance' in section 402.

"SEC. 702. NATIONAL POLLUTANT TONNAGE LIMITATIONS.

''(a) SULFUR DIOXIDE.—The annual tonnage limitation for emissions of sulfur dioxide from affected units in the United States shall be equal to—

''(1) for each of calendar years 2008 through 2011, 4,500,000 tons;

''(2) for each of calendar years 2012 through 2014, 3,500,000 tons; and

''(3) for calendar year 2015 and each calendar year thereafter, 2,250,000 tons.

''(b) NITROGEN OXIDES.—The annual tonnage limitation for emissions of nitrogen oxides from affected units in the United States shall be equal to—

''(1) for each of calendar years 2008 through 2011, 1,870,000 tons; and

''(2) for calendar year 2012 and each calendar year thereafter, 1,700,000 tons.

''(c) MERCURY.—

''(1) IN GENERAL.—The annual tonnage limitation for emissions of mercury from affected units in the United States shall be equal to—

''(A) for each of calendar years 2008 through 2011, 24 tons; and

''(B) for calendar year 2012 and each calendar year thereafter, a percentage determined under paragraph (2) of the total quantity of mercury present in delivered coal in calendar year 1999 (as determined by the Administrator).

''(2) DETERMINATION OF PERCENTAGE.—The percentage referred to in paragraph (1)(B) shall be—

''(A) not less than 7 nor more than 21 percent; and

''(B) determined by the Administrator not later than January 1, 2004, based on the best scientific data available concerning—

''(i) the reduction in emissions of mercury necessary to protect public health and the environment; and

''(ii) the cost and performance of mercury control technology.

''(3) MAXIMUM EMISSIONS OF MERCURY FROM EACH AFFECTED UNIT.—

''(A) CALENDAR YEARS 2008 THROUGH 2011.—For each of calendar years 2008 through 2011, the emissions of mercury from each affected unit shall not exceed either, at the option of the operator of the affected unit—

''(i) 50 percent of the total quantity of mercury present in the coal delivered to the affected unit in the calendar year; or

''(ii) an annual output-based emission rate for mercury that shall be determined by the Administrator based on an input-based rate of 4 pounds per trillion British thermal units.

''(B) CALENDAR YEAR 2012 AND THEREAFTER.—For calendar year 2012 and each calendar year thereafter, the emissions of mercury from each affected unit shall not exceed—

''(i) 30 percent of the total quantity of mercury present in the coal delivered to the affected unit in the calendar year; or

''(ii) an annual output-based emission rate for mercury that shall be determined by the Administrator.

''(d) CARBON DIOXIDE.—Subject to section 704(d), the annual tonnage limitation for emissions of carbon dioxide from covered units in the United States shall be equal to—

''(1) for each of calendar years 2008 through 2011, the quantity of emissions projected to be emitted from affected units in calendar year 2005, as determined by the Energy Information Administration of the Department of Energy based on the projections of the Administration the publication of which most closely precedes the date of enactment of this title; and

''(2) for calendar year 2012 and each calendar year thereafter, the quantity of emissions emitted from affected units in calendar year 2001, as determined by the Energy Information Administration of the Department of Energy.

''(e) REVIEW OF ANNUAL TONNAGE LIMITATIONS.—

''(1) PERIOD OF EFFECTIVENESS.—The annual tonnage limitations established under subsections (a) through (d) shall remain in effect until the date that is 20 years after the date of enactment of this title.

''(2) DETERMINATION BY ADMINISTRATOR.—Not later than 15 years after the date of enactment of this title, the Administrator, after considering impacts on human health, the environment, the economy, and costs, shall determine whether 1 or more of the annual tonnage limitations should be revised.

''(3) DETERMINATION NOT TO REVISE.—If the Administrator determines under paragraph (2) that none of the annual tonnage limitations should be revised, the Administrator shall publish in the Federal Register a notice of the determination and the reasons for the determination.

''(4) DETERMINATION TO REVISE.—

''(A) IN GENERAL.—If the Administrator determines under paragraph (2) that 1 or more of the annual tonnage limitations should be revised, the Administrator shall publish in the Federal Register—

''(i) not later than 15 years and 180 days after the date of enactment of this title, proposed regulations implementing the revisions; and

''(ii) not later than 16 years and 180 days after the date of enactment of this title, final regulations implementing the revisions.

''(B) EFFECTIVE DATE OF REVISIONS.—Any revisions to the annual tonnage limitations under subparagraph (A) shall take effect on the date that is 20 years after the date of enactment of this title.

''(f) REDUCTION OF EMISSIONS FROM SPECIFIED AFFECTED UNITS.—Subject to the requirements of this Act concerning national ambient air quality standards established under part A of title I, notwithstanding the annual tonnage limitations established under this section, the Federal Government or a State government may require that emissions from a specified affected unit be reduced to address a local air quality problem.

''SEC. 703. NITROGEN OXIDE AND MERCURY ALLOWANCE TRADING PROGRAMS.

''(a) REGULATIONS.—

''(1) PROMULGATION.—

''(A) IN GENERAL.—Not later than January 1, 2004, the Administrator shall promulgate regulations to establish for affected units in the United States—

''(i) a nitrogen oxide allowance trading program; and

''(ii) a mercury allowance trading program.

''(B) REQUIREMENTS.—Regulations promulgated under subparagraph (A) shall establish requirements for the allowance trading programs under this section, including requirements concerning—

''(i)(I) the generation, allocation, issuance, recording, tracking, transfer, and use of nitrogen oxide allowances and mercury allowances; and

''(II) the public availability of all information concerning the activities described in subclause (I) that is not confidential;

''(ii) compliance with subsection (e)(1);

''(iii) the monitoring and reporting of emissions under paragraphs (2) and (3) of subsection (e); and

''(iv) excess emission penalties under subsection (e)(4).

''(2) MIXED FUEL, CO-GENERATION FACILITIES AND COMBINED HEAT AND POWER FACILITIES.—The Administrator shall promulgate such regulations as are necessary to ensure the equitable issuance of allowances to—

''(A) facilities that use more than 1 energy source to produce electricity; and

''(B) facilities that produce electricity in addition to another service or product.

''(3) REPORT TO CONGRESS ON USE OF CAPTURED OR RECOVERED MERCURY.—

''(A) IN GENERAL.—Not later than 18 months after the date of enactment of this title, the Administrator shall submit to Congress a report on the public health and environmental impacts from mercury that is or may be—

''(i) captured or recovered by air pollution control technology; and

''(ii) incorporated into products such as soil amendments and cement.

''(B) REQUIRED ELEMENTS.—The report shall—

''(i) review—

''(I) technologies, in use as of the date of the report, for incorporating mercury into products; and

''(II) potential technologies that might further minimize the release of mercury; and

''(ii)(I) address the adequacy of legal authorities and regulatory programs in effect as of the date of the report to protect public health and the environment from mercury in products described in subparagraph (A)(ii); and

''(II) to the extent necessary, make recommendations to improve those authorities and programs.

''(b) NEW UNIT RESERVES.—

''(1) ESTABLISHMENT.—The Administrator shall establish by regulation a reserve of nitrogen oxide allowances and a reserve of mercury allowances to be set aside for use by new units.

''(2) DETERMINATION OF QUANTITY.—The Administrator, in consultation with the Secretary of Energy, shall determine, based on projections of electricity output for new units—

''(A) not later than June 30, 2004, the quantity of nitrogen oxide allowances and mercury allowances required to be held in reserve for new units for each of calendar years 2008 through 2012; and

''(B) not later than June 30 of each fifth calendar year thereafter, the quantity of nitrogen oxide allowances and mercury allowances required to be held in reserve for new units for the following 5-calendar year period.

''(c) NITROGEN OXIDE AND MERCURY ALLOWANCE ALLOCATIONS.—

''(1) TIMING OF ALLOCATIONS.—The Administrator shall allocate nitrogen oxide allowances and mercury allowances to affected units—

''(A) not later than December 31, 2004, for calendar year 2008; and

''(B) not later than December 31 of calendar year 2005 and each calendar year thereafter, for the fourth calendar year that begins after that December 31.

''(2) ALLOCATIONS TO AFFECTED UNITS THAT ARE NOT NEW UNITS.—

''(A) QUANTITY OF NITROGEN OXIDE ALLOWANCES ALLOCATED.—The Administrator shall allocate to each affected unit that is not a new unit a quantity of nitrogen oxide allowances that is equal to the product obtained by multiplying—

''(i) 1.5 pounds of nitrogen oxides per megawatt hour; and

''(ii) the quotient obtained by dividing—

''(I) the average annual net quantity of electricity generated by the affected unit during the most recent 3-calendar year period for which data are available, measured in megawatt hours; by

''(II) 2,000 pounds of nitrogen oxides per ton.

''(B) QUANTITY OF MERCURY ALLOWANCES ALLOCATED.—The Administrator shall allocate to each affected unit that is not a new unit a quantity of mercury allowances that is equal to the product obtained by multiplying—

''(i) 0.0000227 pounds of mercury per megawatt hour; and

''(ii) the average annual net quantity of electricity generated by the affected unit during the most recent 3-calendar year period for which data are available, measured in megawatt hours.

''(C) ADJUSTMENT OF ALLOCATIONS.—

''(i) IN GENERAL.—If, for any calendar year, the total quantity of allowances allocated under subparagraph (A) or (B) is not equal to the applicable quantity determined under clause (ii), the Administrator shall adjust the quantity of allowances allocated to affected units that are not new units on a prorata basis so that the quantity is equal to the applicable quantity determined under clause (ii).

''(ii) APPLICABLE QUANTITY.—The applicable quantity referred to in clause (i) is the difference between—

''(I) the applicable annual tonnage limitation for emissions from affected units specified in subsection (b) or (c) of section 702 for the calendar year; and

''(II) the quantity of nitrogen oxide allowances or mercury allowances, respectively, placed in the applicable new unit reserve established under subsection (b) for the calendar year.

''(3) ALLOCATION TO NEW UNITS.—

''(A) METHODOLOGY.—The Administrator shall promulgate regulations to establish a methodology for allocating nitrogen oxide allowances and mercury allowances to new units.

''(B) QUANTITY OF NITROGEN OXIDE ALLOWANCES AND MERCURY ALLOWANCES ALLOCATED.—The Administrator shall determine the quantity of nitrogen oxide allowances and mercury allowances to be allocated to each new unit based on the projected emissions from the new unit.

''(4) ALLOWANCE NOT A PROPERTY RIGHT.—A nitrogen oxide allowance or mercury allowance—

''(A) is not a property right; and

''(B) may be terminated or limited by the Administrator.

''(5) NO JUDICIAL REVIEW.—An allocation of nitrogen allowances or mercury allowances by the Administrator under this subsection shall not be subject to judicial review.

''(d) NITROGEN OXIDE ALLOWANCE AND MERCURY ALLOWANCE TRANSFER SYSTEM.—

''(1) USE OF ALLOWANCES.—The regulations promulgated under subsection (a)(1)(A) shall—

''(A) prohibit the use (but not the transfer in accordance with paragraph (3)) of any nitrogen oxide allowance or mercury allowance before the calendar year for which the allowance is allocated;

''(B) provide that unused nitrogen oxide allowances and mercury allowances may be carried forward and added to nitrogen oxide allowances and mercury allowances, respectively, allocated for subsequent years; and

''(C) provide that unused nitrogen oxide allowances and mercury allowances may be transferred by—

''(i) the person to which the allowances are allocated; or

''(ii) any person to which the allowances are transferred.

''(2) USE BY PERSONS TO WHICH ALLOWANCES ARE TRANSFERRED.—Any person to which nitrogen oxide allowances or mercury allowances are transferred under paragraph (1)(C)—

''(A) may use the nitrogen oxide allowances or mercury allowances in the calendar year for which the nitrogen oxide allowances or mercury allowances were allocated, or in a subsequent calendar year, to demonstrate compliance with subsection (e)(1); or

''(B) may transfer the nitrogen oxide allowances or mercury allowances to any other person for the purpose of demonstration of that compliance.

''(3) CERTIFICATION OF TRANSFER.—A transfer of a nitrogen oxide allowance or mercury allowance shall not take effect until a written certification of the transfer, authorized by a responsible official of the person making the transfer, is received and recorded by the Administrator.

''(4) PERMIT REQUIREMENTS.—An allocation or transfer of nitrogen oxide allowances or mercury allowances to an affected unit shall, after recording by the Administrator, be considered to be part of the federally enforceable permit of the affected unit under this Act, without a requirement for any further review or revision of the permit.

''(e) COMPLIANCE AND ENFORCEMENT.—

''(1) IN GENERAL.—For calendar year 2008 and each calendar year thereafter, the operator of each affected unit shall surrender to the Administrator—

''(A) a quantity of nitrogen oxide allowances that is equal to the total tons of nitrogen oxides emitted by the affected unit during the calendar year; and

''(B) a quantity of mercury allowances that is equal to the total pounds of mercury emitted by the affected unit during the calendar year.

''(2) MONITORING SYSTEM.—The Administrator shall promulgate regulations requiring the accurate monitoring of the quantities of nitrogen oxides and mercury that are emitted at each affected unit.

''(3) REPORTING.—

''(A) IN GENERAL.—Not less often than quarterly, the owner or operator of an affected unit shall submit to the Administrator a report on the monitoring of emissions of nitrogen oxides and mercury carried out by the owner or operator in accordance with the regulations promulgated under paragraph (2).

''(B) AUTHORIZATION.—Each report submitted under subparagraph (A) shall be authorized by a responsible official of the affected unit, who shall certify the accuracy of the report.

''(C) PUBLIC REPORTING.—The Administrator shall make available to the public, through 1 or more published reports and 1 or more forms of electronic media, data concerning the emissions of nitrogen oxides and mercury from each affected unit.

''(4) EXCESS EMISSIONS.—

''(A) IN GENERAL.—The owner or operator of an affected unit that emits nitrogen oxides or mercury in excess of the nitrogen oxide allowances or mercury allowances that the owner or operator holds for use for the affected unit for the calendar year shall—

''(i) pay an excess emissions penalty determined under subparagraph (B); and

''(ii) offset the excess emissions by an equal quantity in the following calendar year or such other period as the Administrator shall prescribe.

''(B) DETERMINATION OF EXCESS EMISSIONS PENALTY.—

''(i) NITROGEN OXIDES.—The excess emissions penalty for nitrogen oxides shall be equal to the product obtained by multiplying—

''(I) the number of tons of nitrogen oxides emitted in excess of the total quantity of nitrogen oxide allowances held; and

''(II) $5,000, adjusted (in accordance with regulations promulgated by the Administrator) for changes in the Consumer Price Index for All-Urban Consumers published by the Department of Labor.

''(ii) MERCURY.—The excess emissions penalty for mercury shall be equal to the product obtained by multiplying—

''(I) the number of pounds of mercury emitted in excess of the total quantity of mercury allowances held; and

''(II) $10,000, adjusted (in accordance with regulations promulgated by the Administrator) for changes in the Consumer Price Index for All-Urban Consumers published by the Department of Labor.

''SEC. 704. CARBON DIOXIDE ALLOWANCE TRADING PROGRAM.

''(a) REGULATIONS.—

''(1) IN GENERAL.—Not later than January 1, 2004, the Administrator shall promulgate regulations to establish a carbon dioxide allowance trading program for covered units in the United States.

''(2) REQUIRED ELEMENTS.—Regulations promulgated under paragraph (1) shall establish requirements for the carbon dioxide allowance trading program under this section, including requirements concerning—

''(A)(i) the generation, allocation, issuance, recording, tracking, transfer, and use of carbon dioxide allowances; and

''(ii) the public availability of all information concerning the activities described in clause (i) that is not confidential;

''(B) compliance with subsection (f)(1);

''(C) the monitoring and reporting of emissions under paragraphs (2) and (3) of subsection (f);

''(D) excess emission penalties under subsection (f)(4); and

''(E) standards, guidelines, and procedures concerning the generation, certification, and use of additional carbon dioxide allowances made available under subsection (d).

''(b) NEW UNIT RESERVE.—

''(1) ESTABLISHMENT.—The Administrator shall establish by regulation a reserve of carbon dioxide allowances to be set aside for use by new units and new renewable energy units.

''(2) DETERMINATION OF QUANTITY.—The Administrator, in consultation with the Secretary of Energy, shall determine, based on projections of electricity output for new units and new renewable energy units—

''(A) not later than June 30, 2004, the quantity of carbon dioxide allowances required to be held in reserve for new units and new renewable energy units for each of calendar years 2008 through 2012; and

''(B) not later than June 30 of each fifth calendar year thereafter, the quantity of carbon dioxide allowances required to be held in reserve for new units and renewable energy units for the following 5-calendar year period.

''(c) CARBON DIOXIDE ALLOWANCE ALLOCATION.—

''(1) TIMING OF ALLOCATIONS.—The Administrator shall allocate carbon dioxide allowances to covered units—

''(A) not later than December 31, 2004, for calendar year 2008; and

''(B) not later than December 31 of calendar year 2005 and each calendar year thereafter, for the fourth calendar year that begins after that December 31.

''(2) ALLOCATIONS TO COVERED UNITS THAT ARE NOT NEW UNITS.—

''(A) IN GENERAL.—The Administrator shall allocate to each affected unit that is not a new unit, to each nuclear generating unit with respect to incremental nuclear generation, and to each renewable energy unit that is not a new renewable energy unit, a quantity of carbon dioxide allowances that is equal to the product obtained by multiplying—

''(i) the quantity of carbon dioxide allowances available for allocation under subparagraph (B); and

''(ii) the quotient obtained by dividing—

''(I) the average net quantity of electricity generated by the unit in a calendar year during the most recent 3-calendar year period for which data are available, measured in megawatt hours; and

''(II) the total of the average net quantities described in subclause (I) with respect to all such units.

''(B) QUANTITY TO BE ALLOCATED.—For each calendar year, the quantity of carbon dioxide allowances allocated under subparagraph (A) shall be equal to the difference between—

''(i) the annual tonnage limitation for emissions of carbon dioxide from affected units specified in section 702(d) for the calendar year; and

''(ii) the quantity of carbon dioxide allowances placed in the new unit reserve established under subsection (b) for the calendar year.

''(3) ALLOCATION TO NEW UNITS AND NEW RENEWABLE ENERGY UNITS.—

''(A) METHODOLOGY.—The Administrator shall promulgate regulations to establish a methodology for allocating carbon dioxide allowances to new units and new renewable energy units.

''(B) QUANTITY OF CARBON DIOXIDE ALLOWANCES ALLOCATED.—The Administrator shall determine the quantity of carbon dioxide allowances to be allocated to each new unit and each new renewable energy unit based on the unit's projected share of the total electric power generation attributable to covered units.

''(d) ISSUANCE AND USE OF ADDITIONAL CARBON DIOXIDE ALLOWANCES.—

''(1) IN GENERAL.—

''(A) ALLOWANCES FOR PROJECTS CERTIFIED BY INDEPENDENT REVIEW BOARD.—In addition to carbon dioxide allowances allocated under subsection (c), the Administrator shall make carbon dioxide allowances available to projects that are certified, in accordance with paragraph (3), by the independent review board established under paragraph (2) as eligible to receive the carbon dioxide allowances.

''(B) ALLOWANCES OBTAINED UNDER OTHER PROGRAMS.—The regulations promulgated under subsection (a)(1) shall—

''(i) allow covered units to comply with subsection (f)(1) by purchasing and using carbon dioxide allowances that are traded under

any other United States or internationally recognized carbon dioxide reduction program that is specified under clause (ii);

''(ii) specify, for the purpose of clause (i), programs that meet the goals of this section; and

''(iii) apply such conditions to the use of carbon dioxide allowances traded under programs specified under clause (ii) as are necessary to achieve the goals of this section.

''(2) INDEPENDENT REVIEW BOARD.—

''(A) IN GENERAL.—

''(i) ESTABLISHMENT.—The Administrator shall establish an independent review board to assist the Administrator in certifying projects as eligible for carbon dioxide allowances made available under paragraph (1)(A).

''(ii) REVIEW AND APPROVAL.—Each certification by the independent review board of a project shall be subject to the review and approval of the Administrator.

''(iii) REQUIREMENTS.—Subject to this subsection, requirements relating to the creation, composition, duties, responsibilities, and other aspects of the independent review board shall be included in the regulations promulgated by the Administrator under subsection (a).

''(B) MEMBERSHIP.—The independent review board shall be composed of 12 members, of whom—

''(i) 10 members shall be appointed by the Administrator, of whom—

''(I) 1 member shall represent the Environmental Protection Agency (who shall serve as chairperson of the independent review board);

''(II) 3 members shall represent State governments;

''(III) 3 members shall represent the electric generating sector; and

''(IV) 3 members shall represent environmental organizations;

''(ii) 1 member shall be appointed by the Secretary of Energy to represent the Department of Energy; and

''(iii) 1 member shall be appointed by the Secretary of Agriculture to represent the Department of Agriculture.

''(C) STAFF AND OTHER RESOURCES.—The Administrator shall provide such staff and other resources to the independent review board as the Administrator determines to be necessary.

''(D) DEVELOPMENT OF GUIDELINES.—

''(i) IN GENERAL.—The independent review board shall develop guidelines for certifying projects in accordance with paragraph (3), including—

''(I) criteria that address the validity of claims that projects result in the generation of carbon dioxide allowances;

''(II) guidelines for certifying incremental carbon sequestration in accordance with clause (ii); and

''(III) guidelines for certifying geological sequestration of carbon dioxide in accordance with clause (iii).

''(ii) GUIDELINES FOR CERTIFYING INCREMENTAL CARBON SEQUESTRATION.—The guidelines for certifying incremental carbon sequestration in forests, agricultural soil, rangeland, or grassland shall include development, reporting, monitoring, and verification guidelines, to be used in quantifying net carbon sequestration from land use projects, that are based on—

''(I) measurement of increases in carbon storage in excess of the carbon storage that would have occurred in the absence of such a project;

''(II) comprehensive carbon accounting that—

''(aa) reflects net increases in carbon reservoirs; and

''(bb) takes into account any carbon emissions resulting from disturbance of carbon reservoirs in existence as of the date of commencement of the project;

''(III) adjustments to account for—

''(aa) emissions of carbon that may result at other locations as a result of the impact of the project on timber supplies; or

''(bb) potential displacement of carbon emissions to other land owned by the entity that carries out the project; and

''(IV) adjustments to reflect the expected carbon storage over various time periods, taking into account the likely duration of the storage of the carbon stored in a carbon reservoir.

''(iii) GUIDELINES FOR CERTIFYING GEOLOGICAL SEQUESTRATION OF CARBON DIOXIDE.—The guidelines for certifying geological sequestration of carbon dioxide produced by a covered unit shall—

''(I) provide that a project shall be certified only to the extent that the geological sequestration of carbon dioxide produced by a covered unit is in addition to any carbon dioxide used by the covered unit in 2008 for enhanced oil recovery; and

''(II) include requirements for development, reporting, monitoring, and verification for quantifying net carbon sequestration—

''(aa) to ensure the permanence of the sequestration; and

''(bb) to ensure that the sequestration will not cause or contribute to significant adverse effects on the environment.

''(iv) DEADLINES FOR DEVELOPMENT.—The guidelines under clause (i) shall be developed—

''(I) with respect to projects described in paragraph (3)(A), not later than January 1, 2004; and

''(II) with respect to projects described in paragraph (3)(B), not later than January 1, 2005.

''(v) UPDATING OF GUIDELINES.—The independent review board shall periodically update the guidelines as the independent review board determines to be appropriate.

''(E) CERTIFICATION OF PROJECTS.—

''(i) IN GENERAL.—Subject to clause (ii), subparagraph (A)(ii), and paragraph (3), the independent review board shall certify projects as eligible for additional carbon dioxide allowances.

''(ii) LIMITATION.—The independent review board shall not certify a project under this subsection if the carbon dioxide emission reductions achieved by the project will be used to satisfy any requirement imposed on any foreign country or any industrial sector to reduce the quantity of greenhouse gases emitted by the foreign country or industrial sector.

''(3) PROJECTS ELIGIBLE FOR ADDITIONAL CARBON DIOXIDE ALLOWANCES.—

''(A) PROJECTS CARRIED OUT IN CALENDAR YEARS 1990 THROUGH 2007.—

''(i) IN GENERAL.—The independent review board may certify as eligible for carbon dioxide allowances a project that—

''(I) is carried out on or after January 1, 1990, and before January 1, 2008; and

''(II) consists of—

''(aa) a carbon sequestration project carried out in the United States or a foreign country;

''(bb) a project reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

''(cc) any other project to reduce emissions of greenhouse gases that is carried out in the United States or a foreign country.

''(ii) MAXIMUM QUANTITY OF ADDITIONAL CARBON DIOXIDE ALLOWANCES.—The Administrator may make available to projects certified under clause (i) a quantity of allowances that is not greater than 10 percent of the tonnage limitation for calendar year 2008 for emissions of carbon dioxide from affected units specified in section 702(d)(1).

''(iii) USE OF ALLOWANCES.—Allowances made available under clause (ii) may be used to comply with subsection (f)(1) in calendar year 2008 or any calendar year thereafter.

''(B) PROJECTS CARRIED OUT IN CALENDAR YEAR 2008 AND THEREAFTER.—The independent review board may certify as eligible for carbon dioxide allowances a project that—

''(i) is carried out on or after January 1, 2008; and

''(ii) consists of—

''(I) a carbon sequestration project carried out in the United States or a foreign country; or

''(II) a project to reduce the greenhouse gas emissions (on a carbon dioxide equivalency basis determined by the independent review board) of a source of greenhouse gases that is not an affected unit.

''(e) CARBON DIOXIDE ALLOWANCE TRANSFER SYSTEM.—

''(1) USE OF ALLOWANCES.—The regulations promulgated under subsection (a)(1) shall—

''(A) prohibit the use (but not the transfer in accordance with paragraph (3)) of any carbon dioxide allowance before the calendar year for which the carbon dioxide allowance is allocated;

''(B) provide that unused carbon dioxide allowances may be carried forward and added to carbon dioxide allowances allocated for subsequent years;

''(C) provide that unused carbon dioxide allowances may be transferred by—

''(i) the person to which the carbon dioxide allowances are allocated; or

''(ii) any person to which the carbon dioxide allowances are transferred; and

''(D) provide that carbon dioxide allowances allocated and transferred under this section may be transferred into any other market-based carbon dioxide emission trading program that is—

''(i) approved by the President; and

''(ii) implemented in accordance with regulations developed by the Administrator or the head of any other Federal agency.

''(2) USE BY PERSONS TO WHICH CARBON DIOXIDE ALLOWANCES ARE TRANSFERRED.—Any person to which carbon dioxide allowances are transferred under paragraph (1)(C)—

''(A) may use the carbon dioxide allowances in the calendar year for which the carbon dioxide allowances were allocated, or in a subsequent calendar year, to demonstrate compliance with subsection (f)(1); or

''(B) may transfer the carbon dioxide allowances to any other person for the purpose of demonstration of that compliance.

''(3) CERTIFICATION OF TRANSFER.—A transfer of a carbon dioxide allowance shall not take effect until a written certification of the transfer, authorized by a responsible official of the person making the transfer, is received and recorded by the Administrator.

''(4) PERMIT REQUIREMENTS.—An allocation or transfer of carbon dioxide allowances to a covered unit, or for a project carried out on behalf of a covered unit, under subsection (c) or (d) shall, after recording by the Administrator, be considered to be part of the federally enforceable permit of the covered unit under this Act, without a requirement for any further review or revision of the permit.

''(f) COMPLIANCE AND ENFORCEMENT.—

''(1) IN GENERAL.—For calendar year 2008 and each calendar year thereafter—

''(A) the operator of each affected unit and each renewable energy unit shall surrender to the Administrator a quantity of carbon dioxide allowances that is equal to the total tons of carbon dioxide emitted by the affected unit or renewable energy unit during the calendar year; and

''(B) the operator of each nuclear generating unit that has incremental nuclear generation shall surrender to the Administrator a quantity of carbon dioxide allowances that is equal to the total tons of carbon dioxide emitted by the nuclear generating unit during the calendar year from incremental nuclear generation.

''(2) MONITORING SYSTEM.—The Administrator shall promulgate regulations requiring the accurate monitoring of the quantity of carbon dioxide that is emitted at each covered unit.

''(3) REPORTING.—

''(A) IN GENERAL.—Not less often than quarterly, the owner or operator of a covered unit, or a person that carries out a project certified under subsection (d) on behalf of a covered unit, shall submit to the Administrator a report on the monitoring of carbon dioxide emissions carried out at the covered unit in accordance with the regulations promulgated under paragraph (2).

''(B) AUTHORIZATION.—Each report submitted under subparagraph (A) shall be authorized by a responsible official of the covered unit, who shall certify the accuracy of the report.

''(C) PUBLIC REPORTING.—The Administrator shall make available to the public, through 1 or more published reports and 1 or more forms of electronic media, data concerning the emissions of carbon dioxide from each covered unit.

''(4) EXCESS EMISSIONS.—

''(A) IN GENERAL.—The owner or operator of a covered unit that emits carbon dioxide in excess of the carbon dioxide allowances that the owner or operator holds for use for the covered unit for the calendar year shall—

''(i) pay an excess emissions penalty determined under subparagraph (B); and

''(ii) offset the excess emissions by an equal quantity in the following calendar year or such other period as the Administrator shall prescribe.

''(B) DETERMINATION OF EXCESS EMISSIONS PENALTY.—The excess emissions penalty shall be equal to the product obtained by multiplying—

''(i) the number of tons of carbon dioxide emitted in excess of the total quantity of carbon dioxide allowances held; and

''(ii) $100, adjusted (in accordance with regulations promulgated by the Administrator) for changes in the Consumer Price Index for All-Urban Consumers published by the Department of Labor.

''(g) ALLOWANCE NOT A PROPERTY RIGHT.—A carbon dioxide allowance—

''(1) is not a property right; and

''(2) may be terminated or limited by the Administrator.

''(h) NO JUDICIAL REVIEW.—An allocation of carbon dioxide allowances by the Administrator under subsection (c) or (d) shall not be subject to judicial review.''.

SEC. 4. NEW SOURCE REVIEW PROGRAM.

Section 165 of the Clean Air Act (42 U.S.C. 7475) is amended by adding at the end the following:

''(f) REVISIONS TO NEW SOURCE REVIEW PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED UNIT.—The term 'covered unit' has the meaning given the term in section 701.

''(B) NEW SOURCE REVIEW PROGRAM.—The term 'new source review program' means the program to carry out section 111 and this part.

''(2) REGULATIONS.—In accordance with this subsection, the Administrator shall promulgate revisions to the new source review program.

''(3) APPLICABILITY CRITERIA.—The regulations shall revise the applicability criteria under the new source review program for covered units so that, beginning January 1, 2008, a physical change or a change in the method of operation at a covered unit shall be subject to the regulations under the new source review program and subject to approval by the Administrator only if—

''(A)(i) the change involves the replacement of 1 or more components of the covered unit; and

''(ii) the amount of the fixed capital costs of the replacement exceeds 50 percent of the amount of the fixed capital costs of construction of a comparable new covered unit; or

''(B) the change results in any increase in the rate of emissions from the covered unit of air pollutants regulated under the new source review program (measured in pounds per megawatt hour).

''(4) LOWEST ACHIEVABLE EMISSION RATE.—The regulations shall revise the definition of 'lowest achievable emission rate' under section 171, with respect to technology required to be installed by the electric generating sector, to allow costs to be considered in the determination of the lowest achievable emission rate, so that, beginning January 1, 2008, a covered unit (as defined in section 701) shall not be required to install technology required to meet a lowest achievable emission rate if the cost of the technology exceeds a maximum amount (in dollars per ton) that—

''(A) is determined by the Administrator; but

''(B) does not exceed twice the amount of the cost guideline for best available control technology established under subsection (a)(4).

''(5) EMISSION OFFSETS.—A new source within the electric generating sector that locates in a nonattainment area after December 31, 2007, shall not be required to obtain offsets for emissions of air pollutants.

''(6) NO EFFECT ON OTHER REQUIREMENTS.—Nothing in this subsection affects the obligation of any State or local government to comply with the requirements established under this section concerning—

''(A) national ambient air quality standards;

''(B) maximum allowable air pollutant increases or maximum allowable air pollutant concentrations; or

''(C) protection of visibility and other air quality-related values in areas designated as class I areas under part C of title I.''.

SEC. 5. REVISIONS TO SULFUR DIOXIDE ALLOWANCE PROGRAM.

(a) IN GENERAL.—Title IV of the Clean Air Act (relating to acid deposition control) (42 U.S.C. 7651 et seq.) is amended by adding at the end the following:

''SEC. 417. REVISIONS TO SULFUR DIOXIDE ALLOWANCE PROGRAM.

''(a) DEFINITIONS.—In this section, the terms 'affected unit' and 'new unit' have the meanings given the terms in section 701.

''(b) REGULATIONS.—Not later than January 1, 2004, the Administrator shall promulgate such revisions to the regulations to implement this title as the Administrator determines to be necessary to implement section 702(a).

''(c) NEW UNIT RESERVE.—

''(1) ESTABLISHMENT.—Subject to the annual tonnage limitation for emissions of sulfur dioxide from affected units specified in section 702(a), the Administrator shall establish by regulation a reserve of allowances to be set aside for use by new units.

''(2) DETERMINATION OF QUANTITY.—The Administrator, in consultation with the Secretary of Energy, shall determine, based on projections of electricity output for new units—

''(A) not later than June 30, 2004, the quantity of allowances required to be held in reserve for new units for each of calendar years 2008 through 2012; and

''(B) not later than June 30 of each fifth calendar year thereafter, the quantity of allowances required to be held in reserve for new units for the following 5-calendar year period.

''(3) ALLOCATION.—

''(A) REGULATIONS.—The Administrator shall promulgate regulations to establish a methodology for allocating allowances to new units.

''(B) NO JUDICIAL REVIEW.—An allocation of allowances by the Administrator under this subsection shall not be subject to judicial review.

''(d) EXISTING UNITS.—

''(1) ALLOCATION.—

''(A) REGULATIONS.—Subject to the annual tonnage limitation for emissions of sulfur dioxide from affected units specified in section 702(a), and subject to the reserve of allowances for new units under subsection (c), the Administrator shall promulgate regulations to govern the allocation of allowances to affected units that are not new units.

''(B) REQUIRED ELEMENTS.—The regulations shall provide for—

''(i) the allocation of allowances on a fair and equitable basis between affected units that received allowances under section 405 and affected units that are not new units and that did not receive allowances under that section, using for both categories of units the same or similar allocation methodology as was used under section 405; and

''(ii) the pro-rata distribution of allowances to all units described in clause (i), subject to the annual tonnage limitation for emissions of sulfur dioxide from affected units specified in section 702(a).

''(2) TIMING OF ALLOCATIONS.—The Administrator shall allocate allowances to affected units—

''(A) not later than December 31, 2004, for calendar year 2008; and

''(B) not later than December 31 of calendar year 2005 and each calendar year thereafter, for the fourth calendar year that begins after that December 31.

''(3) NO JUDICIAL REVIEW.—An allocation of allowances by the Administrator under this subsection shall not be subject to judicial review.

''(e) WESTERN REGIONAL AIR PARTNERSHIP.—

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED STATE.—The term 'covered State' means each of the States of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming.

''(B) COVERED YEAR.—The term 'covered year' means—

''(i)(I)(aa) the third calendar year after the first calendar year in which the Administrator determines by regulation that the total of the annual emissions of sulfur dioxide from all affected units in the covered States is projected to exceed 271,000 tons in calendar year 2018 or any calendar year thereafter; but

''(bb) not earlier than calendar year 2016; or

''(II) if the Administrator does not make the determination described in subclause (I)(aa)—

''(aa) the third calendar year after the first calendar year with respect to which the total of the annual emissions of sulfur dioxide from all affected units in the covered States first exceeds 271,000 tons; but

''(bb) not earlier than calendar year 2021; and

''(ii) each calendar year after the calendar year determined under clause (i).

''(2) MAXIMUM EMISSIONS OF SULFUR DIOXIDE FROM EACH AFFECTED UNIT.—In each covered year, the emissions of sulfur dioxide from each affected unit in a covered State shall not exceed the number of allowances that are allocated under paragraph (3) and held by the affected unit for the covered year.

''(3) ALLOCATION OF ALLOWANCES.—

''(A) IN GENERAL.—Not later than January 1, 2013, the Administrator shall promulgate regulations to establish—

''(i) a methodology for allocating allowances to affected units in covered States under this subsection; and

''(ii) the timing of the allocations.

''(B) NO JUDICIAL REVIEW.—An allocation of allowances by the Administrator under this paragraph shall not be subject to judicial review.''.

(b) DEFINITION OF ALLOWANCE.—Section 402 of the Clean Air Act (relating to acid deposition control) (42 U.S.C. 7651a) is amended by striking paragraph (3) and inserting the following:

''(3) ALLOWANCE.—The term 'allowance' means an authorization, allocated by the Administrator to an affected unit under this title, to emit, during or after a specified calendar year, a quantity of sulfur dioxide determined by the Administrator and specified in the regulations promulgated under section 417(b).''.

(c) TECHNICAL AMENDMENTS.—

(1) Title IV of the Clean Air Act (relating to noise pollution) (42 U.S.C. 7641 et seq.)—

(A) is amended by redesignating sections 401 through 403 as sections 801 through 803, respectively; and

(B) is redesignated as title VIII and moved to appear at the end of that Act.

(2) The table of contents for title IV of the Clean Air Act (relating to acid deposition control) (42 U.S.C. prec. 7651) is amended by adding at the end the following:

''Sec. 417. Revisions to sulfur dioxide allowance program.''.

SEC. 6. RELATIONSHIP TO OTHER LAW.

(a) EXEMPTION FROM HAZARDOUS AIR POLLUTANT REQUIREMENTS RELATING TO MERCURY.—Section 112 of the Clean Air Act (42 U.S.C. 7412) is amended—

(1) in subsection (f), by adding at the end the following:

''(7) MERCURY EMITTED FROM CERTAIN AFFECTED UNITS.—Not later than 8 years after the date of enactment of this paragraph, the Administrator shall carry out the duties of the Administrator under this subsection with respect to mercury emitted from affected units (as defined in section 701).''; and

(2) in subsection (n)(1)(A)—

(A) by striking ''(A) The Administrator'' and inserting the following:

''(A) STUDY, REPORT, AND REGULATIONS.—

''(i) STUDY AND REPORT TO CONGRESS.—The Administrator'';

(B) by striking ''The Administrator'' in the fourth sentence and inserting the following:

''(ii) REGULATIONS.—

''(I) IN GENERAL.—The Administrator''; and

(C) in clause (ii) (as designated by subparagraph (B)), by adding at the end the following:

''(II) EXEMPTION FOR CERTAIN AFFECTED UNITS RELATING TO MERCURY.—An affected unit (as defined in section 701) that would otherwise be subject to mercury emission standards under subclause (I) shall not be subject to mercury emission standards under subclause (I) or subsection (c).''.

(b) TEMPORARY EXEMPTION FROM VISIBILITY PROTECTION REQUIREMENTS.—Section 169A(c) of the Clean Air Act (42 U.S.C. 7491(c)) is amended—

(1) in paragraph (3), by striking ''this subsection'' and inserting ''paragraph (1)''; and

(2) by adding at the end the following:

''(4) TEMPORARY EXEMPTION FOR CERTAIN AFFECTED UNITS.—An affected unit (as defined in section 701) shall not be subject to subsection (b)(2)(A) during the period—

''(A) beginning on the date of enactment of this paragraph; and

''(B) ending on the date that is 20 years after the date of enactment of this paragraph.''.

(c) NO EFFECT ON OTHER FEDERAL AND STATE REQUIREMENTS.—Except as otherwise specifically provided in this Act, nothing in this Act or an amendment made by this Act—

(1) affects any permitting, monitoring, or enforcement obligation of the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.) or any remedy provided under that Act;

(2) affects any requirement applicable to, or liability of, an electric generating facility under that Act;

(3) requires a change in, affects, or limits any State law that regulates electric utility rates or charges, including prudency review under State law; or

(4) precludes a State or political subdivision of a State from adopting and enforcing any requirement for the control or abatement of air pollution, except that a State or political subdivision may not adopt or enforce any emission standard or limitation that is less stringent than the requirements imposed under that Act.

Mr. CHAFEE. Mr. President, I am pleased to join with Senator CARPER today to introduce the Clean Air Planning Act of 2002. Congress needs to advance four pollutant legislation that offers the best chance for broad bipartisan support, and I believe this bill meets that test. The testimony received through hearings in the Environment and Public Works Committee over the past several years has clearly outlined the need for controlling the major emissions from power plants, sulfur dioxide, nitrogen oxide, mercury and carbon dioxide, while at the same time recognizing the added costs of these new controls. We know through experience that we will only be successful at passing legislation if we find middle ground.

The relationship of fossil fuels to global warming is clear and scientifically validated. The release of the ''U.S. Climate Action Report 2002'' by the Administration in May tells us we need to take real actions toward solving the problem. The longer we wait, the harder this problem will be to solve. The Rio Convention is a perfect example of why waiting is not reasonable. In 1992, we agreed to voluntarily reduce harmful emissions to 1990 levels. It didn't happen. Now, in 2002 we are told that reductions to 1990 levels will stall the economy. If we wait much longer before taking any action, imagine how much harder it will be to achieve real reductions without harming the economy.

I am a co-sponsor of Senator JEFFORDS' bill, S. 556, and I voted for it in the Environment and Public Works Committee. However, I believe that Carper-Chafee will ultimately enjoy broader support. Our bill would achieve significant reductions in a more cost effective way than other proposals. For sulfur dioxide, nitrogen oxide, and mercury, we will establish emission caps that are superior to reductions that can be achieved under the existing Clean Air Act. In addition, for the first time, we will ensure that we achieve real reductions of carbon dioxide emissions.

Many predicted that the passage of S. 556 from the Committee would create a stalemate on this important issue. I believe that the Carper-Chafee bill offers a real opportunity to break the stalemate and begin an honest debate that will eventually lead to enactment of strong legislation. I look forward to working with all of my colleagues as we move forward to pass a bill that enjoys the broadest support and adequately addresses the serious health, environmental, and economic issues facing the nation.

By Mr. LEAHY:

S. 3137. A bill to provide remedies for retaliation against whistleblowers making congressional disclosures; to the Committee on Governmental Affairs.

Mr. LEAHY. Mr. President, I rise to introduce the Congressional Oversight Protection Act of 2002. The 107th Congress has truly been the Congress of the whistleblower. From Sherron Watkins who helped expose many of the misdeeds at Enron, to FBI Special Agent Coleen Rowley and others who brought needed public attention to some of the shortcomings of the FBI prior to 9–11, we have been eyewitness to the value of getting the inside story.

The 107th Congress has also been one of rejuvenated bipartisan oversight. On the Judiciary Committee we convened the first series of comprehensive bipartisan FBI oversight hearings in decades after I assumed the Chairmanship. The Joint Intelligence Committee is now conducting bipartisan hearings to ascertain what shortcomings on the part of our intelligence community need to be corrected so as not to allow the 9–11 terrorist attacks to recur. The Senate Banking Committee conducted extensive oversight of the SEC and its relationship with the accounting industry, to ascertain whether a new regulatory scheme was required. Both the Senate and House Judiciary Committees are attempting to ascertain how the new powers we provided in the USA PATRIOT Act are being used. These are only a few examples.

We have all been the beneficiaries of such increased oversight and the courage of the whistleblowers who provided information as part of that effort, because their revelations have led to important reforms. The Enron scandal and the subsequent hearings led to the most extensive corporate reform legislation in decades, including the criminal provisions and the first ever corporate whistleblower protections from S. 2010, the Corporate Fraud and Criminal Accountability Act, that I authored. The testimony of the rank and file FBI agents that we heard on the Judiciary Committee helped us to craft

the bipartisan FBI Reform Act, S. 1974. This legislation, which included enhanced whistleblower protections, was reported unanimously to the full Senate in April but is being blocked by an anonymous Republican hold. The same day as Coleen Rowley's nationally televised testimony before the Judiciary Committee, President Bush not only reversed his previous opposition to establishing a new cabinet level Department of Homeland Security, but gave a national address calling for the largest government reorganization in 50 years. In the last year we have learned once again that the public as a whole benefits from a lone voice in the government.

Unfortunately, the people who very rarely benefit from these revelations are the whistleblowers themselves. We have heard testimony in oversight hearings on the Judiciary Committee that there is quite often retaliation against those who raise public awareness about problems within large organizations even to Congress. Sometimes the retaliation is overt, sometimes it is more subtle and invidious, but it is almost always there. The law needs to protect the people who risk so much to protect us and create a culture that encourages employees to report waste, fraud, and mismanagement.

For those who provide information to Congress, that protection is a hollow promise. On one hand, the law is very clear that it is illegal to interfere with or deny, ''the right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof . . .'' See 18 U.S.C. §7211. Amazingly, however, this simple provision is a right without a remedy. Employees who are retaliated against for providing information to Congress cannot pursue any avenue of redress to protect their statutory rights. The only exception to this applies to employees of publicly traded companies, who are now covered by the whistleblower provision included in the Sarbanes-Oxley Act that we passed this year. Thus, under current law, government whistleblowers reporting to Congress have less protection than private industry whistleblowers.

This bill would merely correct this anomaly by providing government employees that come to Congress with the right to bring an action in court when they suffer the type of retaliation already prohibited under the law. Thus, it does not create new statutory rights, but merely provides a statutory remedy for existing law. That way, we can promise future whistleblowers who come before Congress that their right to access the legislative branch is not an illusion. We can also assure the public at large that our future efforts at Congressional oversight and improving the functions of government will be effective. This legislation is strongly supported by leading whistleblower groups, including the National Whistleblower Center and the Government Accountability Project, and I ask unanimous consent that their letters of support be printed in the RECORD.

For all these reasons, I urge swift passage of this legislation. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 3137

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 ''Congressional Oversight Protection Act of 2002''.

SEC. 2. PROVIDING REMEDIES FOR RETALIATION AGAINST WHISTLEBLOWERS MAKING CONGRESSIONAL DISCLOSURES.

Section 7211 of title 5, United States Code, is amended—

(1) by inserting ''(a)'' before ''The right''; and

(2) by adding at the end the following:

''(b) Any employee aggrieved by the discrimination of an employer in violation of subsection (a) may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over an action under this subsection, without regard to the amount in controversy.

''(c) Any employee prevailing in an action under this section shall be entitled to all relief necessary to make the employee whole, including—

''(1) reinstatement with the same seniority status that the employee would have had but for the discrimination;

''(2) the amount of back pay lost as a result of the discrimination, with interest;

''(3) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees; and

''(4) punitive damages, in appropriate cases.

''(d) Upon the request of the complainant, any action under this section shall be tried by the court with a jury.

''(e) The same legal burdens of proof in proceedings under this section shall apply as apply under sections 1214(b)(4)(B) and 1221(c) in the case of any alleged prohibited personal practice described in section 2302(b)(8).

''(f) For purposes of this section, the term 'employee' means an individual (as defined by section 2105) and any individual or organization performing services under a contract with the Government (including as an employee of an organization).''.

NATIONAL WHISTLEBLOWER CENTER,
Washington, DC, October 16, 2002.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY: I am writing to strongly support your legislation, the Congressional Oversight Protection Act of 2002. The National Whistleblower Center (Center) is the pre-eminent national organization that promotes effective measures to protect whistleblowers who come forward in the public interest at great risk to their careers. In that regard, your introduction of this bill once again demonstrates your leadership in understanding the importance of whistleblowing and its role in our democratic process, and the Center is pleased to support your bill and work hard to achieve its swift passage.

In the wake of the events of 9/11, the stakes have been raised for Congress to perform the most effective oversight of the federal government. To do so, Congress must have unfettered access to information. And that means that citizens in both the public and private sectors must be free to come forward to Congress with proper disclosures without the fear of retaliation. Under current law, citizens have the right to make disclosures to Congress, but there is no remedy for them to protect their rights in the event of retaliation. Your bill would provide such a remedy and, in doing so, would put government whistleblowers on a par with whistleblowers in publicly-held companies who have such protections under the newly-passed Sarbanes-Oxley Act.

This year, the concept and importance of whistleblowing has been etched indelibly on the minds of the public, thanks to congressional investigations into Enron and other companies, thanks to the joint investigation into intelligence lapses in the government, and thanks to extensive media coverage of these matters. The public's appreciation for the necessity of whistleblowers and whistleblower protections creates an atmosphere conducive to passing the Congressional Oversight Protection Act at the earliest possible time. Your leadership in trying to fill an important void in whistleblower law should be commended and hailed by all those who support ''good government.''

Once again, thank you for your continued leadership on this and other whistleblower issues throughout the 107th Congress. Please feel free to call on the Center to work together to pass this bill.

Respectfully,

KRIS J. KOLESNIK,
Executive Director.

GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, October 17, 2002.

Hon. PATRICK LEAHY,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: This letter is to express unqualified appreciation for introduction of the Congressional Oversight Protection Act, providing access to jury trials in court for federal whistleblowers and others who bear witness through disclosures to Congress. This legislation reflects leadership to close an inherent flaw that has prejudiced even the best administrative law remedial systems. Administrative boards do not have the judicial independence or resources for high-stakes, politically sensitive whistleblower disputes with national consequences. Ironically, those type of disputes are the primary, most significant reason for enacting whistleblower protection laws.

The legislation puts teeth into the congressional right to know law, the Lloyd LaFollette Act of 1912. (5 USC 7211) That law's purpose is simple, and fundamental—to protect the free flow of information to Congress. It prohibits discrimination for communicating with Congress. It was passed in response to presidential gag orders that had imposed prior approval before federal employees could communicate with Congress. Flood statements before passage emphasized the free flow of information as the lifeblood for Congress to carry out its mission. The need is even greater when freedom of speech means the freedom to warn Congress of national security breakdowns, before the public suffers the consequences again.

Unfortunately, Congress failed to specifically provide access to court to enforce Lloyd LaFollette rights. As a result, it has been a right without a remedy. That means it is of little more than rhetorical significance, and no benefit to reprisal victims. Since 1912, 54 whistleblowers have tried to assert their rights under this law. Fifty three cases were dismissed for lack of jurisdiction. Consistently the explanation is that

the statute did not provide the court with jurisdiction as authority to act. The bill's purpose is to strengthen Congress' right to know—a prerequisite for informed oversight. The bill's strategy is to provide reinforced protection, beyond normal civil service remedies, for those who choose to communicate through and work with Congress.

There should be no question of the need for reinforced protection of congressional whistleblowers. The system of administrative civil service hearings was never designed for major public policy disputes involving high stakes national consequences and active congressional oversight. The Administrative Judges who hear the cases have no judicial independence and know they will be treated like whistleblowers if they rule for those challenging politically powerful government officials. As a result, those hearing officers treat significant whistleblower cases like poison ivy. Consistently, the administrative process has been a black hole for politically significant disputes, with decisions regularly not being finalized for years, and one case still pending after 11 years. In a significant environmental dispute involving millions of dollars in timber theft, four Forest Service employees are still waiting for their day in court after six years.

After lessons learned from the FBI's Coleen Rowley, it is beyond credible debate that whistleblowers can make a major contribution toward preventing another 9/11. Analogous frustrations of Border Patrol, Customs Service, Department of Energy, Federal Bureau of Investigation, Federal Aviation Administration and the Nuclear Regulatory Commission whistleblowers illustrate an unmistakable pattern of ignoring or silencing patriots on the front lines of homeland security. As our nation's modern Paul Reveres, whistleblowers are invaluable as an early warning signal to prevent avoidable disasters.

It should also be clear, however, that this legislation is a necessity to strengthen homeland security. It will not solve the complex problems of the civil service system. But it will give whistleblowers a credible remedy for the first time in eight years, if they work with Congress. Increasingly whistleblowers have been lionized for their bravery, but that is no substitute for genuine, enforceable rights. Indeed, the praise can ring cynically hollow to those whose careers are in ashes for doing their duty. It is unrealistic to expect whistleblowers to defend the public, if they cannot defend themselves. Profiles in Courage are the exception, not the rule. If successful, your initiative to add rights matching the rhetoric supporting whistleblowers will be a good government breakthrough.

Sincerely,

TOM DEVINE,
Legal Director.

By Mr. DOMENICI:

S. 3138. A bill to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise to introduce a bill that would authorize the Secretary of the Interior to help construct and occupy part of the Hibben Center for Archaeological Research at the University of New Mexico. This bill will help the University of New Mexico finish a state of the art museum facility to store, and display the National Park Service's Chaco Collection.

Let me give you a bit of background. In 1907, Theodore Roosevelt founded the Chaco Canyon Culture National Historical Park in Northwestern New Mexico. The Monument was created to preserve the extensive prehistoric pueblo ruins in Chaco Canyon.

The height of the Chaco culture began in the mid 800's and lasted over 300 years. People built dozens of complex multi-storied masonry buildings containing hundreds of rooms. These complexes were connected to communities by a network of prehistoric roads. I helped to establish the Chaco Culture National Historic Park to preserve these areas.

Since 1907, the University of New Mexico and the National Park Service have been partners in this area. From 1907 to 1949, the University owned the land within the Park boundaries. During this period, Dr. Frank Hibben excavated in Chaco Canyon and remained interested in the area throughout his long career. The University built a large collection of artifacts that it retains today.

In 1949, the University deeded the land to the Federal Government, and since that time, the University and the Park Service have continued a partnership through a series of memoranda of understanding. Since 1985, the NPS Chaco collections have been housed at University of New Mexico's Maxwell Museum of Anthropology. As both the University of New Mexico and the National Park Service collections have begun to grow, a new home for them is needed.

To this end, Dr Hibben began planning a new research and curation facility at the University of New Mexico. He asked the Park Service to partner with him on this project, and today, construction of the Hibben center, a modern, professional facility to house the University of New Mexico's collections as well as the Park Service collections is a reality.

Dr. Hibben recently passed away, and left the University of New Mexico the funds to assist with this project. The partnership between the Park Service and the University will mean that the Hibben center will hold a world-class collection and will facilitate and encourage the study of these important Southwestern collections.

This bill will provide authorization to pay for the Federal share of the improvement costs to the Hibben Center. This bill is long overdue, and will honor both the legacy of Dr. Hibben and the Chaco Culture.

I urge my colleagues to support this important piece of legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3138

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 ''Hibben Center for Archaeological Research Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) when the Chaco Culture National Historical Park was established in 1907 as the Chaco Canyon National Monument, the University of New Mexico owned a significant portion of the land located within the boundaries of the Park;

(2) during the period from the 1920's to 1947, the University of New Mexico conducted archaeological research in the Chaco Culture National Historical Park;

(3) in 1949, the University of New Mexico—

(A) conveyed to the United States all right, title, and interest of the University in and to the land in the Park; and

(B) entered into a memorandum of agreement with the National Park Service establishing a research partnership with the Park;

(4) since 1971, the Chaco Culture National Historical Park, through memoranda of understanding and cooperative agreements with the University of New Mexico, has maintained a research museum collection and archive at the University;

(5) both the Park and the University have large, significant archaeological research collections stored at the University in multiple, inadequate, inaccessible, and cramped repositories; and

(6) insufficient storage at the University makes research on and management, preservation, and conservation of the archaeological research collections difficult.

SEC. 3. DEFINITIONS.

In this Act:

(1) HIBBEN CENTER.—The term ''Hibben Center'' means the Hibben Center for Archaeological Research to be constructed at the University under section 4(a).

(2) PARK.—The term ''Park'' means the Chaco Culture National Historical Park in the State of New Mexico.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) TENANT IMPROVEMENT.—The term ''tenant improvement'' includes—

(A) finishing the interior portion of the Hibben Center leased by the National Park Service under section 4(c)(1); and

(B) installing in that portion of the Hibben Center—

(i) permanent fixtures; and

(ii) portable storage units and other removable objects.

(5) UNIVERSITY.—The term ''University'' means the University of New Mexico.

SEC. 4. HIBBEN CENTER FOR ARCHAEOLOGICAL RESEARCH.

(a) ESTABLISHMENT.—The Secretary may, in cooperation with the University, construct and occupy a portion of the Hibben Center for Archaeological Research at the University.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may provide to the University a grant to pay the Federal share of the construction and related costs for the Hibben Center under paragraph (2).

(2) FEDERAL SHARE.—The Federal share of the construction and related costs for the Hibben Center shall be 37 percent.

(3) LIMITATION.—Amounts provided under paragraph (1) shall not be used to pay any costs to design, construct, and furnish the tenant improvements under subsection (c)(2).

(c) LEASE.—

(1) IN GENERAL.—Before funds made available under section 5 may be expended for

construction costs under subsection (b)(1) or for the costs for tenant improvements under paragraph (2), the University shall offer to enter into a long-term lease with the United States that—

(A) provides to the National Park Service space in the Hibben Center for storage, research, and offices; and

(B) is acceptable to the Secretary.

(2) TENANT IMPROVEMENTS.—The Secretary may design, construct, and furnish tenant improvements for, and pay any moving costs relating to, the portion of the Hibben Center leased to the National Park Service under paragraph (1).

(d) COOPERATIVE AGREEMENTS.—To encourage collaborative management of the Chacoan archaeological objects associated with northwestern New Mexico, the Secretary may enter into cooperative agreements with the University, other units of the National Park System, other Federal agencies, and Indian tribes for—

(1) the curation of and conduct of research on artifacts in the museum collection described in section 2(4); and

(2) the development, use, management, and operation of the portion of the Hibben Center leased to the National Park Service under subsection (c)(1).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated—

(1) to pay the Federal share of the construction costs under section 4(b), $1,574,000; and

(2) to pay the costs of carrying out section 4(c)(2), $2,198,000.

(b) AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.

(c) REVERSION.—If the lease described in section 4(c)(1) is not executed by the date that is 2 years after the date of enactment of this Act, any amounts made available under subsection (a) shall revert to the Treasury of the United States.

By Mr. SESSIONS (for himself, Mr. GRASSLEY, and Mr. LEAHY):

S. 3139. A bill to provide a right to be heard for participants and beneficiaries of an employee pension benefit plan of a debtor in order to protect pensions of those employees and retirees; to the Committee on the Judiciary.

Mr. SESSIONS. Mr. President, I rise today to introduce The Employee Pension Bankruptcy Protection Act of 2002. Today, when a company declares bankruptcy, it is often the employees and retirees who suffer. They suffer because they often loose their hard earned pensions and retirement benefits during the bankruptcy process. This is simply not right. When Americans loose the pensions and benefits that they have worked a lifetime to earn, it is the responsibility of the members of this body to take notice and to act to protect them.

The bill I introduce today does one very simple thing it gives employees and retirees the right to request that they be represented before the bankruptcy court, the same kind of representation that protects the rights of others that are owed money by the corporation. Under this bill, a representative of the employees and retirees can appear and be heard if it is likely that the employee benefit pension plan of the bankrupt corporation will be terminated or substantially underfunded and if it is possible that the beneficiaries of the plan will be adversely affected.

By allowing employees and retirees to be represented before the bankruptcy court, we will ensure that the bankruptcy court hears from the people who entrusted their retirement savings to their employer. Employees and retirees will be able to argue to the court that any division of assets or bankruptcy plan must be fair to the pensioners. The needs of the corporation's employees and retirees should be heard BEFORE the assets of a bankrupt corporation are split up among creditors and lost forever. They deserve to have their day in court.

It has only recently been brought to my attention that under current law, employees and retirees are not represented before the bankruptcy court as creditors. Legally, the pension fund is the ''creditor'' of the corporation, not the employees and retirees. Thus, the pension interests of employees and retirees are represented in the bankruptcy process by a trustee of the pension, if one exists, or by the PBGC, if it takes over the pension fund.

Because PBGC, under its governing statutes, can not guarantee the full benefits of the pension plan, but can only guarantee the statutory amount, significant portions of hard earned pensions can remain unpaid when a company goes bankrupt. While the PBGC is often able to pay most of the pension benefits when a company goes bankrupt, in certain cases the statutory limit can be much lower than the pension payment the employee or retiree was promised by the corporation. Employees and retirees deserve more than this. They deserve the additional representation before the bankruptcy court that this bill provides if their hard earned pensions and retiree benefits are to be adequately protected.

I would like to thank Mr. John Nichols of Gadsden, AL, and his son, Phil for bringing this to my attention. The ordeal faced by Mr. Nichols, is a prime example of why employees and retirees need more representation before the bankruptcy court. Mr. Nichols spent his entire career at a steel plant in Gadsden. He began working for Republic Steel in 1956 and stayed with the company through two ownership changes and a buyout by LTV Steel.

When LTV bought out Mr. Nichols employers, LTV Steel took over the monthly pension payments guaranteed to the former employees and retirees of Republic Steel, including Mr. Nichols. Soon after the takeover, however, LTV filed for bankruptcy, claiming that it could no longer make pension payments to Republic Steel's former employees. PBGC, the Pension Benefit Guarantee Corporation stepped in to help LTV make a small part of the pension payments, but LTV eventually stopped making payments at all.

Because all the payments LTV had been making were not guaranteed by the PBGC, the long awaited pension payments earned by Mr. Nichols and by Republic Steel's other loyal employees were severely reduced. Mr. Nichols' pension payments went from $2,225.00 to $675.00—only 30 percent of what he had been promised. A third of this payment now covers Mr. Nichols' health insurance premium that he can no longer purchase through LTV, leaving him with only 20 percent of his promised pension each month. PBGC could only pay the retirees the amount their statute allowed, and no one had the responsibility of going to the bankruptcy court and telling them what was happening to the retirees of Republic Steel. PBGC itself recognized that the claims of the pensioners against LTV, ''are among the many claims that will probably never be paid, except perhaps in cents on the dollar'' and stated that PBGC's claim against LTV for the pension plan underfunding was perhaps ''[t]he largest of these claims [that will go unpaid].''

During LTV's bankruptcy case, various creditors were represented before the bankruptcy court, but not the employees and retirees. Thus, when the assets of LTV were divided among its creditors, employees and the retirees were not at the table. If the employees and retirees had had an opportunity to make their case before the bankruptcy judge, the result could have been different.

The Employee Pension Bankruptcy Protection Act of 2002 seeks to make sure that what happened to the retirees of Republic Steel will never happen again, employees and retirees will never be deprived of their pensions without having their day in court. While a company may still be able to discharge its obligation to pay pensioners in bankruptcy, this bill at least takes the first modest step to protect pensioners by providing them the opportunity to be part of the bankruptcy bargaining process. Before the bankruptcy court sells assets or adopts a plan of reorganization, the employees and retirees will be heard. After all, it is their money. This is only fair.

I strongly urge my colleagues in the Senate to support this bill and to work with me to further ensure that employees and retirees of corporations are fairly treated and protected under the United States Bankruptcy Code.

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. 3139

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 ''Employee Pension Bankruptcy Protection Act of 2002''.

SEC. 2. PURPOSE AND INTENT.

The purpose and intent of this Act is to provide employees and retirees with a greater likelihood of having outstanding pension

liabilities paid by a corporation that files for bankruptcy by allowing the employees and retirees of that corporation the right to be heard before the bankruptcy court.

SEC. 3. RIGHT TO BE HEARD.

Section 1109 of title 11, United States Code, is amended by adding at the end the following:

''(c) In a case in which the debtor is the sponsor of an employee pension benefit plan pursuant to section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)), and such plan is likely to be terminated pursuant to title IV of that Act or substantially underfunded by the debtor resulting in a hardship to the participants or beneficiaries, a representative of the participants (as defined in section 3(7) of that Act) and beneficiaries (as defined in section 3(8) of that Act) who are entitled to benefits under such plan and who may be adversely affected by events in the case, may appear and be heard with respect to a sale of all or substantially all of the assets of the debtor or with respect to a plan of reorganization, provided that such participants and beneficiaries may employ counsel and other professionals who shall be compensated from the estate of the debtor.''.

By Mr. DODD (for himself and Ms. COLLINS):

S. 3140. A bill to assist law enforcement in their efforts to recover missing children and to clarify the standards for State sex offender registration programs; to the Committee on the Judiciary.

Mr. DODD. Mr. President, I am pleased to join with my colleague from Maine, Senator COLLINS to introduce the Prevention and Recovery of Missing Children Act of 2002, to improve the recovery of missing children and the tracking of convicted sexual offenders and child predators.

Sexual offenders pose an enormous challenge for policy makers. They create unparalleled fear among citizens, and most of their victims are children and youth. Two-thirds of imprisoned sex offenders report that their victims were under age 18, and nearly half report that their victims are ages 12 and younger.

Last year, several newspapers across the country, including the Hartford Courant, highlighted the inadequacy of reporting information in missing child cases and the lack of tracking of convicted sex offenders and known child predators. One tragic example reported a convicted sex offender who moved from Massachusetts to Montana, where police were never contacted about his history. He brutally murdered several Montana children before he was apprehended, and was later linked to 54 cases of child abduction and molestation in several States. In many cases, convicted sex offenders and child predators slip through law enforcement loopholes and continue to prey on children.

Over the last decade, Congress enacted several laws designed to improve the tracking of convicted sex offenders and improve the recovery of missing children, including The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act of 1994; Megan's Law of 1996; and The Pam Lyncher Sex Offender Tracking and Identification Act of 1996. Collectively, these acts established minimum standards for State sex offender registration programs and created systems to track convicted sex offenders.

While these current Federal laws address the main features of an effective registry system, the discretion over registry details and procedures is left up to the States. This has led to a lack of consistency and wide disparities between States. For example, State requirements for sex offender notification of registration changes range from 1 day to 40 days, and State requirements for a sex offender to register an address after moving to a new State range from 48 hours to 70 days.

In addition, many States place the burden to notify changes in registry information solely on the sex offender. We need to tighten registry systems so that law enforcement in all States is better equipped to track sexual offenders. This bill strengthens the registry foundation for all States built upon the practices already in place in some States. It builds on successful practices to better protect our communities nationwide.

The tracking of released sex offenders is critical to protecting our children. Most sex offenders are not in prison, about 60 percent of convicted sex offenders are under conditional supervision in the community, and those who are in prison often serve limited sentences. This is of great concern because sex offenders, particularly if untreated, are at risk of re-offending.

This bill makes several important changes to improve the tracking of sex offenders and the recovery of missing children. The bill: amends the definition of ''minimally sufficient program'' to include: the registration of all convicted sex offenders prior to release; the collection of information to assist in tracking individuals, including a DNA sample, current photograph, driver's license and vehicle information; and verification of address and employment information for all offenders every 90 days; amends penalties for non-compliance with registry requirements. It provides that State programs must designate non-compliance as a felony and permits the issuance of a warrant. This provision is intended to encourage compliance by offenders as well as provide a tool for prosecutors; improves the chances for recovering missing children and aides law enforcement in solving cases by preventing the removal of missing children from the National Crime Information Center (NCIC) database and making sure that convicted sex offenders do not become exempt from the lifetime registration requirement; improves the chances for recovery of missing children by requiring entry of child information into the NCIC database within 2 hours.

We must make the tracking of convicted sex offenders and the post-release supervision of child sexual predators a higher priority. It is not enough to ensure that an offender completes his sentence.

Since most sexual offenders are in the community, we must ensure that there is continuing contact and supervision of released sexual offenders. We have an obligation to protect our children from sexual offenders and sexual predators who prey on our children.

I urge my colleagues to join us in supporting this legislation.

By Mr. DODD (for himself, Mr. KENNEDY, Mrs. MURRAY, Mrs. BOXER, Mr. INOUYE, Mr. AKAKA, and Mr. CORZINE):

S. 3141. A bill to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD: Mr. President, I am pleased to join with my colleagues Senator KENNEDY, Senator MURRAY, Senator BOXER, Senator INOUYE, Senator AKAKA, and Senator CORZINE to introduce the ''Family and Medical Leave Expansion Act.'' Since enactment in 1993, more than 35 million Americans have taken leave under the Family and Medical Leave Act.

Despite the many Americans the Family and Medical Leave Act has helped, too many continue to be left behind. Too many continue to have to choose between job and family. The facts are clear: millions of Americans remain uncovered by the Family and Medical Leave Act. And, too many who are eligible for the Family and Medical Leave Act cannot afford to take unpaid leave from work. The ''Family and Medical Leave Expansion Act'' addresses both these problems.

The ''Family and Medical Leave Expansion Act'' would expand the scope and coverage of FMLA. It would fund pilot programs at the state level to offer partial or full wage replacement programs to ensure that employees do not have to choose between job and family.

Times have changed over the years. More and more mothers are working. While only 27 percent of mothers with infants were in the labor force in 1960, by 1999 that percentage rose to nearly 60 percent. Even as employment rates within this group rises, family responsibilities remain constant, a reality that lies at the core of the FMLA. According to an employee survey by the Department of Labor, about one fifth of US workers have a need for some form of leave covered under the FMLA, and about 40 percent of all employees think they will need FMLA-covered leave within the next five years.

According to a Department of Labor study in 2000, leave to care for one's own health or for the health of a seriously ill child, spouse or parent, together account for almost 80 percent of all FMLA leave. Approximately 52 percent of the leave taken is due to employees' own serious health problems, while 26 percent of the leave is taken

by young parents caring for their children at birth or adoption.

The FMLA requires that all public sector employers and private employers of 50 or more employees provide up to twelve weeks of unpaid leave for medical and family care reasons for eligible employees. About 77 percent of employees, in the private and public sector, currently work in FMLA-covered sites, although only 62 percent of employees are actually eligible for leave.

However, only 11 percent of private sector work sites are covered under FMLA. Individuals working for small private employers deserve the same work protections afforded to other employees. As a step toward expanding protection to all hard-working Americans, this bill would extend FMLA coverage to all private sector worksites with 25 or more employees within a 75-mile radius.

Mothers and fathers, sons and daughters have the same family responsibilities and personal health problems, regardless of whether they work for the government, a large private enterprise, or a small private business. Expanding the FMLA to businesses with 25 or more employees is a crucial acknowledgment of this reality.

The bill recognizes the enormous physical and emotional toll domestic violence takes on victims. The bill expands the scope of FMLA to include leave for individuals to care for themselves or to care for a daughter, son, or parent suffering from domestic violence.

Expanding the scope and coverage of FMLA is a positive step for many Americans. But, alone, it is not enough. According to a Department of Labor study, 3.5 million covered Americans needed leave but, without wage replacement, could not afford to take leave. Over four-fifths of those who needed leave but did not take it said they could not afford unpaid leave. Others cut their leave short, with the average duration of FMLA leave being 10 days. Of those individuals taking leave under the Family and Medical Leave Act, nearly three-quarters had incomes above $30,000.

While the financial sacrifice is often enormous, the need for leave can be even more so. Every year, many Americans bite the bullet and accept unpaid leave. As a result, nine percent of leave takers go on public assistance to cover their lost wages. Almost twelve percent of female leave takers use public assistance for this reason. These individuals are far from unwilling to work. Instead, they are trying to balance work with family, often during a crisis, too often with inadequate means to get by.

Other major industrialized nations have implemented policies far more family-friendly to promote early childhood development and family caregiving. At least 128 countries provide paid and job-protected maternity leave, with sixteen weeks the average basic paid leave. In 1992, before we enacted the Family and Medical Leave Act, the European Union mandated a paid fourteen week maternity leave as a health and safety measure. Among the 29 Organization for Economic Cooperation and Development, OECD, countries, the average childbirth-related leave is 44 weeks, while the average duration of paid leave is 36 weeks.

Compared to these other developed nations, the United States is far behind in efforts to promote worker welfare and productivity. The ''Family and Medical Leave Expansion Act'' builds on current law to provide pilot programs for states and the federal government to provide for partial or full wage replacement for 6 weeks. At a minimum, this will ensure that parents can continue to make ends meet while taking family and medical leave.

No one should have to choose between work and family. Women and men deserve to take leave when family or health conditions require it without fear of losing their job or livelihood. We must not simply pay lip service to family integrity and the promotion of a healthy workplace. Instead, we must actively work to reduce workplace barriers. I urge my colleagues to support the ''Family and Medical Leave Expansion Act'' to promote our national values and ensure the welfare and health of hard-working Americans.

By Mrs. LINCOLN:

S. 3144. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I am pleased to introduce legislation that codifies the exclusion of irrevocable funeral trusts from Supplemental Security Income, SSI, resource calculations.

Irrevocable funeral trusts are funds set aside for funeral and burial expenses. These funds cannot be accessed until after the owner's death. Until recently, these trusts were not included in SSI resource calculations, but an administrative misinterpretation in 2001 dropped this important exclusion.

This misinterpretation has since been corrected, but it had serious repercussions for many senior citizens while it was in effect. When irrevocable funeral and burial trusts were included in SSI calculations, it penalized those SSI applicants who chose to save for their funeral by inflating their actual individual wealth, even though the trusts could not be accessed. The end result was that many senior citizens' SSI applications were rejected. Because the SSI definition of resources and exclusions is used for Medicaid eligibility determinations, the inclusion also affected Medicaid applicants.

I am introducing this bill to codify the exclusion to give senior citizens certainty that future administrations will not be able to misinterpret Congressional intent.

In the past, Congress has recognized the value of funeral planning as good social policy. We have encouraged consumers to engage in ''pre-need'' funeral planning in a number of ways.

This legislation will encourage people to engage in pre-need planning. It will codify the existing practice of excluding irrevocable funeral trusts from SSI calculations and ensure that future misinterpretations are avoided. We must ensure that people are not penalized for providing for their own funerals. I encourage my colleagues to give this legislation serious consideration.

By Mr. DODD (for himself, Mr. EDWARDS, and Mr. DEWINE):

S. 3145. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to introduce, along with Senators EDWARDS and DEWINE, the Youth Service Scholarship Act. This Act would authorize the Secretary of Education to award college scholarships of up to $5,000 to students who perform at least 300 hours of community service in each of two years of high school and continuing scholarships to students who continue their service in college.

I believe that education is the hub of the wheel of our democracy. There is no better way to address any and all of the challenges we face as a nation than by providing all of our children with the education they need and deserve. In the 21st Century, higher education is not a luxury, it is a necessity, and this Act would extend access to higher education to more low-income students who otherwise might have difficulty attending college.

Naturally, education means reading and math and history and science, but it also means learning to be a citizen. It's not easy to be a good citizen, and this Act will encourage our young people to engage in community service and reward them for that, and in so doing, will help ensure that our next generation of leaders understands that being an American is not just a privilege, but a responsibility.

We know that students who participate in community service and youth development are less likely to use drugs and alcohol and to misbehave in school, and are more likely to receive good grades and be interested in going to college. We also know that Federal resources can be an effective incentive to leverage broader community support.

So, I urge my colleagues to join me, and Senators EDWARDS and DEWINE, in supporting the Youth Service Scholarship Act so that we can achieve more of those and other positive outcomes.

By Mr. LEAHY (for himself and Mrs. CARNAHAN):

S. 3146. A bill to reauthorize funding for the National Center for Missing and Exploited Children, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today to introduce the ''Protecting Our Children Comes First Act of 2002,'' which will double funding for the National Center for Missing and Exploited Children, NCMEC, reauthorize the Center through fiscal year 2006, and increase Federal support to help NCMEC programs to find missing children across the Nation. I am pleased that Senator CARNAHAN joins me as the original cosponsor of this legislation.

It is painful to see on TV or in the newspapers photo after photo of missing children from every corner of the Nation. As a father and grandfather, I know that an abducted child is the worst nightmare. Unfortunately, it is a nightmare that happens all too often. Indeed, the Justice Department estimates that 2,200 children are reported missing each day of the year. There are approximately 114,600 attempted stranger abductions every year, with 3,000–5,000 of those attempts succeeding. These families deserve the assistance of the American people and helping hand of the Congress.

As the Nation's top resource center for child protection, the National Center for Missing & Exploited Children spearheads national efforts to locate and recover missing children and raises public awareness about ways to prevent child abduction, molestation, and sexual exploitation.

As a national voice and advocate for those too young to vote or speak up for their own rights, the NCMEC works to make our children safer. The Center operates under a Congressional mandate and works in cooperation with the U.S. Department of Justice's, DOJ, Office of Juvenile Justice and Delinquency Prevention in coordinating the efforts of law enforcement officers, social service agencies, elected officials, judges, prosecutors, educators, and the public and private sectors to break the cycle of violence that historically has perpetuated these needless crimes against children.

NCMEC professionals have disturbingly busy jobs, they have worked on more than 90,000 cases of missing and exploited children since its 1984 founding, helping to recover more than 66,000 children, and raised its recovery rate from 60 percent in the 1980s to 94 percent today. The Center has set up a nationwide, toll free, 24-hour telephone hotline to take reports about missing children and clues that might lead to their recovery, a National Child Pornography Tipline to handle calls from individuals reporting the sexual exploitation of children through the production and distribution of pornography, and a CyberTipline to process online leads from individuals reporting the sexual exploitation of children. It has taken the lead in circulating millions of photographs of missing children, and serves as a vital resource for the 17,000 law enforcement agencies located throughout the U.S. in the search for missing children and the quest for child protection.

Today, NCMEC is truly a national organization, having established its headquarters in Alexandria, VA; and operating branch offices in five other locations throughout the country to provide hands-on assistance to families of missing children, advocating legislative changes to better protect children, conducting an array of prevention and awareness programs, and motivating individuals to become personally involved in child-protection issues. It has also grown into an international organization, establishing the International Division of the National Center for Missing and Exploited Children, which has been working to fulfill the Hague Convention on the Civil Aspects of International Child Abduction. The International Division provides assistance to parents, law enforcement, attorneys, nonprofit organizations, and other concerned individuals who are seeking assistance in preventing or resolving international child abductions.

NCMEC manages to do all of this good work with only a $10 million annual DOJ grant, which will expire after fiscal year 2003. We should act now both to extend its authorization and increase the Center' s funding to $20 million each year through fiscal year 2006 so that it can continue to help keep children safe and families intact around the nation. There is so much more to be done to ensure the safety of our children, and the legislation we introduce today will help the Center in its efforts to prevent crimes that are committed against them.

The ''Protecting Our Children Comes First Act'' also increases Federal support of NCMEC programs to find missing children by allowing the U.S. Secret Service to provide forensic and investigative support to the NCMEC.

The bill also amends of the Missing Children's Assistance Act to coordinate the operation of the Center's CyberTipline to provide all online users an effective means of reporting Internet-related child sexual exploitation, such as child pornography, child enticement, and child prostitution. Since its creation in 1998, the NCMEC CyberTipline has fielded almost 100,000 reports, which has allowed Internet users to quickly and easily report suspicious activities linked to the Internet.

Our legislation gives Federal authorities the authority to share the facts or circumstances of sexual exploitation crimes against children with state authorities without a court order. The bill also gives the NCMEC the power to make reports directly to state and local law enforcement officials instead of only through the FBI and other agencies. Finally, it provides that reports to NCMEC by Internet Service Providers may include additional information, such as the identity of a subscriber who sent a message containing child pornography, in addition to the required reporting of the contents of such a communication.

I applaud the ongoing work of the Center and hope both the Senate and the House of Representatives will promptly pass this bill to provide more Federal support for the NCMEC to continue to find missing children and protect exploited children across the country.

By Mr. DEWINE (for himself, Mr. LEAHY, Mr. GRASSLEY, Ms. CANTWELL, Mr. BROWNBACK, and Mr. DOMENICI):

S. 3147. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with Senators LEAHY, GRASSLEY, CANTWELL, DOMENICI, and BROWNBACK, to introduce the ''Mentally Ill Offender Treatment and Crime Reduction Act.'' This bipartisan measure would, among other things, create a program of planning and implementation grants for communities so they may offer more treatment and other services to mentally ill offenders. Under this bill, programs receiving grant funds would be operated collaboratively by both a criminal justice agency and a mental health agency.

The mentally ill population poses a particularly difficult challenge for our criminal justice system. People afflicted with mental illness are incarcerated at significantly higher rates than the general population. According to the Bureau of Justice Statistics, while only about five percent of the American population has a mental illness, about 16 percent of the State prison population has such an illness. The Los Angeles County Jail, for example, typically has more mentally ill inmates than any hospital in the country.

Unfortunately, however, the reality of our criminal justice system is that jails and prisons do not provide a therapeutic environment for the mentally ill and are unlikely to do so any time soon. Indeed, the mentally ill inmate often is preyed upon by other inmates or becomes even sicker in jail. Once released from jail or prison, many mentally ill people end up on the streets. With limited personal resources and little or no ability to handle their illness alone, they often commit further offenses resulting in their re-arrest and re-incarceration. This ''revolving door'' is costly and disruptive for all involved.

Although these problems tend to manifest themselves primarily within the prison system, the root cause of our current situation is found in the mental health system and its failure to provide sufficient community-based treatment solutions. Accordingly, the solution will necessarily involve collaboration between the mental health

system and criminal justice system. In fact, it also will require greater collaboration between the substance abuse treatment and mental health treatment communities, because many mentally ill offenders have a drug or alcohol problem in addition to their mental illness.

The purpose of the ''Mentally Ill Offender Treatment and Crime Reduction Act'' is to foster exactly this type of collaboration at the federal, state, and local levels. The bill provides incentives for the criminal justice, juvenile justice, mental health, and substance abuse treatment systems to work together at each level of government to establish a network of services for offenders with mental illness. The bill's approach is unique, in that it not only would promote public safety by helping curb the incidence of repeat offenders, but it also would promote public health, by ensuring that those with a serious mental illness are treated as soon as possible and as efficiently and effectively as possible.

Among its major provisions, this legislation calls for the establishment of a new competitive grant program, which would be housed at the U.S. Department of Justice, but administered by the Attorney General with the active involvement of the Secretary of Health and Human Services. To ensure that collaboration occurs at the local level, the bill requires that two entities jointly submit a single grant application on behalf of a community.

Applications demonstrating the greatest commitment to collaboration would receive priority for grant funds. If applicants can show that grant funds would be used to promote public health, as well as public safety, and if the program they propose would have the active participation of each joint applicant, and if their grant application has the support of both the Attorney General and the Secretary of Health and Human Services, then it would receive priority for funding.

The bill permits grant funds to be used for a variety of purposes, each of which embodies the goal of collaboration. First, grant funds may be used to provide courts with more options, such as specialized dockets, for dealing with the non-violent offender who has a serious mental illness or a co-occurring mental illness and drug or alcohol problem. Second, grant funds could be used to enhance training of mental health and criminal justice system personnel, who must know how to deal appropriately with the mentally ill offender. Third, grant funds could be devoted to programs that divert non-violent offenders with severe and persistent mental illness from the criminal justice system into treatment. Finally, correctional facilities may use grant funds to promote the treatment of inmates and ease their transition back into the community upon release from jail or prison.

In specifically authorizing grant funds to be used to promote more options for courts to deal with mentally ill offenders, this bill builds on legislation that I introduced with Congressman Ted Strickland two years ago. That measure, which became law, authorized $10 million per year for the establishment of more mental health courts. I have long supported mental health courts, which enable the criminal justice system to provide an individualized treatment solution for a mentally ill offender, while also requiring accountability of the offender. The legislation we are introducing today would make possible the creation or expansion of more mental health courts, and it also would promote the funding of treatment services that support such courts.

In addition to making planning and implementation grants available to communities, the ''Mentally Ill Offender Treatment and Crime Reduction Act'' also calls for an Interagency Task Force to be established at the federal level. This Task Force would include the Attorney General and the Secretary of Health and Human Services, as well as the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Education, the Secretary of Veterans Affairs, and the Commissioner of Social Security. The Task Force would be charged with identifying new ways that federal departments can work together to reduce recidivism among mentally ill adults and juveniles.

Finally, the bill directs the Attorney General and Secretary of Health and Human Services to develop a list of ''best practices'' for criminal justice personnel to use when diverting mentally ill offenders from the criminal justice system.

This is a good bill and one that is long overdue. I encourage my colleagues to support this important measure. 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. 3147

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 ''Mentally Ill Offender Treatment and Crime Reduction Act of 2002''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in United States jails and prisons have a mental illness.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, over 20 percent of youth in the juvenile justice system have serious mental health problems, and many more have co-occurring mental health and substance abuse disorders.

(3) According to the National Alliance for the Mentally Ill, up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives.

(4) According to the Office of Juvenile Justice and Delinquency Prevention, over 150,000 juveniles who come into contact with the juvenile justice system each year meet the diagnostic criteria for at least 1 mental or emotional disorder.

(5) A significant proportion of adults with a serious mental illness who are involved with the criminal justice system are homeless or at imminent risk of homelessness; and many of these individuals are arrested and jailed for minor, nonviolent offenses.

(6) The majority of individuals with a mental illness or emotional disorder who are involved in the criminal or juvenile justice systems are responsive to medical and psychological interventions that integrate treatment, rehabilitation, and support services.

(7) According to the Bureau of Justice Statistics, as of July 1999, 75 percent of mentally ill inmates had previously been sentenced at least once to time in prison or jail or probation.

(8) Collaborative programs between mental health, substance abuse, and criminal or juvenile justice systems that ensure the provision of services for those with mental illness or co-occurring mental illness and substance abuse disorders can reduce the number of such individuals in adult and juvenile corrections facilities, while providing improved public safety.

SEC. 3. PURPOSE.

The purpose of this Act is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems. Such collaboration is needed to—

(1) reduce rearrests among adult and juvenile offenders with mental illness, or co-occurring mental illness and substance abuse disorders;

(2) provide courts, including existing and new mental health courts, with appropriate mental health and substance abuse treatment options;

(3) maximize the use of alternatives to prosecution through diversion in appropriate cases involving non-violent offenders with mental illness;

(4) promote adequate training for criminal justice system personnel about mental illness and substance abuse disorders and the appropriate response to people with such illnesses;

(5) promote adequate training for mental health treatment personnel about criminal offenders with mental illness and the appropriate response to such offenders in the criminal justice system; and

(6) promote communication between criminal justice or juvenile justice personnel, mental health treatment personnel, nonviolent offenders with mental illness, and other support services such as housing, job placement, community, and faith-based organizations.

SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND CRIMINAL JUSTICE COLLABORATION PROGRAM.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

"SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) APPLICANT.—The term 'applicant' means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.

''(2) COLLABORATION PROGRAM.—The term 'collaboration program' means a program to

promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—

''(A) a criminal justice agency, a juvenile justice agency, or a mental health court; and

''(B) a mental health agency.

''(3) CRIMINAL OR JUVENILE JUSTICE AGENCY.—The term 'criminal or juvenile justice agency' means an agency of a State or local government that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

''(4) DIVERSION.—The term 'diversion' means the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for adult offenders with severe and persistent mental illness or juvenile offenders with serious mental or emotional disorders.

''(5) MENTAL HEALTH AGENCY.—The term 'mental health agency' means an agency of a State or local government that is responsible for mental health services.

''(6) MENTAL HEALTH COURT.—The term 'mental health court' means a judicial program that meets the requirements of part V of this title.

''(7) MENTAL ILLNESS.—The term 'mental illness' means a diagnosable mental, behavioral, or emotional disorder—

''(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

''(B) that has resulted in the substantial impairment of thought processes, sensory input, mood balance, memory, or ability to reason and substantially interferes with or limits 1 or more major life activities.

''(8) PRELIMINARILY QUALIFIED OFFENDER.—The term 'preliminarily qualified offender' means an adult or juvenile who—

''(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or

''(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and

''(B) has faced or is facing criminal charges and is deemed eligible by a designated pretrial screening and diversion process, or by a magistrate or judge.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of the Department of Health and Human Services.

''(10) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.

''(b) PLANNING AND IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, may award nonrenewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders in order to promote public safety and public health.

''(2) PURPOSES.—Grants awarded under this section shall be used to create or expand—

''(A) mental health courts;

''(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel in procedures for identifying the symptoms of mental illness and co-occurring mental illness and substance abuse disorders in order to respond appropriately to individuals with such illnesses; and

''(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—

''(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders;

''(ii) juveniles and adults with mental illness for whom diversion is appropriate; or

''(iii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice agency, or following release from correctional facilities.

''(3) APPLICATIONS.—

''(A) IN GENERAL.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.

''(B) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—The Attorney General shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

''(4) PLANNING GRANTS.—

''(A) APPLICATION.—The joint applicants may apply to the Attorney General for a nonrenewable planning grant to develop a collaboration program.

''(B) CONTENTS.—The Attorney General may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.

''(C) PERIOD OF GRANT.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.

''(D) AMOUNT.—The amount of a planning grant may not exceed $75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

''(5) IMPLEMENTATION GRANTS.—

''(A) APPLICATION.—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a nonrenewable implementation grant to develop a collaboration program.

''(B) COLLABORATION.—To receive an implementation grant, the joint applicants shall—

''(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;

''(ii) describe the responsibilities of each participating agency, including how each agency will use grant resources to jointly ensure that the provision of mental health treatment services is integrated with the provision of substance abuse treatment services, where appropriate;

''(iii) in the case of an application from a unit of local government, document that a State mental health authority has provided comment and review; and

''(iv) involve, to the extent practicable, in developing the grant application—

''(I) individuals with mental illness or co-occurring mental illness and substance abuse disorders; or

''(II) the families or advocates of such individuals under subclause (I).

''(C) CONTENT.—To be eligible for an implementation grant, joint applicants shall comply with the following:

''(i) DEFINITION OF TARGET POPULATION.—Applicants for an implementation grant shall—

''(I) describe the population with mental illness or co-occurring mental illness and substance abuse disorders that is targeted for the collaboration program; and

''(II) develop guidelines that can be used by personnel of a criminal or juvenile justice agency to identify individuals with mental illness or co-occurring mental illness and substance abuse disorders.

''(ii) SERVICES.—Applicants for an implementation grant shall—

''(I) ensure that offenders with mental illness who are to receive services under the collaboration program will first receive individualized, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;

''(II) specify plans for making mental health treatment services available and accessible to mentally ill offenders at the time of their release from the criminal justice system, including outside of normal business hours;

''(III) ensure that mentally ill offenders served by the collaboration program will have access to community-based mental health services, such as crisis intervention, case management, assertive community treatment, medications, medication management, psychiatric rehabilitation, peer support, or, where appropriate, integrated substance abuse treatment services;

''(IV) make available, to the extent practicable, individualized mental health treatment services, other support services (such as housing, education, job placement, mentoring, or health care), benefits (such as disability income, disability insurance, and medicaid, where appropriate), and the services of faith-based and community organizations for mentally ill individuals served by the collaboration program; and

''(V) include strategies to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse, if the population targeted for the collaboration program includes juveniles with mental illness.

''(D) HOUSING AND JOB PLACEMENT.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.

''(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.

''(F) FINANCIAL.—Applicants for an implementation grant shall—

''(i) explain the applicant's inability to fund the collaboration program adequately without Federal assistance;

''(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing

third-party resources for services already covered under programs (such as medicaid, medicare, and the State Children's Insurance Program); and

''(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.

''(G) OUTCOMES.—Applicants for an implementation grant shall—

''(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;

''(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and

''(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).

''(H) STATE PLANS.—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates to existing State criminal or juvenile justice and mental health plans and programs.

''(I) USE OF FUNDS.—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:

''(i) MENTAL HEALTH COURTS AND DIVERSION.—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title or diversion programs (including crisis intervention teams and treatment accountability services for communities) that meet requirements established by the Attorney General and the Secretary.

''(ii) TRAINING.—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—

''(I) criminal justice system personnel to identify and respond appropriately to the unique needs of an adult or juvenile with mental illness or co-occurring mental illness and substance abuse disorders; or

''(II) mental health system personnel to respond appropriately to the treatment needs of criminal offenders with mental illness or co-occurring mental illness and substance abuse disorders.

''(iii) SERVICE DELIVERY.—Funds may be used to create or expand local treatment programs that promote public safety by serving individuals with mental illness or co-occurring mental illness and substance abuse disorders.

''(iv) IN-JAIL AND TRANSITIONAL SERVICES.—Funds may be used to promote and provide mental health treatment for those incarcerated or for transitional re-entry programs for those released from any penal or correctional institution.

''(J) GEOGRAPHIC DISTRIBUTION.—The Attorney General, in consultation with the Secretary, shall ensure that implementation grants are equitably distributed among the geographical regions of the United States and between urban and rural populations.

''(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

''(1) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

''(2) demonstrate the active participation of each co-applicant in the administration of the collaboration program; and

''(3) have the support of both the Attorney General and the Secretary.

''(d) MATCHING REQUIREMENTS.—

''(1) FEDERAL SHARE.—The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—

''(A) 80 percent of the total cost of the program during the first 2 years of the grant;

''(B) 60 percent of the total cost of the program in year 3; and

''(C) 25 percent of the total cost of the program in years 4 and 5.

''(2) NON-FEDERAL SHARE.—The non-Federal share of payments made under this section may be made in cash or in-kind fairly evaluated, including planned equipment or services.

''(e) FEDERAL USE OF FUNDS.—The Attorney General, in consultation with the Secretary, in administering grants under this section, may use up to 3 percent of funds appropriated to—

''(1) research the use of alternatives to prosecution through pretrial diversion in appropriate cases involving individuals with mental illness;

''(2) offer specialized training to personnel of criminal and juvenile justice agencies in appropriate diversion techniques;

''(3) provide technical assistance to local governments, mental health courts, and diversion programs, including technical assistance relating to program evaluation;

''(4) help localities build public understanding and support for community reintegration of individuals with mental illness;

''(5) develop a uniform program evaluation process; and

''(6) conduct a national evaluation of the collaboration program that will include an assessment of its cost-effectiveness.

''(f) INTERAGENCY TASK FORCE.—

''(1) IN GENERAL.—The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.

''(2) RESPONSIBILITIES.—The task force established under paragraph (1) shall—

''(A) identify policies within their departments which hinder or facilitate local collaborative initiatives for adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders; and

''(B) submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to adults and juveniles with mental illness or co-occurring mental illness and substance abuse disorders.

''(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for planning or implementation grants pursuant to this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—

''(1) $100,000,000 for each of fiscal years 2003 and 2004; and

''(2) such sums as may be necessary for fiscal years 2005 through 2007.''.

(b) LIST OF ''BEST PRACTICES''.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall develop a list of ''best practices'' for appropriate diversion from incarceration of adult and juvenile offenders.

(c) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

''PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

''Sec. 2991. Adult and juvenile collaboration programs.''.

Mr. LEAHY. Mr. President, I have joined today with Senators DEWINE, CANTWELL, BROWNBACK, and GRASSLEY to introduce legislation that will help State and local governments reduce crime by providing more effective treatment for the mentally ill. All too often, people with mental illness rotate repeatedly between the criminal justice system and the streets of our communities, committing a series of minor offenses. Their crimes occupy the ever scarcer time of law enforcement officers, diverting them from their more urgent responsibilities, and leave the offenders themselves in prisons or jails where little or no medical care is available for them. With this legislation, we are trying to give State and local governments the tools they need to break this cycle, for the good of law enforcement, corrections officers, our public safety, and mentally ill offenders.

I held a Judiciary Committee hearing in June on the criminal justice system and mentally ill offenders. At that hearing, we heard from State mental health officials, law enforcement officers, corrections officials, and the representative of counties around our Nation. All agreed that people with untreated mental illness are more likely to commit crimes, and that our State mental health systems, prisons and jails do not have the resources they need to treat the mentally ill, and prevent crime and recidivism. As this legislation's findings detail, 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness, more than 20 percent of youth in the juvenile justice system have serious mental health problems, and up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives. This is a serious problem that has not received the legislative or public attention it deserves.

Under this bill, State and local governments can apply for funding to: a. create or expand mental health courts, which divert qualified offenders from prison to receive treatment; b. create or expand programs to provide specialized training for criminal justice and mental health system personnel; c. create or expand local treatment programs that serve individuals with mental illness or co-occurring mental illness and substance abuse disorders; and d. promote and provide mental health treatment for those incarcerated in or released from and penal or correctional institution. This new program authorizes $100 million for each of the next two fiscal years, and such sums as necessary through fiscal year 2007.

I would like to thank a number of people for their advice and involvement in this legislation. First, we would not be here today without the hard work of the Bazelon Center for Mental Health Law. I know that the Bazelon Center has additional ideas to improve this legislation, and I look forward to working with the Center as this bill moves through the legislative process. For example, I think we need to do more to ensure close coordination between the Department of Justice and the Department of Health and Human Services in designing and making these grants. Through this legislation, we are forcing States to bring together their health and law enforcement officials to make grant requests it only makes sense to have the joint perspectives of DOJ and HHS fully involved in evaluating those requests. This is an issue that we will continue to work on, and I hope we will continue to receive the input of the Bazelon Center as we do so.

Second, we have received great advice and support from officials in my State of Vermont. Susan Besio, the commissioner of Vermont's Department of Developmental and Mental Health Services, and John Gorczyk, the commissioner of Vermont's Department of Corrections, reviewed this legislation and offered their comments, which have been adopted in the version that we introduce today. Gary Margolis, the Chief of Police Services at the University of Vermont, testified at our June hearing and helped me understand the importance of this issue for law enforcement officers in Vermont and around the nation.

Third, the Council of State Governments has also provided invaluable assistance and advice on this issue. Indeed, their report on mentally ill offenders and the criminal justice system was instrumental in focusing the attention of the Judiciary Committee on this important topic.

Although I am pleased that we have introduced this bill before the end of this Congress, I think we all understand that the passage of meaningful mental health legislation may have to wait until the next Congress. I want to work with all of the officials and groups I have mentioned, the other sponsors of this legislation, and any other interested parties, to continue to make improvements to this bill. This is a topic that should be a priority for the Judiciary Committee next year, and I will work to make it so.

Mr. GRASSLEY. Mr. President, I'm pleased today to be introducing with Senators DEWINE, LEAHY, BROWNBACK, and CANTWELL the Mentally Ill Offender Treatment and Crime Reduction Act of 2002. This bipartisan bill authorizes the Attorney General to administer a grant program to assist communities in planning and implementing services for mentally ill offenders. These grants will increase public safety by fostering collaborative efforts by criminal justice, mental health, and substance abuse agencies. I've seen these types of collaborative programs work in Iowa and I know that they can work elsewhere.

We have an obligation to ensure that the public is protected from these offenders who suffer from mental illness. The Bureau of Justice Statistics has reported that over 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness. In addition, the Office of Juvenile Justice and Delinquency Prevention has reported that over 20 percent of youth in the juvenile justice system have serious mental problems. This grant program will help increase public safety, as well as reduce the number of mentally ill adults and juveniles incarcerated in correctional facilities.

These grant dollars may be used by States and localities to establish mental health courts or other diversion programs, create or expand community-based treatment programs, provide in-jail treatment and transitional services, and for training of criminal justice and mental health system employees. The State of Iowa and a number of its counties are already leading the way in finding creative and collaborative programs to address the problems presented by these mentally ill criminals. Working together, the criminal justice, mental health, and substance abuse professionals can make a difference in the lives of this special class of offenders and also increase the safety of the public.

I want to thank Senator DEWINE for his leadership on this important issue. He has drafted a bill that reflects a common sense approach to a serious public safety issue. I also want to encourage my colleagues to support this important piece of legislation.

Ms. CANTWELL. Mr. President, I am proud to join with Senator DEWINE and Judiciary Chairman PATRICK LEAHY along with Senators GRASSLEY and BROWNBACK in cosponsoring this important legislation. This bill will take steps to reduce the prevalence of mentally ill individuals in the criminal justice system by providing more effective treatment. Forty percent of the mentally ill in this country come in contact with the criminal justice system, many for minor but repeated offenses. This wastes tremendous law enforcement resources that can be better focused on more urgent responsibilities and results in many of the mentally ill sitting in jail cells with little treatment available to them. My State has already taken some forward looking action in this area, and this legislation is an important next step.

The Mentally Ill Crime Reduction Act of 2002 funds new grants that will give States the tools they need to work collaboratively to break the cycle of mentally ill people repeatedly moving through the corrections system. This legislation will allow more jurisdictions to follow Seattle's lead in creating mental health courts that monitor individuals to keep them in treatment and out of jail. It will provide much needed funding to mental health and substance abuse programs, and it will provide critical dollars for treatment of those incarcerated in, or released from, prisons. The legislation has the support of Washington State Corrections Director Joe Lehman and the Washington Department of Social and Health Services as well as the National Alliance for the Mentally Ill and the Council of State Governments. I'd like to especially thank the Bazelon Center for their work in this area and their commitment to improving this situation.

Earlier this year, the Council on State Governments Criminal Justice/Mental Health Consensus Project issued a report that detailed the disparate proportions of the mentally ill in the criminal justice system. The Project found that while those suffering from serious mental illness represent approximately 5 percent of the population of this country, they represent over 16 percent of the prison population. Of that 16 percent, nearly three-quarters also have a substance abuse problem, and nearly half were incarcerated for committing a nonviolent crime. In some jurisdictions recidivism rates for mentally ill inmates can reach over 70 percent. Police, judges and prosecutors are usually without options of what to do with mentally ill patients given the lack of health services, and thus many end up in jail for minor crimes. The Los Angeles County Jail alone holds as many as 3,300 individuals with mental illness, more than any state hospital or mental health institution in the United States.

Each time a mentally ill individual is incarcerated, his or her mental condition will likely worsen. Once incarcerated, people with mental illness are particularly susceptible to harming themselves or others. This environment exacerbates their mental illness, yet access to effective counseling or medication is severely limited. This in turn brings on depression or delusions that immobilize them; many have spent years trying to mask torments or hallucinations with alcohol or drugs which leads to these individuals, on average, spending more time in prisons.

This problem is particularly acute in the area of juvenile offenders. The Office of Juvenile Justice and Delinquency Prevention reports that over 20 percent of children in the juvenile justice system, over 155,000, have serious mental health problems. This bill creates specialized training programs for juvenile and criminal justice agency personnel in identifying symptoms of mentally ill individuals that will help identify and treat juveniles at an earlier stage.

The prevalence of people with mental illness in the criminal justice system comes at a high price to taxpayers. In King County, WA officials identified 20 people who had been repeatedly hospitalized, jailed or admitted to detoxification centers. These emergency

services cost the county approximately $1.1 million in a single year. In contrast, an Illinois Cooperative Program, which brought criminal justice and mental health service personnel together to provide services to those mentally ill patients released from jail, calculated that the 30 individuals in the study spent approximately 2,200 days less in jail, and 2,100 fewer days, in hospitals than they had the previous year for a savings of $1.2 million dollars.

In 1997, Seattle Fire Department Captain Stanley Stevenson was murdered by an individual who had been found incompetent by the local municipal court but was released because of the lack of alternative options. This murder was the impetus for the creation of a Task Force that led directly to the formation of the Seattle mental health court in 1999. The primary reason why this Court has been growing more effective in dealing with mentally ill offenders is that it has increased cooperation between the mental health and criminal justice systems, operations that have traditionally not worked closely together. Building on the model of the drug court, the mental health court closely monitors compliance with treatment regimens through a team proficient in dealing with the mentally ill and at using the stick of the criminal justice system to make that treatment work. The vast majority of these individuals are responsive to treatment.

This program has progressed well and is becoming an effective means of helping mentally ill offenders, assuring public safety, and running a more cost efficient system. Yet to allow this system to continue to expand in Seattle and other communities in Washington state, as well as to allow other states to begin using these types of programs, federal grant funding is critical. That is what this bill provides.

Collaboration between mental health, substance abuse, law enforcement, judicial, and other criminal justice personnel is also critical to the success of our mental health court program in Seattle. It is only through full coordination between the criminal justice and the mental health treatment community at the federal and the local level that these efforts will be successful.

Similarly, only through full coordination at the federal and local level will this bill be able to make a critical difference. I believe that some additional improvements can be made to strengthen that critical coordination and I look forward to working with Senator DEWINE and Chairman LEAHY to accomplish that goal. I welcome the introduction of this legislation and look forward to working with my cosponsors to make this bill law in the next Congress.

By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 3148. A bill to provide incentives to increase research by private sector entities to develop antivirals, antibiotics and other drugs, vaccines, microbicides, and diagnostic technologies to prevent and treat illnesses associated with a biological, chemical, or radiological weapons attack; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, America has a major flaw in its defenses against bioterrorism. Hearings I chaired in the Governmental Affairs Committee on bioterrorism demonstrated that America has not made a national commitment to research and development of treatments and cures for those who might be exposed to or infected by a biological agent, chemical toxin, or radiological material. Correcting this critical gap is the purpose of legislation we are introducing today. This legislation is a refined and upgraded version of legislation I introduced last year (S. 1764, December 4, 2001) and I am delighted that Senator HATCH has joined me as the lead cosponsor of the new bill.

Obviously, our first priority must be to attempt to prevent the use of these agents and toxins by terrorists, quickly assess when an attack has occurred, take appropriate public health steps to contain the exposure, stop the spread of contagion, and then detoxify the site. These are all critical functions, but in the end we must recognize that some individuals may be exposed or infected. Then the critical issue is whether we can treat and cure them and prevent death and disability.

In short, we need a diversified portfolio of medicines. In cases where we have ample advance warning of an attack and specific information about the agent, toxin, or material, we may be able to vaccinate the vulnerable population in advance. In other cases, even if we have a vaccine, we might well prefer to use medicines that would quickly stop the progression of the disease or the toxic effects. We also need a powerful capacity quickly to develop new countermeasures where we face a new agent, toxin, or material.

Unfortunately, we are woefully short of vaccines and medicines to treat individuals who are exposed or infected. We have antibiotics that seem to work for most of those infected in the current anthrax attack, but these have not prevented five deaths. We have no effective vaccines or medicines for most other biological agents and chemical toxins we might confront. We have very limited capacity to respond medically to a radiological attack. In some cases we have vaccines to prevent, but no medicines to treat, an agent. We have limited capacity to speed the development of vaccines and medicines to prevent or treat novel agents and toxins not currently known to us.

We have provided, and should continue to provide, direct Federal funding for research and development of new medicines, however, this funding is unlikely to be sufficient. Even with ample Federal funding, many private companies will be reluctant to enter into agreements with government agencies to conduct this research. Other companies would be willing to conduct the research with their own capital and at their own risk but are not able to secure the funding from investors.

The legislation we introduce today would provide incentives for private biotechnology companies to form capital to develop countermeasures—medicines—to prevent, treat and cure victims of bioterror, chemical and radiological attacks. This will enable this industry to become a vital part of the national defense infrastructure and do so for business reasons that make sense for their investors on the bottom line.

Enactment of these incentives is necessary because most biotech companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. They must necessarily focus on research that will lead to product sales and revenue and, thus, to an end to their dependence on investor capital. There is no established or predictable market for countermeasures. These concerns are shared by pharmaceutical firms. Investors are justifiably reluctant to fund this research, which will present challenges similar in complexity to AIDS. Investors need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk, complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases.

It is in our national interest to enlist these companies in the development of countermeasures as biotech companies tend to be innovative and nimble and intently focused on the intractable diseases for which no effective medical treatments are available.

The incentives we have proposed are innovative and some may be controversial. We invite everyone who has an interest and a stake in this research to enter into a dialogue about the issue and about the nature and terms of the appropriate incentives. We have attempted to anticipate the many complicated technical and policy issues that this legislation raises. The key focus of our debate should be how, not whether, we address this critical gap in our public health infrastructure and the role that the private sector should play. Millions of Americans will be at risk if we fail to enact legislation to meet this need.

RELATIONSHIP TO BIOTERRORISM PREPAREDNESS LEGISLATION

My proposal is complimentary to legislation on bioterrorism preparedness we enacted earlier this year. That law, Bioweapons Preparedness Act, focuses on many needed improvements in our public health infrastructure. These investments provide the infrastructure

where we could deploy the countermeasures that could be developed pursuant to the incentives proposed in my legislation.

Among the provisions in the Frist-Kennedy law are initiatives regarding bioterrorism preparedness capacities, improvements in communications about bioterrorism, protection of children, protection of food safety, and global pathogen surveillance and response. We need to fully fund these new programs and capacities.

My legislation builds on these provisions by providing incentives to enable the biotechnology industry acting on its own initiative to fund and conduct research on countermeasures. It includes tax, procurement, intellectual property and liability incentives. Accordingly, my proposal raises issues falling within the jurisdiction of the HELP, Finance, and Judiciary Committees.

The Frist-Kennedy law and my bill are complimentary. The bottom line is that we need both bills—one focusing on public health and one focusing on medical research. Without medical research, public health workers will not have the single most important tool to use in an attack—medicine to prevent death and disability and medicine that will help us avoid public panic.

CIPRO AS A COUNTERMEASURE

We are fortunate that we have broad-spectrum antibiotics, including Cipro, to treat the type of anthrax to which so many have been exposed. This treatment seems to be effective before the anthrax symptoms become manifest, and effective to treat cutaneous anthrax, and we have been able to effectively treat some individuals who have inhalation anthrax. I am thankful that this drug exists to treat those who have been exposed, including my own Senate staff. Our offices are immediately above those of Senator DASCHLE.

We have seen how reassuring it is that we have an effective treatment for this biological agent. We see long lines of Congressional staffers and postal workers awaiting their Cipro. Think what it would be like if we could only say, ''We have nothing to treat you and hope you don't contract the disease.'' Think of the public panic that we might see.

I am grateful that this product exists and proud of the fact that the Bayer Company is based in Connecticut. The last thing we should be doing is criticizing this company for their research success. The company has dispensed millions of dollars worth of Cipro free of charge. Criticizing it for the price that it charges tells other research companies that the more valuable their products are in protecting the public health, the more likely they are to be criticized and bullied.

It is fortuitous that Cipro seems to be effective against anthrax. The product was not developed with this use in mind. My point with this legislation is we cannot rely on good fortune and chance in the development of countermeasures. We need to make sure that these countermeasures will be developed. We need more companies like Bayer, we need them focused specifically on developing medicines to deal with the new bioterror threat, and we need to tell them that there are good business reasons for this focus.

We also are fortunate to have an FDA-licensed vaccine, made by BioPort Corporation, that is recommended by our country's medical experts at the DOD and CDC for pre-anthrax exposure vaccination of individuals in the military and some individuals in certain laboratory and other occupational settings where there is a high risk of exposure to anthrax. This vaccine is also recommended for use with Cipro after exposure to anthrax to give optimal and long-lasting protection. That vaccine is not now available for use. We must do everything necessary to make this and other vaccines available in adequate quantities to protect against future attacks.

The point of this legislation is that we need many more Cipro-like and anthrax vaccine-like products. That we have these products is the good news; that we have so few others is the problem.

BIOLOGICAL WEAPONS CONVENTION

One unfortunate truth in this debate is that we cannot rely upon international legal norms and treaties alone to protect our citizens from the threat of biological or chemical attack.

The United States ratified the Biological and Toxin Weapons Convention (BWC) on January 22, 1975. That Convention now counts 144 nations as parties. Twenty-two years later, on April 24, 1997, the United States Senate joined 74 other countries when it ratified the Chemical Weapons Convention (CWC). While these Conventions serve important purposes, they do not in any way guarantee our safety in a world with rogue states and terrorist organizations.

The effectiveness of both Conventions is constrained by the fact that many countries have failed to sign on to either of them. Furthermore, two signatories of the BWC, Iran and Iraq, are among the seven governments that the Secretary of State has designated as state sponsors of international terrorism, and we know for a fact that they have both pursued clandestine biological weapons programs. The BWC, unlike the CWC, has no teeth—it does not include any provisions for verification or enforcement. Since we clearly cannot assume that any country that signs on to the Convention does so in good faith, the Convention does so in good faith, the Convention's protective value is limited.

On November 1 of 2001, the President announced his intent to strengthen the BWC as part of his comprehensive strategy for combating terrorism. A BWC review conference, held every five years to consider ways of improving the Convention's effectiveness, will convene in Geneva beginning November 19. In anticipation of that meeting, the President has urged that all parties to the Convention enact strict national criminal legislation to crack down on prohibited biological weapons activities, and he has called for an effective United Nations procedures for investigation suspicious outbreaks of disease or allegations of biological weapons use.

These steps are welcomed, but they are small. Even sweeping reforms, like creating a more stringent verification and enforcement regime, would not guarantee our safety. The robust verification and enforcement mechanisms in the CWC, for instance, have proven to be imperfect, and scientists agree that it is much easier to conceal the production of biological agents than chemical weapons.

The inescapable fact, therefore, is that we cannot count on international regimes to prevent those who wish us ill from acquiring biological and chemical weapons. We must be prepared for the reality that these weapons could fall into the hands of terrorists, and could be used against Americans on American soil. And we must be prepared to treat the victims of such an attack if it were ever to occur.

CDC QUARANTINE PLANS

On November 26 of last year, the Centers for Disease Control issued its interim working draft plan for responding to an outbreak of smallpox. The plan does not call for mass vaccination in advance of a smallpox outbreak because the risk of side effects from the vaccine outweighs the risks of someone actually being exposed to the smallpox virus. At the heart of the plan is a strategy sometimes called ''search and containment.''

This strategy involves identifying infected individual or individuals with confirmed smallpox, identifying and locating those people who come in contact with that person, and vaccinating those people in outward rings of contact. The goal is to produce a buffer of immune individuals and was shown to prevent smallpox and to ultimately eradicate the outbreak. Priorities would be set on who is vaccinated, perhaps focusing on the outward rings before those at the center of the outbreak. The plan assumes that the smallpox vaccination is effective for persons who have been exposed to the disease as long as the disease has not taken hold.

In practice it may be necessary to set a wide perimeter for these areas because smallpox is highly contagious before it might be diagnosed. There may be many areas subject to search and containment because people in our society travel frequently and widely. Terrorists might trigger attacks in a wide range of locations to multiply the confusion and panic. The most common form of smallpox has a 30 percent mortality rate, but terrorists might be able to obtain supplies of ''flat-type'' smallpox with a mortality rate of 96 percent

and hemorrhagic-type smallpox, which is almost always fatal. For these reasons, the CDC plan accepts the possibility that whole cities or other geographic areas could be cordoned off, letting no one in or out—a quarantine enforced by police or troops.

The plan focuses on enforcement authority through police or National Guard, isolation and quarantine, mandatory medical examinations, and rationing of medicines. It includes a discussion of ''population-wide quarantine measures which restrict activities or limit movement of individuals [including] suspension of large public gatherings, closing of public places, restriction on travel [air, rail, water, motor vehicle, and pedestrian], and/or 'cordon sanitaire' [literally a 'sanitary cord' or line around a quarantined area guarded to prevent spread of disease by restricting passage into or out of the area].'' The CDC recommends that states update their laws to provide authority for ''enforcing quarantine measures'' and it recommends that States in ''pre-event planning'' identify personnel who can enforce these isolation and quarantine measures, if necessary.'' Guide C—Isolation and Quarantine, page 17.

On October 23, 2001, the CDC published a ''Model State Emergency Health Powers Act.'' It was prepared by the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities, in conjunction with the National Governors Association, National Conference of State Legislatures, Association of State and Territorial Health Officials, National Association of City and County Health Officers, and National Association of Attorneys General. A copy of the model law is printed at www.publichealthlaw.net. The law would provide powers to enforce the ''compulsory physical separation (including the restriction of movement and confinement) of individuals and/or groups believed to have been exposed to or known to have been infected with a contagious disease from individuals who are believed not to have been exposed or infected, in order to prevent or limit the transmission of the disease to others.'' Federal law on this subject is very strong and the Administration can always rely on the President's Constitution authority as Commander in Chief.

Let us try to imagine, however, what it would be like if a quarantine is imposed. Let us assume that there is not enough smallpox vaccine available for use in a large outbreak, that the priority is to vaccinate those in the outward rings of the containment area first, that the available vaccines cannot be quickly deployed inside the quarantined area, that it is not possible to quickly trace and identify all of the individuals who might have been exposed, and/or that public health workers themselves might be infected. We know that there is no medicine to treat those who do become infected. We know the mortality rates. It is not hard to imagine how much force might be necessary to enforce the quarantine. It would be quite unacceptable to permit individuals to leave the quarantined area no matter how much panic had taken hold.

Think about how different this scenario would be if we had medicines that could effectively treat and cure those who become infected by smallpox. We still might implement the CDC plan but a major element of the strategy would be to persuade people to visit their local clinic or hospital to be dispensed their supply of medicine. We could trust that there would be a very high degree of voluntary compliance. This would give us more time, give us options if the containment is not successful, give us options to treat those in the containment area who are infected, and enable us to quell the public panic.

Because we have no medicine to treat those infected by smallpox, we have to be prepared to implement a plan like the one CDC has proposed. Theirs is the only option because our options are so limited. We need to expand our range of options.

THE COUNTERMEASURE RESEARCH GAP

We should not be lulled by the apparent successes with Cipro and the strains of anthrax we have seen in the recent attacks. We have not been able to prevent death in some of the patients with late-stage inhalation anthrax and Robert Stevens, Thomas Morris, Jr., Joseph Curseen, Kathy Nguyen, and Ottilie Lundgren died. This legislation is named in honor of them. What we needed for them, and did not have, is a drug or vaccine that would treat late stage inhalation anthrax.

As I have said, we need an effective treatment for those who become infected with smallpox. We have a vaccine that effectively prevents smallpox infection, and administering this vaccine within four days of first exposure has been shown to offer some protections against acquiring infection and significant protection against a fatal outcome. The problem is that administering the vaccine in this time frame to all those who might have been exposed may be exceedingly difficult. And once infection has occurred, we have no effective treatment options.

In the last century 500 million people have died of smallpox—more than have from any other infectious disease—as compared to 320 million deaths in all the wars of the twentieth century. Smallpox was one of the diseases that nearly wiped out the entire Native American population in this hemisphere. The last naturally acquired case of smallpox occurred in Somalia in 1977 and the last case from laboratory exposure was in 1978.

Smallpox is a nasty pathogen, carried in microscopic airborne droplets inhaled by its victims. The first signs are headache, fever, nausea and backache, sometimes convulsions and delirium. Soon, the skin turns scarlet. When the fever lets up, the telltale rash appears—flat red spots that turn into pimples, then big yellow pustules, then scabs. Smallpox also affects the throat and eyes, and inflames the heart, lungs, liver, intestines and other internal organs. Death often came from internal bleeding, or from the organs simply being overwhelmed by the virus. Survivors were left covered with pockmarks—if they were lucky. The unlucky ones were left blind, their eyes permanently clouded over. Nearly one in four victims died. The infection rate is estimated to be 25–40 percent for those who are unvaccinated and a single case can cause 20 or more additional infections.

During the 16th Century, 3.5 million Aztecs—more than half the population—died of smallpox during a two-year span after the Spanish army brought the disease to Mexico. Two centuries later, the virus ravaged George Washington's troops at Valley Forge. And it cut a deadly path through the Crow, Dakota, Sioux, Blackfoot, Apache, Comanche and other American Indian tribes, helping to clear the way for white settlers to lay claim to the western plains. The epidemics began to subside with one of medicine's most famous discoveries: the finding by British physician Edward Jenner in 1796 that English milkmaids who were exposed to cowpox, a mild second cousin to smallpox that afflicts cattle, seemed to be protected against the more deadly disease. Jenner's work led to the development of the first vaccine in Western medicine. While later vaccines used either a killed or inactivated form of the virus they were intended to combat, the smallpox vaccine worked in a different way. It relied on a separate, albeit related virus: first cowpox and the vacinnia, a virus of mysterious origins that is believed to be a cowpox derivative. The last American was vaccinated back in the 1970s and half of the US population has never been vaccinated. It is not known how long these vaccines provide protection, but it is estimated that the term is 3–5 years.

In an elaborate smallpox biowarfare scenario enacted in February 1999 by the Johns Hopkins Center for Civilians Biodefense Studies, it was projected that within two months 15,000 people had died, epidemics were out of control in fourteen countries, all supplies of smallpox vaccine were depleted, the global economy was on the verge of collapse, and military control and quarantines were in place. Within twelve months it was projected that eighty million people worldwide had died.

A single case of smallpox today would become a global public health threat and it has been estimated that a single smallpox bioterror attack on a single American city would necessitate the vaccination of 30–40 million people.

The U.S. government is now in the process of purchasing substantial stocks of the smallpox vaccine. We

then face a very difficult decision on deploying the vaccine. We know that some individuals will have an adverse reaction to this vaccine. No one in the United States has been vaccinated against smallpox in twenty-five years. Those that were vaccinated back then may not be protected against the disease today. If we had an effective treatment for those who might become infected by smallpox, we would face much less pressure regarding deploying the vaccine. If we face a smallpox epidemic from a bioterrorism attack, we will have no Cipro to reassure the public and we will be facing a highly contagious disease and epidemic. To be blunt, it will make the current anthrax attack look benign by comparison.

Smallpox is not the only threat. We have seen other epidemics in this century. The 1918 influenza epidemic provides a sobering admonition about the need for research to develop medicines. In two years, a fifth of the world's population was infected. In the United States the 1918 epidemic killed more than 650,000 people in a short period of time and left 20 million seriously ill, one fourth of the entire population. The average lifespan in the U.S. was depressed by ten years. In just one year, the epidemic killed 21 million human beings worldwide—well over twice the number of combat deaths in the whole of World War I. The flu was exceptionally virulent to begin with and it then underwent several sudden and dramatic mutations in its structure. Such mutations can turn flu into a killer because its victims' immune systems have no antibodies to fight off the altered virus. Fatal pneumonia can rapidly develop.

Another deadly toxin, ricin toxin, was of interest to the al-Qaeda terrorist network. At an al-Qaeda safehouse in Saraq Panza, Kabul reporters found instructions for making ricin. The instructions make chilling reading. ''A certain amount, equal to a strong dose, will be able to kill an adult, and a dose equal to seven seeds will kill a child,'' one page reads. Another page says: ''Gloves and face mask are essential for the preparation of ricin. Period of death varies from 3–5 days minimum, 4–14 days maximum.'' The instructions listed the symptoms of ricin as vomiting, stomach cramps, extreme thirst, bloody diarrhoea, throat irritation, respiratory collapse and death.

No specific treatment or vaccine for ricin toxin exists. Ricin is produced easily and inexpensively, highly toxic, and stable in aerosolized form. A large amount of ricin is necessary to infect whole populations—the amount of ricin necessary to cover a 100-km^2 area and cause 50 percent lethality, assuming aerosol toxicity of 3 mcg/kg and optimum dispersal conditions, is approximately 4 metric tons, whereas only 1 kg of Bacillus anthracis is required. But it can be used to terrorize a large population with great effect because it is so lethal.

Use of ricin as a terror weapon is not theoretical. In 1991 in Minnesota, 4 members of the Patriots Council, an extremist group that held antigovernmental and antitax ideals and advocated the overthrow of the U.S. government, were arrested for plotting to kill a U.S. marshal with ricin. The ricin was produced in a home laboratory. They planned to mix the ricin with the solvent dimethly sulfoxide (DMSO) and then smear it on the door handles of the marshal's vehicle. The plan was discovered, and the 4 men were convicted. In 1995, a man entered Canada from Alaska on his way to North Carolina. Canadian custom officials stopped the man and found him in possession of several guns, $98,000, and a container of white powder, which was identified as ricin. In 1997, a man shot his stepson in the face. Investigators discovered a makeshift laboratory in his basement and found agents such as ricin and nicotine sulfate. And, ricin was used by the Bulgarian secret police when they killed Georgi Markov by stabbing him with a poison umbrella as he crossed Waterloo Bridge in 1978.

Going beyond smallpox, influenza, and ricin, we do not have an effective vaccine or treatment for dozens of other deadly and disabling agents and toxin. Here is a partial list of some of the other biological agents and chemical toxins for which we have no effective treatments: clostridium botulinum toxin (botulism), francisella tularensis (tularaemia), Ebola hemorrhagic fever, Marbug hemorrhagic fever, Lassa fever, Julin (Argentine hemorrhagic fever), Coxiella burnetti (Q fever), brucella species (brucellosis), burkholderia mallei (glanders), Venezuelan encephalomyelitis, eastern and western equine encephalomyelitis, epsilon toxin of clostridium perfringens, staphylococcus entretoxin B, salmonella species, shigella dysenteriae, escherichia coli O157:H7, vibrio cholerae, cryptosporidium parvum, nipah virus, hantaviruses, tickborne hemorrhagic fever viruses, tickborne encephalitis virus, yellow fever, nerve agents (tabun, sarin, soman, GF, and VX), blood agents (hydrogen cyanide and cyanogens chloride), blister agents (lewisite, nitrogenadn sulfur mustards, and phosgene oxime), heavy metals (arsenic, lead, and mercury), and volatile toxins (benzene, chloroform, trihalomethanes), pulmonary agents (Phosgene, chlorine, vinly chloride), and incapacitating agents (BZ).

The naturally occurring forms of these agents and toxins are enough to cause concern, but we also know that during the 1980s and 1990s the Soviet Union conducted bioweapons research at forty-seven laboratories and testing sites, employed nearly fifty thousand scientists in the work, and that they developed genetically modified versions of some of these agents and toxins. The goal was to develop an agent or toxin that was particularly virulent or not vulnerable to available antibiotic.

The United States has publicly stated that five countries are developing biological weapons in violation of the Biological Weapons convention, North Korea, Iraq, Iran, Syria, and Libya, and stated that additional countries not yet named (possibly including Russia, China, Israel, Sudan and Egypt) are also doing so as well.

What is so insidious about biological weapons is that in many cases the symptoms resulting from a biological weapons attack would likely take time to develop, so an act of bioterrorism may go undetected for days or weeks. Affected individuals would seek medical attention not from special emergency response teams but in a variety of civilian settings at scattered locations. This means we will need medicines that can treat a late stage of the disease, long after the infection has taken hold.

We must recognize that the distinctive characteristic of biological weapons is that they are living micro-organisms and are thus the only weapons that can continue to proliferate without further assistance one released in a suitable environment.

The lethality of these agents and toxins, and the panic they can cause, is quite frightening. The capacity for terror is nearly beyond comprehension. We do not believe it is necessary to describe the facts here. Our point is simple: we need more than military intelligence, surveillance, and public health capacity. We also need effective medicines. We also need more powerful research tools that will enable us to quickly develop treatments for agents and toxins not on this or any other list.

We need to do whatever it takes to be able to reassure the American people that hospitals and doctors have powerful medicines to treat them if they are exposed to biological agents or toxins, that we can contain an outbreak of an infectious agent, and that there is little to fear. To achieve this objective, we need to rely on the entrepreneurship of the biotechnology industry.

DIRECT GOVERNMENT FUNDING OF RESEARCH

There is already some direct funding of research by the Defense Advanced Research Projects Agency (DARPA), the National Institutes of Health (NIH), and the Centers for Disease Control (CDC). This research should go forward.

DARPA, for instance, has been described as the Pentagon's ''venture capital fund,'' its mission to provide seed money for novel research projects that offer the potential for revolutionary findings. Last year, DARPA's Unconventional pathogen Countermeasures program awarded contracts totalling $50 million to universities, foundations, pharmaceutical and biotechnology companies seeking new ways to fight biological agents and toxins.

The Unconventional Pathogen Countermeasures program now funds 43 separate research efforts on antibacterials, anti-toxins, anti-virals, decontamination, external protection

from pathogens, immunization and multi-purpose vaccines and treatments. A common thread among many of these undertakings is the goal of developing drugs that provide broad-spectrum protection against several different pathogents. This year, with a budget of $63 million, the program has received over 100 research proposals in the last two months alone.

Some of this DARPA research is directed at developing revolutionary, broad-spectrum, medical countermeasures against significantly pathogenic products. This goal is to develop countermeasures that are versatile enough to eliminate biological threats, whether from natural sources or modified through bioengineering or other manipulation. The countermeasures would need the potential to provide protection both within the body and at the most common portals of entry (e.g., inhalation, ingestion, transcutaneous). The strategies might include defeating the pathogen's ability to enter the body, traverse the bloodstream or lymphatics, and enter target tissues; identifying novel pathogen vulnerabilities based on fundamental, critical molecular mechanisms of survival or pathogenesis (e.g., Type III secretion, cellular energetics, virulence modulation); constructing unique, robust vehicles for the delivery of countermeasures into or within the body; and modulating the advantageous and/or deleterious aspects of the immune response to significantly pathogenic microorganisms and/or the pathogenic products in the body.

While DAPRA's work is specifically aimed at protecting our military personnell, the National Institutes of Health also spent $49.7 million in the last fiscal year to find new therapies for those who contract smallpox and on systems for detecting the disease. In recent years, NIH's research programs have sought to create more rapid and accurate diagnostics, develop vaccines for those at risk of exposure to biological agents, and improve treatment for those infected. Moreover, in the last fiscal year, the Centers for Disease Control has allocated $18 million to continue research on an anthrax vaccine and $22.3 million on smallpox research.

Some companies are willing to enter into a research relationships funded by DARPA and other agencies to develop countermeasures. Relationships between the government and private industry can be very productive, but they can also involve complex issues reflecting the different cultures of government and industry. Some companies—including some of the most enterpreneurial—might prefer to take their own initiative to conduct this research. Relationships with government entities involve risks, issues, and bureaucracy that are not present in relationships among biotechnology companies and between them and non-governmental partners.

The Defense Departments Joint Vaccine Acquisition Program (JVAP) illustrates the problems with a government led and managed program. A report in December 2000 by a panel of independent experts found that the current program ''is insufficient and will fail'' and recommended it adopt an approach more on the model of a private sector effort. It needs to adopt ''industry practices,'' ''capture industry interest,'' ''implement an organizational alignment that mirrors the vaccine industry's short chain of command and decision making,'' ''adopt an industry-based management philosophy,'' and ''develop a sound investment strategy.'' It bemoaned the ''extremely limited'' input from industry in the JVAP program.

It is clear from this experience that we should not rely exclusively on government funding of countermeasures research. We should take advantage of the entrepreneurial fervor, and the independence, of our biotechnology industry entrepreneurs. It is not likely that the government will be willing or able to provide sufficient funding for the development of the countermeasures we need. Some of the most innovative approaches to vaccines and medicines might not be funded with the limited funds available to the government. We need to provide incentives that will encourage every biotech company to review its research priorities and technology portfolio for its relevance and potential for countermeasure research. Some of this research is early stage, basic research that is being developed and considered only for its value in treating an entirely different disease. We need to kindle the imagination of biotechnology companies and their tens of thousands of scientists regarding countermeasure research.

INDUSTRY RESEARCH ON COUNTERMEASURES

My proposal would supplement direct Federal government funding of research with incentives that make it possible for private companies to form the capital to conduct this research on their own initiative, utilizing their own capital, and at their own risk—all for good business reasons going to their bottom line.

The U.S. biotechnology industry, approximately 1,300 companies, spent $13.8 billion on research last year. Only 350 of these companies have managed to go public. The industry employs 124,000 (Ernest & Young data) people. The top five companies spent an average of $89,000 per employee on research, making it the most research-intensive industry in the world. The industry has 350 products in human clinical trials targeting more than 200 diseases. Losses for the industry were $5.8 billion in 2001, $5.6 billion in 2000, $4.4 billion in 1999, $4.1 billion in 1998, $4.5 billion in 1997, $4.6 billion in 1996, and similar amounts before that. In 2000 fully 38 percent of the public biotech companies had less than 2 years of funding for their research. Only one quarter of the biotech companies in the United States are publicly traded and they tend to be the best funded.

There is a broad range of research that could be undertaken under this legislation. Vaccines could be developed to prevent infection or treat an infection from a bioterror attack. Broad-spectrum antibiotics are needed. Also, promising research has been undertaken on antitoxins that could neutralize the toxins that are released, for example, by anthrax. With anthrax it is the toxins, not the bacteria itself, that cause death. An antitoxin could act like a decoy, attaching itself to sites on cells where active anthrax toxin binds and then combining with normal active forms of the toxin and inactivating them. An antitoxin could block the production of the toxin.

We can rely on the innovations of the biotech industry, working in collaboration with academic medical centers, to explore a broad range of innovative approaches. This mobilizes the entire biotechnology industry as a vital component of our national defense against bioterror weapons.

INCENTIVES NEEDED TO SPUR RESEARCH

The legislation takes a comprehensive approach to the challenges the biotechnology industry faces in forming capital to conduct research on countermeasures. It includes capital formation tax incentives, guaranteed purchase funds, patent protections, and liability protections. We believe we will have to include each of these types of incentives to ensure that we mobilize the biotechnology industry for this urgent national defense research.

Some of the tax incentives in this legislation, and both of the two patent incentives I have proposed, may be controversial. In our view, we can debate tax or patent policy as long as you want, but let's not lose track of the issue here—development of countermeasures to treat people infected or exposed to lethal and disabling bioterror weapons.

We know that incentives can spur research. In 1983 we enacted the Orphan Drug Act to provide incentives for companies to develop treatments for rare diseases with small potential markets deemed to be unprofitable by the industry. In the decade before this legislation was enacted, fewer than 10 drugs for orphan diseases were developed and these were mostly chance discoveries. Since the Act became law, 218 orphan drugs have been approved and 800 more are in the pipeline. The Act provides 7 years of market exclusivity and a tax credit covering some research costs. The effectiveness of the incentives we have enacted for orphan disease research show us how much we can accomplish when we set a national priority for certain types of research.

The incentives we have proposed differ from those set by the Orphan Drug Act. We need to maintain the effectiveness of the Orphan Drug Act and not undermine it by adding many other disease research targets. In addition, the tax credits for research for orphan drug research have no value for most biotechnology companies because few

of them have tax liability with respect to which to claim the credit. This explains why we have not proposed to utilize tax credits to spur countermeasures research. It is also clear that the market for countermeasures is even more speculative than the market for orphan drugs and we need to enact a broader and deeper package of incentives.

DECISION MAKING ON TARGETS AND REGISTRATION OF RESEARCH

The government determines which research is covered by the legislation and which companies qualify for the incentives for this research. No company is entitled to utilize the incentives until the government certifies its eligibility.

These decisions are vested in the Secretary, Department of Homeland Security. In S. 1764, the decisions were vested in the White House Office of Homeland Security, but it is now likely that a Department will be created. I have strongly endorsed that concept and led the effort to enact the legislation forming the new Department.

The legislation confers on the Secretary, in consultation with the Secretary of Defense and Secretary of Health and Human Services, authority to set the list of agents and toxins with respect to which the legislation and incentives applies.

The Secretary determines which agents and toxins present a threat and whether the countermeasures are ''more likely'' to be developed with the application of the incentives in the legislation. The Secretary may determine that an agent or toxin does not present a threat or that countermeasures are not more likely to be developed with the incentives. It may determine that the government itself should fund the research and development effort and not rely on private companies. The Department is required to consider the status of existing research, the availability of non-countermeasure markets for the research, and the most effective strategy for ensuring that the research goes forward. The legislation includes an illustrative, non-binding list of fifty-four agents and toxins that might be included on the Secretary's list. The decisions of the Secretary are final and are not subject to judicial review.

The Department then must provide information to potential manufacturers of these countermeasures in sufficient detail to permit them to conduct the research and determine when they have developed the needed countermeasure. It may exempt from publication such information as it deems to be sensitive.

The Department also must specify the government market that will be available when a countermeasure is successfully developed, including the minimum number of dosages that will be purchased, the minimum price per dose, and the timing and number of years projected for such purchases. Authority is provided for the Department to make advance, partial, progress, milestone, or other payments to the manufacturers.

The Department is responsible for determining when a manufacturer has, in fact, successfully developed the needed countermeasure. It must provide information in sufficient detail so that manufacturers and the government may determine when the manufacturer has successfully developed the countermeasure the government needs. If and when the manufacturer has successfully developed the countermeasure, it becomes entitled to the procurement, patent, and liability incentives in the legislation.

Once the list of agents and toxins is set, companies may register with the Department their intent to undertake research and development of a countermeasure to prevent or treat the agent or toxin. This registration is required only for companies that seek to be eligible for the tax, purchase, patent, and liability provisions of the legislation. The registration requirement gives the Department vital information about the research effort and the personnel involved with the research, authorizes inspections and other review of the research effort, and the filing of reports by the company.

The Secretary then may certify that the company is eligible for the tax, purchase, patent, and liability incentives in the legislation. It bases this certification on the qualifications of the company to conduct the countermeasure research. Eligibility for the purchase fund, patent and liability incentives is contingent on successful development of a countermeasure according to the standards set in the legislation, as determined by the Secretary.

The legislation contemplates that a company might well register and seek certification with respect to more than one research project and become eligible for the tax, purchase, patent, and liability incentives for each. There is no policy rationale for limiting a company to one registration and one certification.

This process is similar to the current registration process for research on orphan (rare) diseases. In that case, companies that are certified by the FDA become eligible for both tax and market exclusivity incentives. This process gives the government complete control on the number of registrations and certifications. This gives the government control over the cost and impact of the legislation on private sector research.

DIAGNOSTICS AND RESEARCH TOOLS

The registration and certification process applies to research to develop diagnostics and research tools, not just drugs and vaccines.

Diagnostics are vital because healthcare professionals need to know which agent or toxin has been used in an attack. This enables them to determine which treatment strategy is likely to be most effective. We need quickly to determine which individuals have been exposed or infected, and to separate them from the ''worried well.'' it is likely in an attack that large numbers of individuals who have not been exposed or infected will flood into healthcare facilities seeking treatment. We need to be able to focus on those individuals who are at risk and reassure those who are not at risk.

In terms of research tools, it is possible that we will face biological agents and chemical agents we have never seen before. As I've mentioned, the Soviet Union bioterror research focused in part on use of genetic modification technology to develop agents and toxins that currently-available antibiotics can not treat. Australian researchers accidentally created a modified mousepox virus, which does not affect humans, but it was 100 percent lethal to the mice. Their research focused on trying to make a mouse contraceptive vaccine for pest control. The surprise was that it totally suppressed the ''cell-medicated response''—the arm of the immune system that combats viral infection. To make matters worse, the engineered virus also appears unnaturally resistant to attempts to vaccinate the mice. A vaccine that would normally protect mouse strains that are susceptible to the virus only worked in half the mice exposed to the killer version. If bioterrorists created a human version of the virus, vaccination programs would be of limited use. This highlights the drawback of working on vaccines against bioweapons rather than treatments.

With the advances in gene sequencing—genomics—we will know the exact genetic structure of a biological agent. This information in the wrong hands could easily be manipulated to design and possibly grow a lethal new bacterial and viral strains not found in nature. A scientist might be able to mix and match traits from different micoorganism—called recombinant technology—to take a gene that makes a deadly toxin from one strain of bacteria and introduce it into other bacterial strains. Dangerous pathogens or infectious agents could be made more deadly, and relatively benign agents could be designed as major public health problems. Bacteria that cause diseases such as anthrax could be altered in such a way that would make current vaccines or antibiotics against them ineffective. It is even possible that a scientist could develop an organism that develops resistance to antibiotics at an accelerated rate.

This means we need to develop technology—research tools—that will enable us to quickly develop a tailor-made, specific countermeasure to a previously unknown organism or agent. These research tools will enable us to develop a tailor-made vaccine or drug to deploy as a countermeasure against a new threat. The legislation authorizes companies to register and receive a certification making them eligible for the incentives in the bill for this vital research.

TAX INCENTIVES FOR CAPITAL FORMATION

The legislation includes four tax incentives to enable biotechnology and

pharmaceutical companies to form capital to fund research and development of countermeasures. Companies must irrevocably elect only one of the incentives with regard to the countermeasure research.

Four different tax incentives are available so that companies have flexibility in forming capital to fund the research. Each of the options comes with advantages and limitations that may make it appropriate or inappropriate for a given company or research project. We do not now know fully how investors and capital markets will respond to the different options, but we assume that companies will consult with the investor community about which option will work best for a given research project. Capital markets are diverse and investors have different needs and expectations. Over time these markets and investor expectations evolve. If companies register for more than one research project, they may well utilize different tax incentives for the different projects.

Companies are permitted to undertake a series of discrete and separate research projects and make this election with respect to each project. They may only utilize one of the options with respect to each of these research projects.

The first option is for the company to establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners. For example, under this arrangement, the research and development tax credits and depreciation deductions for the company may be passed by the corporation through to its partners to be used to offset their individual tax liability. These deductions and credits are then lost to the corporation. This alternative is available only to companies with less than $750,000,000 in paid-in capital.

The second option is for the company to issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock held for at least three years. This is a modification of the current Section 1202 where only 50 percent of the gains are not taxed. This provision is adapted from legislation I have introduced, S. 1134, and introduced in the House by Representatives DUNN and MATSUI (H.R. 2383). A similar bill has been introduced by Senator COLLINS, S. 455. This option also is available to small companies.

The third and fourth options grant special tax credits to the company for the research. The first credit is for research conducted by the company and the other for research conducted at a teaching hospital or similar institution. Tax credits are available to any company, but they are only useful to a company with tax liability against which to claim the credit. Very few biotechnology companies receive revenue from product sales and therefore have no tax liability. Companies with revenue may be able to fund the research from retained earnings rather than secure funding from investors.

A company that elects to utilize one of these incentives is not eligible to receive benefits of the Orphan Drug Tax Credit. Companies that can utilize tax credits—companies with taxable income and tax liability—might find the Orphan Credit more valuable. The legislation includes an amendment to the Orphan Credit to correct a defect in the current credit. The amendment has been introduced in the Senate as S. 1341 by Senators HATCH, KENNEDY and JEFFORDS. The amendment simply states that the Credit is available starting the day an application for orphan drug status is filed, not the date the FDA finally acts on it. The amendment was one of many initiatives championed by Lisa J. Raines, who died on September 11 in the plane that hit the Pentagon, and the amendment is named in her honor. As we go forward in the legislative process, I hope we will have an opportunity to speak in more detail about the service of Ms. Raines on behalf of medical research, particularly on rare diseases.

The guaranteed purchase fund, and the patent protections, and liability provisions described below provide an additional incentive for investors and companies to fund the research.

GOVERNMENT COUNTERMEASURE PURCHASE FUND

The market for countermeasures is speculative and small. This means that if a company successfully develops a countermeasure, it may not receive sufficient revenue on sales to justify the risk and expense of the research. This is why the legislation establishes a countermeasures purchase fund that will define the market for the products with some specificity before the research begins.

The Secretary will set standards for which countermeasures it will purchase and define the financial terms of the purchase commitment. This will enable companies to evaluate the market potential of its research before it launches into the project. The specifications will need to be set with sufficient specificity so that the company—and its investors—can evaluate the market and with enough flexibility so that it does not inhibit the innovativeness of the researchers. This approach is akin to setting a performance standard for a new military aircraft.

The legislation provides that the Secretary will determine whether the government will purchase more than one product per class. It might make sense—as an incentive—for the government to commit to purchasing more than one product so that many more than one company conducts the research. A winner-take-all system may well intimidate some companies and we may end up without a countermeasure to be purchased. It is also possible that we will find that we need more than one countermeasure because different products are useful for different patients. We may also find that the first product developed is not the most effective.

The purchase commitment for countermeasures is available to any company irrespective of its paid-in capital.

INTELLECTUAL PROPERTY PROTECTIONS

Intellectual property protection of research is essential to biotechnology and pharmaceutical companies for one simple reason: they need to know that if they successfully develop a medical product another company cannot expropriate it. It's a simple matter of incentives.

The patent system has its basis in the U.S. Constitution where the federal government is given the mandate to ''promote the progress of Science and the Useful Arts by securing for a limited time to Authors and Inventors the exclusive right to their respective Writings and Discoveries.'' In exchange for full disclosure of the terms of their inventions, inventors are granted the right to exclude others from making, using, or selling their inventions for a limited period of time. this quid pro quo provides investors with the incentive to invent. In the absence of the patent law, discoverable inventions would be freely available to anyone who wanted to use them and inventors would not be able to capture the value of their inventions or secure a return on their investments.

The patent system strikes a balance. Companies receive limited protection of their inventions if they are willing to publish the terms of their invention for all to see. At the end of the term of the patent, anyone can practice the invention without any threat of an infringement action. During the term of the patent, competitors can learn from the published description of the invention and may well find a new and distinct patentable invention.

The legislation provides two types of intellectual property protection. The first simply provides that the term of the patent on the countermeasure will be the term of the patent granted by the Patent and Trademark Office without any erosion due to delays in approval of the product by the Food and Drug Administration. The second provides that a company that successfully develops a countermeasure will receive a bonus of two years on the term of any patent held by that company. Companies must elect one of these two protections, but only small biotechnology companies may elect the second protection. Large, profitable pharmaceutical companies may elect only the first of the two options.

The first protection against erosion of the term of the patent is an issue that is partially addressed in current law, the Hatch-Waxman Patent Term Restoration Act. That act provides partial protection against erosion of the term (length) of a patent when there are delays at the FDA in approving a product. The erosion occurs when the PTO issues a patent before the product

is approved by the FDA. In these cases, the term of the patent is running but the company cannot market the product. The Hatch-Waxman Act provides some protections against erosion of the term of the patent, but the protections are incomplete. As a result, many companies end up with a patent with a reduced term, sometimes substantially reduced.

The issue of patent term erosion has become more serious due to changes at the PTO in the patent system. The term of a patent used to be fixed at 17 years from the date the patent was granted by the PTO. It made no difference how long it took for the PTO to process the patent application and sometimes the processing took years, even decades. Under this system, there were cases where the patent would issue before final action at the FDA, but there were other cases where the FDA acted to approve a product before the patent was issued. Erosion was an issue, but it did not occur in many cases.

Since 1995 the term of a patent has been set at 20 years from the date of application for the patent. This means that the processing time by the PTO of the application all came while the term of the patent is running. This gives companies a profound incentive to rush the patent through the PTO. (Under the old system, companies had the opposite incentive.) With patents being issued earlier by the PTO, the issue of erosion of patent term due to delays at the FDA is becoming more serious and more common.

The provision in the legislation simply states that in the case of bioterrorism countermeasures, no erosion in the term of the patent will occur. The term of the patent at the date of FDA approval will be the same as the term of the patent when it was issued by the PTO. There is no extension of the patent, simply protections against erosion. Under the new 20 year term, patents might be more or less than 17 years depending on the processing time at the PTO, and all this legislation says is that whatever term is set by the PTO will govern irrespective of the delays at the FDA. This option is available to any company that successfully develops a countermeasure eligible to be purchased by the fund.

The second option, the bonus patent term, is only available to small companies with less than $750,000,000 in paid-in capital. It provides that a company that successfully develops a countermeasure is entitled to a two-years extension of any patent in its portfolio. This does not apply to any patent of another company bought or transferred in to the countermeasure research company.

I am well aware that this bonus patent term provision will be controversial with some. A company would tend to utilize this option if it owned the patent on a product that still had, or might have, market value at the end of the term of the patent. Because this option is only available to small biotechnology companies, most of whom have no product on the market, in most cases they would be speculating about the value of a product at the end of its patent. The company might apply this provision to a patent that otherwise would be eroded due to FDA delays or it might apply it to a patent that was not eroded. The result might be a patent term that is no longer than the patent term issued by the PTO. It all depends on which companies elect this option and which patent they select. In some cases, the effect of this provision might be to delay the entry onto the market of lower priced generics. This would tend to shift some of the cost of the incentive to develop a countermeasure to insurance companies and patients with an unrelated disease.

My rationale for including the patent bonus in the legislation is simple: I want this legislation to say emphatically that we mean business, we are serious, and we want biotechnology companies to reconfigure their research portfolios to focus in part on development of countermeasures. The other provisions in the legislation are powerful, but they may not be sufficient.

LIMITATION ON LIABILITY

This proposal protects companies willing to take the risks of producing anti-terrorism products for the American public from potential losses incurred from lawsuits alleging adverse reactions to these products. It also preserves the right for plaintiffs to seek recourse for alleged adverse reactions in Federal District Court, with procedural and monetary limitations.

Under the plan, the Secretary of HHS is required to indemnify and defend entities engaged in qualified countermeasure research through execution of ''indemnification and defense agreements.'' This protection is only available for countermeasures purchased under the legislation or to use of such countermeasures as recommended by the Surgeon General in the event of a public health emergency.

An exclusive means of resolving civil cases that fall within the scope of the indemnification and defense agreements is provided with litigation rights for injured parties. Non-economic damages are limited to $250,000 per plaintiff and no punitive or exemplary damages may be awarded.

Some have tried to apply the existing Vaccine Injury Compensation Program (VICP) to this national effort. That is inappropriate because that program will be extremely difficult to use, both administratively and scientifically. For example, it would take several years to develop the appropriate ''table'' that identifies a compensable injury. Companies will be liable during this process. Note that when VICP was created, there had been studies of what adverse reactions to mandated childhood vaccines had occurred and the table was based largely on this experience. Even so, it has taken years of effort, ultimately resulting in wholesale revisions to the table by regulation, to get the current table in place. For anti-bioterrorism products currently being developed, it will simply be impossible to construct a meaningful Vaccine Injury Table—there will be no experience with the product.

MISCELLANELOUS PROVISIONS

The legislation contains a series of provisions designed to enhance countermeasure research.

The legislation provides for accelerated approval by the FDA of countermeasures developed under the legislation. In most cases, the products would clearly qualify for accelerated approval, but the legislation ensures that they will be reviewed under this process.

It provides a statutory basis for the FDA approving countermeasures where human clinical trials are not appropriate or ethical. Rules regarding such products have been promulgated by the FDA.

It grants a limited antitrust exemption for certain cooperative research and development of countermeasures.

It provides incentives for the construction of biologics manufacturing facilities and research to increase the efficiency of current biologics manufacturing facilities.

It enhances the synergy between our for-profit and not for profit biomedical research entities. The Bayh-Dole Act and Stevenson-Wydler Act form the legal framework for mutually beneficially partnerships between academia and industry. My legislation strengthens this synergy and these relationships with two provisions, one to upgrade the basic research infrastructure available to conduct research on countermeasures and the other to increase cooperation between the National Institutes of Health and private companies.

Research on countermeasures necessitates the use of special facilities where biological agents can be handled safely without exposing researchers and the public to danger. Very few academic institutions or private companies can justify or capitalize the construction of these special facilities. The Federal government can facilitate research and development of countermeasures by financing the construction of these facilities for use on a fee-for-service basis. The legislation authorizes appropriations for grants to non-profit and for-profit institutions to construct, maintain, and manage up to ten Biosafety Level 3–4 facilities, or their equivalent, in different regions of the country for use in research to develop countermeasures. BSL 3–4 facilities are ones used for research on indigenous, exotic or dangerous agents with potential for aerosol transmission of disease that may have serious or lethal consequences or where the agents pose high risk of life-threatening disease, aerosol-transmitted lab infections, or related agents with unknown risk of

transmission. The Director of the Office and NIH shall issue regulations regarding the qualifications of the researchers who may utilize the facilities. Companies that have registered with and been certified by the Director—to develop countermeasures under Section 5(d) of the legislation—shall be given priority in the use of the facilities.

The legislation also reauthorizes a very successful NIH-industry partnership program launched in FY 2000 in Public Law 106–113. The funding is for partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures (as defined in Section 3 of the bill) and research tools (as defined in Section 4(d)(3) of the bill). Such grants shall be awarded on a one-for-one matching basis. So far the matching grants have focused on development of medicines to treat malaria, tuberculosis, emerging and resistant infections, and therapeutics for emerging threats. My proposal should be matched by reauthorization of the challenge grant program for these deadly diseases.

The legislation also sets incentives for the development of adjuvents to enhance the potency, and efficacy of antigens in responding to a biological agent.

It requires the new Department to issue annual reports on the effectiveness of this legislation and these incentives, and directs it to host an international conference each year on countermeasure research.

CALIBRATION OF INCENTIVES

The legislation is carefully calibrated to provide incentives only where they are needed. This accounts for the choices in the legislation about which provisions are available to small biotechnology companies and large pharmaceutical companies.

The legislation makes choices. It sets the priorities. It provides a dose of incentives and seeks a response in the private sector. We are attempting here to do something that has not been done before. This is uncharted territory. And it also an urgent mission.

There may be cases where a countermeasure developed to treat a biological toxin or chemical agent will have applications beyond this use. A broad-spectrum antibiotic capable of treating many different biological agents may well have the capacity to treat naturally occurring diseases.

This same issue arises with the Orphan Drug Act, which provides both tax and FDA approval incentives for companies that develop medicines to treat rare diseases. In some cases these treatments can also be used for larger disease populations. There are few who object to this situation. We have come to the judgment that urgency of this research is worth the possible additional benefits that might accrue to a company.

In the context of research to develop countermeasures, I do not consider it a problem that a company might find a broader commercial market for a countermeasure. Indeed, it may well be the combination of the incentives in this legislation and these broader markets that drives the successful development of a countermeasure. If our intense focus on developing countermeasures, and research tools, provides benefits for mankind going well beyond terror weapons, we should rejoice. If this research helps us to develop an effective vaccine or treatment for AIDS, we should give the company the Nobel Prize for Medicine. If we do not develop a vaccine or treatment for AIDS, we may see 100 million people die of AIDS. We also have 400 million people infected with malaria and more than a million annual deaths. Millions of children die of diarrhea, cholera and other deadly and disabling diseases. Countermeasures research may deepen our understanding of the immune system and speed and development of treatments for cancer and autoimmune diseases. That is not the central purpose of this legislation, but it is also an additional rationale for it.

CONCLUSION

This issue raised by my legislation is very simple: do we want the Federal government to fund and supervise much of the research to develop countermeasures or should we also provide incentives that make it possible for the private sector, at its own expense, and at its own risk, to undertake this research for good business reasons. This Frist-Kennedy law focuses effectively on direct Federal funding and coordination issues, but it does not include the sufficient incentives for the private sector to undertake this research on its own initiative. That law and my legislation are perfectly complimentary. We need to enact both to ensure that we are prepared for bioterror attacks.

I ask unanimous consent that an outline of the legislation appear at this point in the RECORD.

BIOLOGICAL, CHEMICAL AND RADIOLOGICAL WEAPONS COUNTERMEASURES RESEARCH ACT OF 2002

The legislation, a refined version of S. 1764 introduced on December 4, 2001, proposes incentives that will enable biotechnology and pharmaceutical companies to take the initiative—for good business reasons—to conduct research to develop countermeasures, including diagnostics, drugs, and vaccines, to treat those who might be exposed to or infected by biological, chemical or radiological agents and materials in a terror attack.

The premise of this legislation is that direct government funding of this research is likely to be much more expensive to the government and less likely to produce the countermeasures we need to defend America. Shifting some of the risk and expense of this research to entrepreneurial private sector firms is likely to be less expensive to the government and much more likely to produce the countermeasures we need to protect ourselves in the event of an attack.

For biotechnology companies, incentives for capital formation are needed because most such companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. These companies must focus on research that will lead to product sales and revenue and end their dependence on investor capital. When they are able to form the capital to fund research, biotech companies tend to be innovative and nimble and focused on the intractable diseases for which no effective medical treatments are available. Special research credits for pharmaceutical companies are also needed.

For both biotech and pharmaceutical companies, there is no established or predictable market for these countermeasures. Investors and companies are justifiable reluctant to fund this research, which will present technical challenges similar in complexity to development of effective treatments for AIDS. Investors and companies need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk, complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases or from other investments.

The legislation provides tax incentives to enable companies to form capital to conduct the research and tax credits usable by larger companies with tax liability with respect to which to claim the credits. It provides a guaranteed and pre-determined market for the countermeasures and special intellectual property protections to serve as a substitute for a market. Finally, it establishes liability protections for the countermeasures that are developed.

Specifics of the legislation are as follows:

(1) Setting Research Priorities (Section 101): The Department of Homeland Security sets the countermeasure research priorities in advance. It focuses the priorities on threats for which countermeasures are needed, and with regard to which the incentives make it ''more likely'' that the private sector will conduct the research to develop countermeasures. It is required to consider the status of existing research, the availability of non-countermeasure markets for the research, and the most effective strategy for ensuring that the research goes forward. The Department then provides information to potential manufacturers of these countermeasures in sufficient detail to permit them to conduct the research and determine when they have developed the needed countermeasure. The Department is responsible for determining when a manufacturer has, in fact, successfully developed the needed countermeasure.

(2) Registration of Companies (Section 102): Biotechnology and pharmaceutical companies register with the Department to become eligible for the incentives in the legislation. They are obligated to provide reports to the Department as requested and be open to inspections. The Department certifies with companies are eligible for the incentives. Once a company is certified as eligible for the incentives, it becomes eligible for the tax incentives for capital formation, and if it successfully develops a countermeasure that meets the specifications of the Department, it becomes eligible for the procurement, patent, and liability provisions.

(3) Diagnostics (Section 103): The incentives apply to development of diagnostics, as well as drugs, vaccines and other needed countermeasures.

(4) Research tools (Section 104): A company is also eligible for certification for the tax and patent provisions if it seeks to develop a research tool that will make it possible to quickly develop a countermeasure to a previously unknown agent or toxin, or an agent

or toxin not targeted by the Department for research.

(5) Capital Formation for Countermeasure Research (Section 201): The legislation provides that a company seeking to fund research is eligible to elect from among four tax incentives. The companies are eligible to:

(a) Establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners. Section 201 (b)(1).

(b) Issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock. Section 201(b)(2).

(c) Receive a special tax credit to help fund the research. Section 201 (b)(3).

(d) Receive a special tax credit for research conducted at a non-profit and academic research institution. Section 201 (b)(4).

A company must elect only one of these incentives and, if it elects one of these incentives, it is then not eligible to receive benefits under the Orphan Drug Act. The legislation includes amendments (Section 218) to the Orphan Drug Act championed by Senators HATCH, KENNEDY and JEFFORDS (S. 1341). the amendments make the Credit available from the date of the application for Orphan Drug status, not the date the application is approved as provided under current law.

(6) Countermeasure Purchase Fund (Section 202): The legislation provides that a company that successfully develops a countermeasure—through FDA approval—is eligible to sell the product to the Federal government at a pre-established price and in a predetermined amount. The company is given notice of the terms of the sale before it commences the research.

(7) Intellectual Property Incentives (Section 203): The legislation provides that a company that successfully develops a countermeasure is eligible to elect one of two patent incentives. The two alternatives are as follows:

(a) The company is eligible to receive a patent for its invention with a term as long as the term of the patent when it was issued by the Patent and Trademark Office, without any erosion due to delays in the FDA approval process. This alternative is available to any company that successfully develops a countermeasure irrespective of its paid-in capital.

(b) The company is eligible to extend the term of any patent owned by the company for two years. The patent may not be one that is acquired by the company from a third party. This is included as a capital formation incentive for small biotechnology companies with less than $750 million in paid-in capital, or, at the discretion of the Department of Homeland Security, to any firm that successfully develops a countermeasure.

In addition, a company that successfully develops a countermeasure is eligible for a 10 year period of market exclusivity on the countermeasure.

(8) Liability Protections (Section 204): The legislation provides for protections against liability for the company that successfully develops a countermeasure.

(9) Accelerated Approval of Countermeasure (Section 211): The countermeasures are considered for approval by the FDA on a ''fast track'' basis.

(10) Special Approval Standards (Section 212): The countermeasures may be approved in the absence of human clinical trails if such trails are impractical or unethical.

(11) Limited Antitrust Exemption (Section 213): Companies are granted a limited exemption from the antitrust laws as they seek to expedite research on countermeasures.

(12) Biologics Manufacturing Capacity and Efficiency (Sections 214–215): Special incentives are incorporated to ensure that manufacturing capacity is available for countermeasures.

(13) Strengthening of Biomedical Research Infrastructure: Authorizes appropriations for grants to construct specialized biosafety containment facilities where biological agents can be handled safely without exposing researchers and the public to danger (Section 216). Also reauthorizes a successful NIH-industry partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures and research tools (Section 217).

(14) Adjuvents (Section 219): The legislation provides incentives for the development and use of adjuvents to enhance the potency of countermeasures.

(15) Annual Report (Section 220): The Department is required to prepare for the Congress an annual report on the implementation of these incentives.

(16) International Conference (Section 221): The Department is required to organize an annual international conference on countermeasure research.

Mr. HATCH. Mr. President, I rise today to cosponsor, with my colleague Senator LIEBERMAN from Connecticut, Chairman of the Governmental Affairs Committee, legislation that we believe is essential to better prepare our nation to prepare for and respond to bioterrorist attacks. The goal of our bill, the Biological, Chemical and Radiological Measures Research Act of 2002, is to encourage private sector research and development of diagnostic products, drugs, and vaccines designed to counter biological, chemical, or radiological attacks.

One year ago our country faced a series of anthrax attacks that exposed deficiencies in our nation's ability to respond to attacks of bioterrorism. We need to do more. This bill will help protect the American public by deterring future acts of bioterrorism and, in the event of another such attack, will increase our capacity to respond effectively to the weapon deployed.

This legislation complements the bioterrorism bill passed by Congress earlier this year that focused on building up the public health infrastructure. Senators KENNEDY, GREGG and FRIST deserve much credit for their work on that bill as do Congressmen TAUZIN, BILIRAKIS, DINGELL and BROWN. Also, we would be remiss if we did not recognize the manner in which the Appropriations Committees in both the Senate and the House adjusted their priorities so quickly last Fall. I salute the leadership of Senators BYRD, HARKIN, STEVENS and SPECTER in making available substantial new funding for building up the capacity of the public health system to protect our citizens against the threat of bioterrorism.

When it comes to protecting America, partisanship has no place. Senator LIEBERMAN built upon the strong tradition of bi-partisanship in the war against terrorism in introducing this bill today.

Although we are far better prepared for a terrorist attack today than ever before, and preventing a terrorist attack is our first priority, there are areas where we can improve our preparedness in the case of such an attack. Chief among these is the development of preventive agents and treatments for those citizens who may become exposed to or infected by deadly biological, chemical, and radiological agents.

Building up the public health infrastructure alone will be insufficient if our national medicine chest does not contain safe and effective medicines to counter particular threat agents. This bill creates incentives for the private sector to try to fill the medicine chest with new products designed to respond to biological or other similar attacks. We need many new treatments and vaccines and the Lieberman-Hatch bill will unleash the creative energy and many resources of the private sector biomedical research enterprise.

America leads the world in biomedical research capacity. The Lieberman-Hatch bill attempts to help focus the enormous assets of our research expertise in a manner that will protect the public health. This legislation seeks to help translate the basic knowledge, much of it funded through the $27 billion taxpayer-investment in the National Institutes of Health, into tangible products developed by the private sector.

Given the growing risk of further attacks and the potentially devastating consequences of bioterrorism, we must abandon a business as usual attitude and take the vigorous steps that Senator LIEBERMAN and I urge through this legislation.

Our legislation is an additional measure to other avenues we have pursued to protect our nation from terrorism, including the Biologic Weapons Convention and government funded research at NIH, the Defense Advanced Research Projects Agency, DARPA, and the Centers for Disease Control and Prevention, CDC.

Though we have mobilized many governmental agencies and increased direct federal funding for research and development of new treatments, I agree with Senator LIEBERMAN, that what we have done thus far, impressive as it has been, is not nearly enough. Direct government funding for this research is likely to be insufficient for our national defense needs unless we marry our efforts with the private sector to the greatest extent possible. That is exactly what this bill does.

Unfortunately, it is hard to avoid sounding somewhat like an alarmist when speaking on these matters. But, the truth of the matter today is that we do not have effective treatment for a host of potential biological, chemical and radiological threat agents. We must develop these with a greater sense of urgency and this legislation will serve as a catalyst for private sector investment and research and development activities.

We need to develop an expedient, efficient capacity that combines the best of what our society has—strong federal and academic institutions with the most innovative biotechnology and pharmaceutical companies in the world. It would be a grave mistake to ignore the tremendous capabilities and potential of our country's biotech and pharmaceutical private sector.

We must be creative, willing to work together, putting aside partisan politics and our opinions of the government or the private sector when dealing with a potential deadly threat to our nation. I believe Senator LIEBERMAN and I have done that. Though we have not agreed on all the details on everything related to homeland security, we agree on this vital component. We must provide the tools to forge a collaborative effort by the private sector and the Federal Government to come up with the cures and vaccines we may, sadly, need one day.

The best deterrent of bioterrorist attacks is to be able to demonstrate the capacity to counter such dastardly acts. I think the case can be made that all the rapid progress we have made in smallpox in the last year makes an attack with that agent less likely. That is the good news. The bad news is that there are too many agents for which we do not have any vaccine or effective therapeutic response. We need to roll up our sleeves and get to work on many other potential tools of destruction. Our bill provides the private sector with important incentives to get this work done and to get it done now.

Most private sector companies rely on equity capital markets and investments to fund research. Naturally, they focus on research that will lead to products that will sell and have a dependable market. As we know, thankfully, there is no dependable or established market for counter terrorism. Therefore, not unreasonably, investors need some kind of assurance that the costly and complex research we are asking them to invest in will be rewarded—that the reward will be commensurate with the risk.

Under current law, private companies are reluctant to enter into agreements with government agencies to conduct needed research. The bill Senator LIEBERMAN and I are introducing greatly expands the incentives for biotechnology and pharmaceutical companies to develop bioterrorism countermeasures. I do not think anyone will oppose involving some of the most powerful research minds and new technology as we defend our country against these threats. We need to involve these biomedical research companies more directly into our national defense plan, as they may very well be the ones to provide us with what we need to the medical front.

I know there are novel, and perhaps controversial, features in this bill—anything innovative usually does. I ask that each and every one of you who has a stake in this issue enter into this debate. Keep in mind that the goal is to close any gap that exists in our plan against terrorism—I believe this includes engaging the private sector. We need to make sure that these companies have the proper incentives to engage in expensive, arduous research that could potentially save millions of Americans.

Let me now review the specifics of our proposal. We provide incentives, such as tax incentives, guaranteed purchase funds, and patent and liability protections, which make it possible for private companies to form the capital needed to conduct this vital research. Again, we cannot expect these companies to engage in expensive research and development for an extremely unpredictable market without providing them meaningful incentives and reassurance.

In some respects this legislation is similar to another bill I co-authored, the Orphan Drug Act. The Orphan Drug Act utilizes tax credits and marketing exclusivity incentives to spur research into rare diseases with patient populations under 200,000 in the United States. This modest little bill has resulted in over 220 approved orphan products with over 1000 more designated for investigation. It is my hope and expectation that, in introducing our bill today, we can recreate the success of the Orphan Drug Act in getting the private sector motivated in a particular area of research.

The Lieberman-Hatch bill contains powerful incentives. Here is how it works. The bill requires the private sector to work closely with the appropriate governmental officials. The legislation ensures that the Department of Homeland Security sets the countermeasure research priorities in advance. The Department of Homeland Security is required to take into account the status of existing research, the potential for non-countermeasure markets for the research, and the most effective strategy for propelling the research forward and provides this information to potential manufacturers. The bill also requires companies to register with the Department, to provide reports as requested and to be open to inspections, in order to be eligible for incentives. Once a company is certified, it is eligible for tax incentives for capital formation.

The Department then determines if a manufacturer has successfully developed a countermeasure. Once the specifications of the Department are met, the company is eligible for the procurement, patent, and liability provisions. These incentives apply to diagnostics, drugs, vaccines and other countermeasures deemed necessary, including research tools.

If companies seek to develop a research tool that enables the advancement of a countermeasure to a previously unknown agent or toxin, or an agent or toxin not targeted by the Department, they are also eligible for incentives.

The four tax incentives companies are eligible to select from include:

(a) An R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners.

(b) A special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock.

(c) A special tax credit to help fund the research.

(d) A special tax credit for research conducted at a non-profit and academic research institution.

I want to point out that a company can elect only one of these incentives and, if it elects one of these incentives, the company is not eligible to further benefits under the Orphan Drug Act. That is only fair.

I would like to briefly discuss the Countermeasure Purchase Fund contained in Section 202 of the bill. Basically, the legislation affords a company that successfully develops a countermeasure—through FDA approval—eligibility to sell the product to the Federal Government at a pre-established price and in a pre-determined amount. The company is given notice of the terms of the sale before it begins research.

The intellectual property incentives are contained in Section 203 of the bill. There are two patent incentives:

One, the company is eligible to receive full patent term restoration for its invention. This means that it is held harmless for patent term erosion due to the lengthy FDA approval process. This alternative is available to any company that successfully develops a countermeasure irrespective of its paid-in capital. This is a significant incentive over the normal partial patent term restoration provisions contained in the Drug Price Competition and Patent Term Restoration Act. I am a coauthor of this law which has contributed to consumer savings of $8 to $10 billion each year since its passage in 1984. This was the legislation that created the modern generic drug industry. But under this law the patent term cannot be restored beyond 14 years. When the 1984 law was enacted the patent term was 17 years from date of patent issuance; with the enactment of the GATT Treaty implementing legislation, the patent term was changed to 20 years from date of application. By adopting a policy of day for day patent term restoration, the Lieberman-Hatch bill is sending a strong signal to the private sector to pour its resources into this research. By lengthening the patent term beyond the existing 14 year cap, drug companies will have a new incentive to devote their efforts to this research.

Two, under the bill, small companies are also eligible to elect to extend the term of any patent owned by the company for two years. The patent may not be one that is acquired by the company from a third party. This is included as a capital formation incentive

for small biotechnology companies with less than $750 million in paid-in capital, or, at the discretion of the Department of Homeland Security, to any firm that successfully develops a countermeasure. This provision will get the attention of our nation's growing biotechnology sector.

In addition, a company that successfully develops a countermeasure is eligible for a 10 year period of market exclusivity on the countermeasure. This means that the FDA may not approve a generic copy of such a drug for 10 years regardless of whether the drug has any patent protection. This is in contrast to the 5 years of marketing exclusivity granted under the Drug Price Competition and Patent Term Restoration Act. This is an important incentive because it is the government that enforces the marketing exclusivity provision, not the firm through costly, risky, and time-consuming private patent infringement litigation.

Other incentives in the bill include the liability protections set forth in section 204; a limited antitrust exemption designed to expedite and coordinate research as set forth in section 213; accelerated FDA approval provisions described in section 211; and, special FDA approval standards established in section 212 that codify the FDA regulations that authorize approval in the absence of human clinical trails if such trails are impractical or unethical.

In addition the bill provide; incentives to enhance biologics manufacturing capacity for countermeasures. This includes grants to construct specialized biosafety containment facilities where biological agents can be handled safely without exposing researchers and the public to danger. The bill also reauthorizes a successful NIH-industry partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical, and medical device industries with regard to the development of countermeasures and research tools.

Finally, the bill also provides incentives for the development and use of adjuvants to enhance the potency of countermeasures; requires the Department of Homeland Security to prepare an Annual Report to Congress on the implementation of these incentives in the legislation and to organize an annual international conference on countermeasure research.

Let me conclude by saying that this legislation lays out an unabashedly aggressive set of incentives designed to stimulate research. There will undoubtedly be criticisms of some of the features of the bill. Senator LIEBERMAN and I recognize that adjustments will have to be made along the way. We want to work closely with President Bush, Vice President CHENEY, Governor Ridge, and Secretary Thompson and others in the Administration in refining this legislation. We recognize that unless the President feel that this type of program is necessary it is unlikely to be adopted.

The subject mater of this legislation cuts across many Committees of the Senate. Senator LIEBERMAN and I will work with the Finance Committee, the Judiciary Committee I serve on both of these committees—as well as the HELP Committee, Commerce Committee, and the Governmental Affairs Committee which my friend from Connecticut Chairs. I might add, as much as I admire Senator LIEBERMAN, I hope that next month he becomes the Ranking Democratic Member of the Governmental Affairs Committee.

We will continue to work with all interested parties in the private sector to refine this legislation. We welcome this dialog.

Let me state clearly that my cosponsorship today is more an unambiguous statement that I intend to work in partnership with Senator LIEBERMAN than it is a statement that I agree with each provision and detail of this bill. Specifically, I do not agree with—and would not support—the anti-trust and indemnification provisions as currently drafted. We must tread carefully in the areas of government indemnification and in holding any meetings with the private sector in which antitrust concerns are triggered.

My cosponsorship of this legislation today which will serve as a discussion draft between the 107th and 108th Congress—should not be considered as a reversal of my views on indemnification and antitrust policy. It is not. My cosponsorship only signals my willingness to be open to rethinking my traditional views of indemnification and antitrust policy in light of this grave threat to our national security. These sections—as well as many other parts of the bill need more work. At the end of the day, I hope we can come together on these questions.

I want to stress the fact that I opposed proposed indemnification language in the Kennedy-Gregg-Frist bioterrorism bill passed earlier this year. I have opposed indemnification provisions in discussions over matters of homeland security. I continue to hold my position that indemnification is not only not the best policy but that it may also be counterproductive in the long run.

Similarly, I have rejected any general policy of governmental indemnification of those injured by asbestos or tobacco use. The private sector must bare its share of the risk and responsibility when it produces potentially dangerous products.

Frankly, I believe the solution to the indemnification issue may ultimately stem from the hard work of Senators WARNER and THOMPSON with respect to their amendment, Number 4530, to the Homeland Security bill. This language was carefully worked out in close consultation with by Senators WARNER and THOMPSON and the White House earlier this year. We will take advantage of amendment Number 4530 as we further refine our legislation in this area.

The Warner-Thompson language builds upon the principles contained in Executive order No. 10879 and the authority set forth in Public Law 85–804. These authorities grant the Department of Defense, at DoD's discretion, to include indemnification clauses in its contracts with military contractors, with certain limitations and conditions. In order for this authority to apply to the new Office of Homeland Security, current law needs to be amended.

It is important to note that the language of the Warner-Thompson amendment retains the principle of discretionary authority. That is important. We can not write a blank check to the private sector. Senator LIEBERMAN and I have included language in our bill that requires the new Secretary of Homeland Security ''to make a determination . . . that it is in the national security interest of the United States'' before any indemnification provision could be triggered. The Warner-Thompson amendment is narrowly tailored to the procurement of anti-terrorism technology or services by a federal agency directly engaged in homeland security activities. Moreover, consistent with the Warner-Thompson language, we need to flesh out the factors the Administration shall consider in negotiating the extent of any indemnification.

Although we need to further refine the language in the discussion draft bill we introduce today, my intent is do follow the lead of and principles contained in the Warner-Thompson Amendment. Further, the Warner-Thompson Amendment language includes procurements made by State and local governments but only through contracts made by the head of an agency of the Federal Government and only to the extent that those loses are not covered by insurance.

A discussion of indemnification in the context of bioterrorism countermeasures is a very special case. It is a unique circumstance in which we may very well face many issues never confronted before such as the possibility of using drugs that can not be ethically tested in human beings due to the danger of the agent the drug is intended to treat. We are not talking about asbestos or tobacco here, we are talking about potential attacks that could undermine the public health, economic wealth, and environmental integrity of the United States of America.

We are trying to protect against the use weapons of terror in the hands of terrorists, not routine uses of consumer and other products. If unforseen side effects occur when countermeasures are dispensed, society may be presented with problems that will require innovative responses. The future of our country is at stake. I have twenty grandchildren and I want them to hand down our traditions and heritage to their grandchildren. It is for their

sake that we must try to settle these issues.

But let us not get to far ahead of ourselves at this point with all these details. This legislation is a work in progress. Anyone who has witnessed the extensive floor debate over the last 2 months over the creation of the Office of Homeland Security understands that we have much, much more work to do with respect to the creation of the new department and many other homeland security issues. I hope and expect that President Bush and the Congress will come together on the Department of Homeland Security. I commend Senator LIEBERMAN for his constructive role in this ongoing debate.

My support of this legislation should be construed as a personal commitment to work closely with Senator LIEBERMAN, the White House and other parties to address the issues raised in the bill. It is my hope that we can arrive at an acceptable compromise on the indemnification and antitrust provisions, as well as, all the other matters taken up in this important legislation.

As a pragmatic legislator, I understand that to make an omelette, you always have to break an egg. I hope this discussion draft bill will help inspire discussion and move the process along.

We are facing unprecedented threats to our Nation's security. We need to be open to novel solutions to these new problems. We hope that this bill will foster thoughtful discussion on how best to prepare the nation for any potential biological, chemical, or radiological attack.

Let us not lose sight of our mission to protect our nation from the devastating illness and death that bioterrorism can bring. We desperately need to develop the technology to prevent, detect, diagnose, and treat our citizens who may fall victim to bioterrorism. I believe that strengthening the government's partnership with the private sector is the most effective and expedient step we can take at this point in time. The Kennedy-Gregg-Frist bioterrorism law was an enormous step forward. The funding support provided by Senators BYRD, STEVENS, HARKIN, and SPECTER and other appropriators is also essential. This public sector investment must now be joined by legislation that will foster a commensurate private sector response. That is exactly what the Lieberman-Hatch bill, the Biological, Chemical and Radiological Measures Research Act of 2002, will do if Congress passes this law.

Let me close by saying that I have enjoyed working with Senator LIEBERMAN in developing this bill and look forward to continuing this partnership in the future as we work with other Senators on this legislation. I also want to recognize the efforts of Chuck Ludlam on Senator LIEBERMAN's staff for all the work he has done to bring the bill to this point. Senator LIEBERMAN and I urge our colleagues to review the ''Biological, Chemical and Radiological Measures Research Act of 2002''. I hope that our colleagues will conclude that this legislation deserves to be near the top of the agenda when the 108th Congress convenes in January.

By Mr. MCCAIN:

S.J. Res. 50. A joint resolution expressing the sense of the Senate with respect to human rights in Central Asia; to the Committee on Foreign Relations.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

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

S.J. RES. 50

Whereas the Central Asian nations of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan provided the United States with important assistance in the war in Afghanistan, from military basing and overflight rights to the facilitation of humanitarian relief;

Whereas America's victory over the Taliban in turn provided important benefits to the Central Asian nations, removing a regime that threatened their security, and significantly weakening the Islamic Movement of Uzbekistan, a terrorist organization that had previously staged armed raids from Afghanistan into the region;

Whereas the United States has consistently urged the nations of Central Asia to open their political systems and economies and to respect human rights, both before and since the attacks of September 11, 2001;

Whereas Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are members of the United Nations and the Organization for Security and Cooperation in Europe, both of which confer a range of human rights obligations on their members;

Whereas according to the State Department Country Reports on Human Rights Practices, the government of Kazakhstan harasses and monitors independent media and human rights activists, restricts freedom of association and opposition political activity, and allows security forces to commit extrajudicial executions, torture, and arbitrary detention with impunity;

Whereas according to the State Department, the government of the Kyrgyz Republic engages in arbitrary arrest and detention, restricts the activities of political opposition figures, religious organizations deemed ''extremist,'' human rights activists, and nongovernmental organizations, and discriminates against ethnic minorities.

Whereas according to the State Department, the government of Tajikistan remains authoritarian, curtailing freedoms of speech, assembly, and association, with security forces committing extrajudicial executions, kidnappings, disappearances, and torture;

Whereas according to the State Department, Turkmenistan is a Soviet-style one-party state centered around the glorification of its president, which engages in serious human rights abuses, including arbitrary arrest and detention, severe restrictions of personal privacy, repression of political opposition, and restrictions on freedom of speech and nongovernmental activity;

Whereas according to the State Department, the government of Uzbekistan continues to commit serious human rights abuses, including arbitrary arrest, detention and torture in custody, particularly of Muslims who practice their religion outside state controls, the severe restriction of freedom of speech, the press, religion, independent political activity and nongovernmental organizations, and detains over 7,000 people for political or religious reasons;

Whereas the United States Commission on International Religious Freedom has expressed concern about religious persecution in the region, recommending that Turkmenistan be named a Country of Particular Concern under the International Religious Freedom Act of 1998, and that Uzbekistan be placed on a special ''Watch List'';

Whereas, by continuing to suppress human rights and to deny citizens peaceful, democratic means of expressing their convictions, the nations of Central Asia risk fueling popular support for violent and extremist movements, thus undermining the goals of the war on terrorism;

Whereas President Bush has made the defense of ''human dignity, the rule of law, limits on the power of the state, respect for women and private property and free speech and equal justice and religious tolerance'' strategic goals of United States foreign policy in the Islamic world, arguing that ''a truly strong nation will permit legal avenues of dissent for all groups that pursue their aspirations without violence''; and

Whereas the Congress has expressed its desire to see deeper reform in Central Asia in past resolutions and legislation, most recently conditioning assistance to Uzbekistan on its progress in meeting human rights and democracy commitments to the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the Sense of the Congress that:

(1) the governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan should accelerate democratic reforms and fulfill their human rights obligations including, where appropriate, by—

''(A) releasing from prison all those jailed for peaceful political activism or the nonviolent expression of their political or religious beliefs;

''(B) fully investigating any credible allegations of torture and prosecuting those responsible;

''(C) permitting the free and unfettered functioning of independent media outlets, independent political parties, and non-governmental organizations, whether officially registered or not;

(D) permitting the free exercise of religious beliefs and ceasing the persecution of members of religious groups and denominations not registered with the state;

(E) holding free, competitives, and fair elections;

(F) making publicly available documentation of their revenues and punishing those engaged in official corruption;

(2) the President of the United States, the Secretary of State, and the Secretary of Defense should—

(A) continue to raise at the highest levels with the governments of the nations of Central Asia specific cases of political and religious persecution, and urge greater respect for human rights and democratic freedoms at every diplomatic opportunity;

(B) take progress in meeting the goals outlined in paragraph (1) into account when determining the level and frequency of United States diplomatic engagement with the governments of the Central Asian nations, the allocation of United States assistance, and the nature of United States military engagement with the countries of the region;

(C) ensure that the provisions of the Foreign Operations Appropriations Act are fully implemented to ensure that no United States

assistance benefits security forces in Central Asia implicated in violations of human rights;

(D) follow the recommendations of the United States Commission on International Religious Freedom by designating Turkmenistan a Country of Particular Concern under the International Religious Freedom Act of 1998 and by making clear that Uzbekistan risks designation if conditions there do not improve;

(E) work with the Government of Kazakhstan to create a political climate free of intimidation and harassment, including releasing political prisoners and permitting the return of political exiles, most notably Akezan Kazegeldin, and to reduce official corruption, including by urging the Government of Kazakhstan to cooperate with the ongoing United States Department of Justice investigation;

(F) support through United States assistance programs those individuals, non-governmental organizations, and media outlets in Central Asia working to build more open societies, to support the victims of human righrs abuses, and to expose official corruption; and

(3) increased levels of United States assistance to the governments of the Central Asian nations made possible by their cooperation in the war in Afghanistan can be sustained only if there is substantial and continuing progress towards meeting the goals outlined in paragraph (1).

By Mr. WYDEN:

S.J. Res. 51. A resolution to recognize the rights of consumers to use copyright protected works, and for other purposes; to the Committee on the Judiciary.

Mr. WYDEN. Mr. President, today I am introducing a resolution that spells out what I believe should be the basic rights of consumers to use and enjoy legally acquired copyrighted works. The purpose of this resolution is simple: to establish the principle that as the Nation's copyright system evolves and adapts to new technologies, it must respect and preserve the interests of consumers. I am joined in this effort by my friend and frequent collaborator, Representative CHRIS COX, who has already introduced a similar resolution in the House.

In today's information age, intellectual property rules are the oil that helps keep the economic engine running smoothly. Digitization and the rise of the Internet have given the engine a big boost by creating new and more efficient ways of circulating, manipulating, and using information. The pace of these developments has left the copyright system scrambling to keep up.

Industry working groups have been meeting over the past several years to negotiate new copy protection rules, but consumers have not always had a prominent seat at the table, and there is a real risk that the interests of consumers could get short shift. That is why I believe it is important to affirm that new copyright protection systems must not be allowed to undermine or erode the existing rights and expectations of consumers. Existing copyright laws, under the doctrine of ''fair use,'' permit consumers to make copies of content for limited, non-commercial purposes. A new copyright regime for the digital world must not narrow or limit these rights. It would be a terrible irony if the advances in digital technology were to result in a step backwards for consumers.

I expect to see a great deal of activity on this subject during the next Congress—on the legislative front certainly, but also in further negotiations between industry groups and in efforts to devise new technological approaches. To ensure that the scope of ''fair use'' in the digital world will not be any narrower than it has been in the analog world, I believe it would be helpful for Congress to spell out its expectations concerning what legitimate fair use includes. That is what this resolution aims to do. Specifically, it says that consumers of legally acquired content should be permitted to make copies for purposes of using the content later (time-shifting), using it in a different place (space shifting), or making a backup; to use the content on different platforms or devices; to translate the content into different formats; and to use technology to achieve any of these purposes. Copyright law should not give copyright holders the ability to prohibit such legitimate, personal, non-commercial activity.

It is clear to me that the content industries face very serious challenges in preventing piracy, and that intellectual property protections must be strong. People and companies that create copyrighted works must be fairly compensated, and piracy must be punished. America's information-based economy depends on it.

But efforts to combat piracy must not come at the expense of legitimate consumer uses of intellectual property. That would be throwing out the baby with the bathwater.

I understand that the content industries have serious concerns about this resolution. I have listened to them, and I can appreciate theirs fear that, for example, expressing consumer rights in too absolute a fashion could open the door to someone making 1,000 copies of a CD to share with all their friends and acquaintances at no charge. That is not my intention. So the resolution I am introducing specifies that the rights in question must be exercised in a reasonable, personal, and non-commercial manner. The rights are not absolute.

Going forward, I intend to continue to listen to both sides of this debate, and to support solutions that do not upset the balance in existing law between commercial use and non-commercial, personal use. I want to protect the interests of both copyright holders and consumers. But the fact is, as of today, nobody in the Senate has stepped forward with legislation on the consumer side of this issue. This resolution helps fill that void.

Introducing this resolution now, with the end of this Congress drawing near, Congressman COX, and I are essentially laying down a marker for next year's debate. I will work closely with my Chairman on the Senate Commerce Committee, Senator HOLLINGS, and others to move the issue forward. A positive expression affirming the reasonable interests of consumers should be part of this Nation's evolving copyright regime.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 345—EXPRESSING SYMPATHY FOR THOSE MURDERED AND INJURED IN THE TERRORIST ATTACK IN BALI, INDONESIA, ON OCTOBER 12, 2002, EXTENDING CONDOLENCES TO THEIR FAMILIES, AND STANDING IN SOLIDARITY WITH AUSTRALIA IN THE FIGHT AGAINST TERRORISM

Mrs. FEINSTEIN (for herself, Mr. HAGEL, Mr. HELMS, and Mr. NELSON of Florida) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 345

Whereas more than 180 innocent people were murdered and at least 300 injured by a cowardly and brutal terrorist bombing of a nightclub in Bali, Indonesia, on October 12, 2002, the worst terrorist incident since September 11, 2001;

Whereas those killed include two United States citizens, as well as citizens from Germany, the United Kingdom, and Canada, but the vast majority of those killed and injured were Australian, with more than 220 Australians still missing;

Whereas two American citizens are still missing;

Whereas this bloody attack appears to be part of an ongoing terror campaign by al-Qaida, and strong evidence exists that suggests the involvement of al-Qaida, together with Jemaah Islamiah, in this attack; and

Whereas the people of the United States and Australia have developed a strong friendship based on mutual respect for democracy and freedom: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its deepest condolences and sympathies to the families of the American victims, to the other families of those murdered and injured in this heinous attack, and to the people of Australia, Great Britain, Canada, and Germany;

(2) condemns in the strongest possible terms the vicious terrorist attacks of October 12, 2002, in Bali, Indonesia;

(3) expresses the solidarity of the United States with Australia in our common struggle against terrorism;

(4) supports the Government of Australia in its call for the al-Qaida-linked Jemaah Islamiah to be listed by the United Nations as a terrorist group;

(5) urges the Secretary of State to designate Jemaah Islamiah as a foreign terrorist organization; and

(6) calls on the Government of Indonesia to take every appropriate measure to bring to justice those responsible for this reprehensible attack.

SENATE RESOLUTION 346—CELEBRATING THE 90TH BIRTHDAY OF LADY BIRD JOHNSON

Mrs. HUTCHISON (for herself and Mr. GRAMM) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 346

Whereas Mrs. Lyndon Baines Johnson was born Claudia Alta Taylor in Karnack, Texas, on December 22, 1912, the daughter of Thomas Jefferson and Minnie Pattillo Taylor;

Whereas at an early age, it was noted that she was ''purty as a lady bird,'' and since that time she has been known to family, friends, and all Americans as ''Lady Bird'';

Whereas Lady Bird Johnson, as wife of the 36th President of the United States, served with great distinction as First Lady from 1963-1969;

Whereas Mrs. Johnson has dedicated her life to education and the beautification of our environment, and provided a legacy of wildflowers growing along our highways;

Whereas in 1982, Mrs. Johnson founded the National Wildflower Research Center (later renamed the Lady Bird Johnson Wildflower Center) in Austin, Texas, dedicated to the preservation and reestablishment of native plants in natural and planned landscapes;

Whereas Mrs. Johnson is the recipient of our Nation's highest civilian award, the Medal of Freedom, and in 1988 received the Congressional Gold Medal from President Ronald Reagan; and

Whereas the American people have a great and lasting admiration and affection for Lady Bird Johnson: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the 90th birthday of Lady Bird Johnson on December 22, 2002;

(2) extends best wishes to Mrs. Johnson; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Lady Bird Johnson;

(B) the National Archives; and

(B) the Lyndon Baines Johnson Library and Museum.

SENATE RESOLUTION 347—EXPRESSING THE SENSE OF THE SENATE THAT IN ORDER TO SEIZE UNIQUE SCIENTIFIC OPPORTUNITIES THE FEDERAL COMMITMENT TO BIOMEDICAL RESEARCH SHOULD BE TRIPLED OVER A TEN YEAR PERIOD BEGINNING IN 1999

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Appropriations:

S. RES. 347

Whereas past investments in biomedical research have resulted in better health, and improved quality of life for all Americans;

Whereas the Nation's commitment to biomedical research has expanded the base of scientific knowledge regarding health and disease and revolutionized the practice of medicine;

Whereas biomedical research continues to play a vital role in the growth of this Nation's biotechnology, medical device, and pharmaceutical industries;

Whereas the origins of many of the new drugs and medical devices currently in use are based in biomedical research supported by the National Institutes of Health;

Whereas research sponsored by the National Institutes of Health has contributed significantly to the first overall reduction in cancer death rates since recordkeeping was instituted;

Whereas research sponsored by the National Institutes of Health has developed effective treatments for Acute Lymphoblastic Leukemia;

Whereas research sponsored by the National Institutes of Health in the last 30 years has doubled the life expectancy of sickle cell disease patients;

Whereas research sponsored by the National Institutes of Health has resulted in the identification of genetic mutations for osteoporosis, Lou Gehrig's Disease, cystic fibrosis, Huntington's Disease, breast cancer, skin cancer, prostate cancer, and a variety of other illnesses;

Whereas a third of all known genetic defects affect the nervous system, and so far more than 200 genes have been identified that can cause or contribute to neurological disorders, but a better understanding of multiple gene influences on disease risk, progression, and severity is needed;

Whereas research sponsored by the NIH has brought remarkable progress, with the first treatments for acute stroke and spinal cord injury, new immune therapies that ameliorate symptoms and slow the progression of multiple sclerosis, and increased drug and surgical options for Parkinson's disease, epilepsy and chronic pain;

Whereas research sponsored by the National Institutes of Health has been key to the development of Magnetic Resonance Imaging (MRI), Positron Emission Tomography (PET), and other imaging technologies;

Whereas the emerging understanding of the principles of biomimetics has been applied to the development of hard tissue such as bone and teeth as well as soft tissue, and this field of study holds great promise for the design of new classes of biomaterials, pharmaceuticals, diagnostic and analytical reagents;

Whereas many Americans still face serious and life-threatening health problems, both acute and chronic;

Whereas neurodegenerative diseases of the elderly, such as Alzheimer's and Parkinson's disease threaten to destroy the lives of millions of Americans, overwhelm the Nation's health care system, and bankrupt the Medicare and Medicaid programs;

Whereas muscular dystrophies continue to severely affect the quality of life and shorten the lifespan of many Americans;

Whereas one in one hundred Americans are currently infected with the hepatitis C virus, an insidious liver condition that can lead to inflammation, cirrhosis, and cancer as well as liver failure;

Whereas women have traditionally been under-represented in medical research protocols, yet are severely affected by diseases including breast cancer; ovarian cancer; and osteoporosis and cardiovascular disorders;

Whereas cancer remains a comprehensive threat to any tissue or organ of the body at any age, and remains a leading cause of morbidity and mortality;

Whereas the extent of psychiatric and neurological diseases poses considerable challenges in understanding the workings of the brain and nervous system;

Whereas recent advances in the treatment of HIV illustrate the promise research holds for even more effective, accessible, and affordable treatments for persons with HIV, however at least 320,000 Americans are now suffering from AIDS and hundreds of thousands more with HIV infection;

Whereas diabetes, both insulin and non-insulin forms, afflict over 16 million Americans and place them at risk for acute and chronic complications, including blindness, kidney failure, atherosclerosis and nerve degeneration;

Whereas research sponsored by the National Institutes of Health has mapped and sequenced the entire human genome ahead of schedule, thereby ushering in a new era of molecular medicine that will provide unprecedented opportunities for the prevention, diagnoses, treatment, and cure of diseases that currently plague society;

Whereas an unprecedented variety of new treatments and prevention strategies for neurological disorders are under development, including drugs that are targeted at specific molecular processes, stem cell therapies that replace lost nerve cells, neural prostheses that read control signals directly from the brain, vaccines that target neurodegeneration, implantable electrical stimulators that compensate for brain circuits unbalanced by disease, vectors to repair or replace defective genes, and behavioral interventions that encourage the brain's latent capacity to repair itself;

Whereas the fundamental way science is conducted is changing at a revolutionary pace, demanding a far greater investment in emerging new technologies, research training programs, and in developing new skills among scientific investigators; and

Whereas most Americans show overwhelming support for an increased Federal investment in biomedical research:

Now, therefore, be it

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the ''Resolution for the Tripling of Biomedical Research''.

SEC. 2. SENSE OF THE SENATE.

It is the sense of the Senate that appropriations for the National Institutes of Health should be tripled over the ten year period from fiscal year 1999 to 2008.

Mr. SPECTER. Mr. President, I have sought recognition to submit a resolution with respect to the National Institutes of Health. The progress on medical research has been astounding, thanks to remarkable biomedical research and achievements.

When I came to the Senate after being elected in 1980, the budget for the National Institutes of Health was $3.6 billion. The Senate bill this year will advance that funding to more than $27 billion, and a good bit of that growth has been occasioned by the resolution which was passed in 1997 to double the NIH funding over a 5-year period.

Today I am submitting a resolution to triple the NIH funding over the 10-year period from fiscal year 1999 through the 2008.

When the resolution was passed to double NIH funding, that was a statement of the Senate's druthers, so to speak. It has been very hard to get the dollars, but we have managed to do so.

In 1998, Senator TOM HARKIN, who was then ranking member, and I, chairman—Senator HARKIN and I have passed the gavel back and forth, and it has been a seamless transition. I much prefer to be the chairman, but when Senator HARKIN is the chairman, our partnership is such that we move ahead in the public interest. I learned a long time ago, if you want to get something done in Washington, you have to cross party lines.

In 1998, Senator HARKIN and I asked for an additional $1 billion. The Budget Committee turned us down. We came to the floor and lost on a vote of 63 to 37, but got out our sharp pencils and

found the $1 billion as a matter of priorities.

Having lost on the effort for $1 billion, we came back the next year and asked for $2 billion. Again, we were defeated on a floor vote. Again, we established priorities and found the $2 billion. We had a number of votes and had difficulties in coming to the figure, but the last recorded vote on the NIH budget was 96 to 4.

There have been remarkable achievements by the National Institutes of Health. NIH research has developed effective treatments for acute leukemia.

NIH research in the past 30 years has doubled the life expectancy of sickle cell disease patients.

NIH research has resulted in the identification of the genetic mutations for osteoporosis, amyotrophic lateral sclerosis, known as Lou Gehrig's disease, cystic fibrosis, Huntington's disease, skin cancer, breast cancer, and prostate cancer.

A third of all known genetic defects affect the nervous system, and so far more than 200 genes have been identified that can cause or contribute to neurological disorders, with a better understanding of multiple gene influences on disease risk, progression, and severity.

Research by the NIH has brought remarkable progress with the first treatments for acute stroke, spinal cord injury, new immune therapies that ameliorate symptoms and slow the progression of multiple sclerosis, and increased drug and surgical options for Parkinson's disease, epilepsy, and chronic pain.

Research sponsored by the National Institutes of Health has been key in the development of the MRI, magnetic resonance imaging, positron emission tomography, and other imaging technologies.

Emerging understanding of the principles of biomimetics has been applied to the development of hard tissue, such as bone and teeth, as well as soft tissue, and this field of study holds great promise for the design of new classes of biomaterials, pharmaceuticals, diagnostic and analytical reagents.

Notwithstanding all of these achievements, Americans continue to suffer greatly. Women have traditionally been under-represented in medical research protocols, yet are severely affected by diseases, including breast cancer, ovarian cancer, osteoporosis, and cardiovascular disorders.

Cancer remains a comprehensive threat to any tissue or organ of a body at any age and remains a leading cause of morbidity and mortality.

The extent of psychiatric and neurological diseases poses considerable challenges in understanding the workings of the brain and nervous system.

Recent advances in the treatment of HIV illustrate the promise research holds for even more effective, accessible, and affordable treatments for persons with HIV, but at least 320,000 Americans are now suffering from AIDS and hundreds of thousands more with HIV infections.

The written resolution, which I am submitting, chronicles in greater detail the severe problems facing Americans with Parkinson's, Alzheimer's, heart ailments, cancer, and many other afflictions, but also we note the tremendous achievements of the National Institutes of Health.

There remains a great deal more to be done, and since November of 1998, when the stem cell phenomenon came upon the scene, we now have a real opportunity for enormous progress with stem cell research. That requires a change in Federal law on the Federal funding, and it is controversial because stem cells come from embryos. They come from embryos which are discarded.

Characteristically, when a dozen or so embryos are created for in vitro fertilization, many—8, 9, 10—are discarded, thrown away. If those embryos could produce life, that would be their highest form, and that is what should be done. But if the choice is discarding them or using them to save lives, it seems to me the choice is clear: To use them to save lives.

Last year, I suggested, successfully, that we have $1 million for embryo adoption in our appropriations bill to encourage people to come forward and adopt embryos, but still many remain to be discarded.

Confusion has arisen over an issue of what is called therapeutic cloning which is confused with human cloning. There is, I think, a consensus, if not unanimity, that human cloning is undesirable. But nuclear transplantation, which has been mislabeled as therapeutic cloning, offers lifesaving procedures.

In essence, it takes a skin cell from a person and places it into an egg with the nucleus removed. The stem cells produced from this process are not rejected and can be inserted in the brain for people who suffer from Parkinson's.

Legislation will soon be proposed which will promote Federal funding on important stem cell research which has the potential to save millions of lives.

These issues of disease which confront America involve virtually all Americans in terms of someone in a family or a friend or an acquaintance suffering from these ailments.

To reiterate, Mr. President, I have sought recognition today to submit a resolution to triple funding for the National Institutes of Health over a 10-year period beginning in 1999.

As chairman, and now ranking member, of the Appropriations Subcommittee for Labor, Health and Human Services, Education and Related Agencies, I have said many times that the National Institutes of Health is the crown jewel of the Federal Government—perhaps the only jewel of the Federal Government. When I came to the Senate in 1981, NIH spending totaled $3.6 billion. In fiscal year 2003, $27.1 billion is recommended by the Senate Appropriations Committee. If this recommendation is signed into law, it will result in a doubling of the fiscal year 1998 level within a 5-year period. This money has been very well spent. The successes realized by this investment in NIH have spawned revolutionary advances in our knowledge and treatment for diseases such as cancer, Alzheimer's disease, Parkinson's disease, mental illness, diabetes, osteoporosis, heart disease, ALS and many others. It is clear that Congress' commitment to the NIH is paying off. Now it is crucial that increased funding be continued in order to convert these advances into treatment and cures.

Our investment has resulted in new generations of AIDS drugs which are reducing the presence of the AIDS virus in HIV infected persons to nearly undetectable levels. Death rates from cancer have begun a steady decline. With the sequencing of the human genome, we will begin, over the next few years, to reap the benefits in many fields of research. And if scientists are correct, stem cell research could result in a veritable foundation of youth by replacing diseased or damaged cells. I anxiously await the results of all of these avenues of remarkable research. This is the time to seize the scientific opportunities that lie before us.

On May 21, 1997, the Senate passed a sense of the Senate resolution stating that funding for the NIH be doubled over 5 years. Regrettably, even though the resolution was passed by an overwhelming vote of 98 to 0, the Budget Resolution contained a $100 million reduction for health programs. That prompted Senator HARKIN and myself to offer an amendment to the budget resolution to add $1.1 billion to carry out the expressed sense of the Senate to increase NIH funding. Unfortunately, our amendment was tabled by a vote of 63 to 37. We were extremely disappointed that, while the Senate had expressed its druthers on a resolution, it was simply unwilling to put up the actual dollars to accomplish this vital goal.

The following year, Senator HARKIN and I again introduced an amendment to the Budget Resolution which called for a $2 billion increase for the NIH. While we gained more support on this vote than in the previous year, our amendment was again tabled by a vote of 57 to 41. Not to be deterred, Senator HARKIN and I again went to work with our subcommittee and we were able to add an addition $2 billion to the NIH account for fiscal year 1999.

In fiscal year 2000, Senator HARKIN and I yet again offered another amendment to the Budget Resolution to add $1.4 billion to the health accounts, over and above the $600 million increase which had already been provided by the Budget Committee. Despite this amendment's defeat by a vote of 47 to 52, we were able to provide a $2.3 billion increase for NIH in the fiscal year 2000 appropriation's bill.

In fiscal year 2001, Senator HARKIN and I yet again offered an amendment to the Budget Resolution to increase funding for health programs by $1.6 billion. This amendment passed by a vote of 55 to 45. This victory brought the NIH increase to $2.7 billion for fiscal year 2001. However, after late night conference negotiations with the House, the funding for NIH was cut by $200 million below that amount.

In fiscal year 2002, the budget resolution once again fell short of the amount necessary to achieve the NIH doubling. Senator HARKIN and I, along with nine other Senators offered an amendment to add an additional $700 million to the resolution to achieve our goal. The vote was 96 to 4. The Senate Labor-HHS Subcommittee reported a bill recommending $23.7 billion, an increase of $3.4 billion over the previous year's funding. But during conference negotiations with the House, we fell short of that amount by $410 million. That meant that in order to stay on a path to double NIH, we would need to provide an increase of $3.7 billion in the fiscal year appropriations bill.

The fiscal year 2003 bill, reported on July 22, 2002, by the Senate Appropriations Committee, contained $3.7 billion which will complete our doubling effort.

We have fought long and hard to achieve a doubling of the NIH research dollars, but until treatments and cures are found for the many maladies that continue to plague our society, we must continue our fight.

I, like millions of Americans, have benefited tremendously from the investment we have made in the National Institutes of Health. That is why I offer this resolution today—to call upon the Congress to triple the funding for the National Institutes of Health, so that we can continue to carry forward the important research work of the world's premier medical research facility.

I ask that my colleagues join me in supporting this resolution.

I yield the floor.

I ask unanimous consent that the text of the resolution, together with a schedule which sets forth the progress necessary to achieve the tripling of the NIH funding over the allotted period, be printed in the RECORD.

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

In FY1998, the NIH appropriation was $13.6 billion. In FY 2003, the Senate Committee mark is $27.2 billion. To achieve tripling, the FY 2008 level must be $40.81 billion. Achieving this goal will require the enactment of the FY2003 NIH appropriation at the level of the Senate Committee Markup—$27.2 billion, an increase of $3.7 billion over FY2002, and increases of 8.45% per year for fiscal years 2004 to 2008.

Fiscal year	NIH appropriation (in billions)	$Increase (in billions)	Percent increase
1998	$13.65		
1999	15.60	1.95	14.28
2000	17.79	2.19	14.04
2001	20.29	2.50	14.05
2002	23.29	3.00	14.79
2003 (Senate)	27.20	3.70	15.89
2004	29.50	2.30	8.45
2005	31.99	2.49	8.45
2006	34.69	2.70	8.45
2007	37.63	2.93	8.45
2008	40.81	3.18	8.45

SENATE RESOLUTION 348—RECOGNIZING SENATOR HENRY JACKSON, COMMEMORATING THE 30TH ANNIVERSARY OF THE INTRODUCTION OF THE JACKSON-VANIK AMENDMENT, AND REAFFIRMING THE COMMITMENT OF THE SENATE TO COMBAT HUMAN RIGHTS VIOLATIONS WORLDWIDE

Mrs. MURRAY submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 348

Whereas Henry M. Jackson served as the Senator from the State of Washington from January 3, 1953, to September 1, 1983;

Whereas Senator Jackson fought tirelessly, in spite of opposition from the executive branch, to expose human rights violations in the former Soviet Union and to find a way for Soviet Jews to worship freely;

Whereas on October 4, 1972, Senator Jackson first introduced legislation that linked United States trade benefits, now known as normal trade relations, to the emigration and human rights policies of Communist or formerly Communist countries;

Whereas Senator Jackson, in introducing the legislation, stated ''In moving as we are today we are giving birth to a bipartisan coalition for freedom. It is the least we can do.'';

Whereas Senator Jackson expressed the importance of exposing the human rights situation in the former Soviet Union by quoting Russian Nobel laureate Alexander Solzhenitzyn's statement that ''there are no internal affairs left on our crowded earth'';

Whereas Senator Jackson's legislation became known as the Jackson-Vanik Amendment and was enacted into law on January 3, 1975, as title IV of the Trade Act of 1974;

Whereas by highlighting human rights abuses in the former Soviet Union and other Communist countries, the Jackson-Vanik Amendment helped pave the way toward the end of the Cold War, aided in the activation of United States' and multilateral mechanisms to promote human rights globally, including the Helsinki Final Act, and reaffirmed the role of Congress in formulating our Nation's human rights policy;

Whereas the Jackson-Vanik Amendment opened the door for over 1,000,000 Jews to emigrate from the former Soviet Union and its successor states;

Whereas since 1975, over 500,000 refugees from areas of the former Soviet Union, many of them Jews, have been resettled in the United States and over 1,000,000 Soviet Jews have immigrated to Israel;

Whereas former Soviet dissident and current Israeli cabinet minister Natan Sharansky called the Jackson-Vanik Amendment ''the turning point not only in the exodus of the Jews but in the ultimate victory of the West over the Soviet Union in the Cold War'';

Whereas Natan Sharansky also hailed the Jackson-Vanik Amendment as a ''historical and practical weapon'' for Zionists that added to the spiritual weapon of their Jewish heritage;

Whereas on the 20th anniversary of the passing of the Jackson-Vanik Amendment, Ehud Olmert, the Mayor of Jerusalem, stated that Henry Jackson was ''a leader, a pacesetter and an inspiration for all, who forced his will on the U.S. leadership and across the world''; and

Whereas October 4, 2002, marks the 30th anniversary of the introduction of the Jackson-Vanik Amendment: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Senator Henry M. Jackson for the introduction of the Jackson-Vanik Amendment, a historic piece of legislation that paved the way for millions of refugees to flee Communist oppression and hastened the end of the Cold War;

(2) commemorates the 30th anniversary of the introduction of the Jackson-Vanik Amendment;

(3) reaffirms the commitment of the Senate to combating human rights violations and promoting tolerance and freedom throughout former Communist nations and worldwide; and

(4) congratulates Mrs. Helen Jackson and the Henry M. Jackson Foundation for continuing Senator Jackson's vision and passion for dialogue, understanding, and human freedom.

SENATE RESOLUTION 349—TO AUTHORIZE THE PRINTING OF A REVISED EDITION OF THE SENATE RULES AND MANUAL

Mr. DODD submitted the following resolution; which was considered and agreed to:

S. RES. 349

Resolved, That (a) the Committee on Rules and Administration shall prepare a revised edition of the Senate Rules and Manual for the use of the 108th Congress.

(b) The manual shall be printed as a Senate document.

(c) In addition to the usual number of documents, 1,500 additional copies of the manual shall be bound of which—

(1) 500 paperbound copies shall be for the use of the Senate; and

(2) 1000 copies shall be bound (550 paperbound; 250 nontabbed black skiver; 200 tabbed black skiver) and delivered as may be directed by the Committee on Rules and Administration.

SENATE RESOLUTION 350—EXPRESSING SYMPATHY FOR THOSE MURDERED AND INJURED IN THE TERRORIST ATTACK IN BALI, INDONESIA, ON OCTOBER 12, 2002, EXTENDING CONDOLENCES TO THEIR FAMILIES, AND STANDING IN SOLIDARITY WITH AUSTRALIA IN THE FIGHT AGAINST TERRORISM

Mrs. FEINSTEIN submitted the following resolution; which was considered and agreed to:

S. RES. 350

Whereas more than 180 innocent people were murdered and at least 300 injured by a cowardly and brutal terrorist bombing of a nightclub in Bali, Indonesia, on October 12, 2002, the worst terrorist incident since September 11, 2001;

Whereas those killed include two United States citizens, as well as citizens from Indonesia, Germany, the United Kingdom, Canada, and elsewhere but the vast majority of those killed and injured were Australian, with more than 119 Australians still missing;

Whereas two American citizens are still missing;

Whereas this bloody attack appears to be part of an ongoing terror campaign by al-Qaida, and strong evidence exists that suggests the involvement of al-Qaida, together with Jemaah Islamiah, in this attack; and

Whereas the people of the United States and Australia have developed a strong friendship based on mutual respect for democracy and freedom: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its deepest condolences and sympathies to the families of the American victims, to the other families of those murdered and injured in this heinous attack, and to the people of Australia, Indonesia, Great Britain, Canada, and Germany;

(2) condemns in the strongest possible terms the vicious terrorist attacks of October 12, 2002, in Bali, Indonesia;

(3) expresses the solidarity of the United States with Australia in our common struggle against terrorism;

(4) supports the Government of Australia in its call for the al-Qaida-linked Jemaah Islamiah to be listed by the United Nations as a terrorist group;

(5) urges the Secretary of State to designate Jemaah Islamiah as a foreign terrorist organization; and

(6) calls on the Government of Indonesia to take every appropriate measure to bring to justice those responsible for this reprehensible attack.

SENATE RESOLUTION 351—CONDEMNING THE POSTING ON THE INTERNET OF VIDEO AND PICTURES OF THE MURDER OF DANIEL PEARL AND CALLING ON SUCH VIDEO AND PICTURES TO BE REMOVED IMMEDIATELY

Mrs. BOXER (for herself and Mr. BROWNBACK) submitted the following resolution; which was considered and agreed to:

S. RES. 351

Whereas Daniel Pearl, a reporter for the Wall Street Journal, was murdered by terrorists following his abduction in Pakistan on January 23, 2002;

Whereas video of Mr. Pearl's gruesome murder has been posted on web sites;

Whereas this video was made by terrorists for anti-American propaganda purposes, in an attempt to recruit new terrorists and to spread a message of hate;

Whereas posting this video on web sites undermines efforts to fight terrorism throughout the world by glorifying such heinous acts;

Whereas posting this video on web sites could invite more abductions and more murders of innocent civilians by anti-American terrorists because of the attention these heinous acts might gain from such posting; and

Whereas posting this video on the Internet shows a complete and utter disrespect for Mr. Pearl's life and legacy and a complete and utter disregard for the respect of his family: Now, therefore, be it

Resolved, That the Senate—

(1) calls on terrorist-produced murder video and pictures to be removed from all web sites immediately; and

(2) encourages all web-site operators to refrain from placing any terrorist-produced murder videos and pictures on the Internet.

SENATE RESOLUTION 352—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF JUDICIAL WATCH, INC. V. WILLIAM JEFFERSON CLINTON, ET AL

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 352

Whereas, in the case of Judicial Watch, Inc. v. William J. Clinton, et. al, No. 1:02–cv–01633 (EGS), pending in the United States District Court for the District of Columbia, the plaintiff has named as defendants current and former Senators, along with former President William J. Clinton and several Members of the House of Representatives;

Whereas, pursuant to section 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Graham, former Senator Bryan, former Senator Robb, and any other Senator who may be named as a defendant in the case of Judicial Watch, Inc. v. William J. Clinton, et al., and who requests representation by the Senate Legal Counsel.

SENATE RESOLUTION 353—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION IN UNITED STATES V. JOHN MURTARI

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 353

Whereas, in the case of *United States* v. *John Murtari* Crim. Act. No. 02–CR–369, pending in the United States District Court for the Northern District of New York, testimony has been requested from Cathy Calhoun, an employee in the office of Senator Hillary Rodham Clinton;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now therefore, be it

Resolved, That Cathy Calhoun, and any other employees of the Senate from whom testimony or document production is required, are authorized to testify and produce documents in the cases of *United States* v. *John Murtari*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel if authorized to represent employees of the Senate in connection with the testimony and document production authorized in section one of this resolution.

SENATE CONCURRENT RESOLUTION 154—EXPRESSING THE SENSE OF THE CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED HONORING GUNNERY SERGEANT JOHN BASILONE, A GREAT AMERICAN HERO

Mr. CORZINE (for himself, Mrs. CLINTON, and Mr. TORRICELLI) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 154

Whereas Gunnery Sergeant John Basilone was born in 1916 in Buffalo, New York, son of Salvatore and Dora Basilone, one of 10 children;

Whereas John Basilone was raised and educated in Raritan, New Jersey;

Whereas, at the age of 18, John Basilone enlisted in the United States Army, principally seeing garrison service in the Philippines;

Whereas, after his honorable discharge in 1937, Sergeant Basilone, known by his comrades as ''Manila John'', returned to Raritan;

Whereas, seeing the storm clouds of war hovering over the Nation, and believing that his place was with this country's fighting forces, Sergeant Basilone enlisted in the United States Marine Corps in July 1940;

Whereas, on October 24 and 25, 1942, on Guadalcanal, Solomon Islands, Sergeant Basilone was a member of ''C'' Company, 1st Battalion, 7th Regiment, 1st Marine Division, and was in charge of 2 sections of heavy machine guns defending a narrow pass that led to Henderson Airfield;

Whereas, although Sergeant Basilone and his machine gunners were vastly outnumbered and without available reinforcements, Sergeant Basilone and his fellow Marines fought valiantly to check the savage and determined assault by the Japanese Imperial Army;

Whereas, for this action, Sergeant Basilone was awarded the Congressional Medal of Honor and sent home a hero;

Whereas, in December 1944, Sergeant Basilone's restlessness to rejoin his fellow Marines, who were fighting the bloody island-to-island battles en route to the Philippines and Japan, prompted him to volunteer again for combat;

Whereas, on Iwo Jima, on February 19, 1945, Sergeant Basilone again distinguished himself by single-handedly destroying an enemy blockhouse while braving heavy-caliber fire;

Whereas, minutes later, an artillery shell killed Sergeant Basilone and 4 of his platoon members;

Whereas Sergeant Basilone was posthumously awarded the Navy Cross and Purple Heart, and a life-sized bronze statue stands in Raritan, New Jersey, where ''Manila John'' is clad in battle dress and cradles a machine gun in his arms;

Whereas, in 1949, the United States Government commissioned a destroyer the U.S.S. Basilone, and in November 1951, Governor Alfred E. Driscoll posthumously awarded Sergeant Basilone the State of New Jersey's highest decoration;

Whereas, following World War II, Sergeant Basilone's remains were reinterred in the Arlington National Cemetery;

Whereas Sergeant Basilone was the first recipient of the Congressional Medal of Honor awarded in World War II;

Whereas Sergeant Basilone was also awarded the Navy Cross and the Purple Heart, giving him the distinction of being the only enlisted Marine in World War II to receive all 3 medals; and

Whereas commemorative postage stamps have been commissioned to honor other great heroes in American history: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) a commemorative postage stamp should be issued by the United States Postal Service honoring Gunnery Sergeant John Basilone; and

(2) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

Mr. CORZINE. Mr. President, I rise today to submit a resolution calling on the United States Postal Service to issue a commemorative postage stamp honoring an extraordinary American hero: Gunnery Sergeant John Basilone. Basilone is the only person in American history to be awarded both the Congressional Medal of Honor and the Navy Cross. Only one USPS stamp has ever commemorated an individual Marine, a stamp featuring John Phillip Sousa; it bears noting that although Sousa was a Marine, he was not selected for his service on the battlefield. It is time to remember the tremendous sacrifice of at least one individual Marine, John Basilone, an American Patriot.

John Basilone was raised in Raritan, New Jersey, one of ten children in a large Italian-American family. Soon after he turned 18, Basilone heeded the patriotic call and enlisted in the US Army. Basilone was immediately sent to the Philippines where he earned a nickname that would stick with him for the rest of his career. ''Manila John.''

Following his tour of duty in 1937, Basilone returned to Raritan. But he wouldn't stay there long. In July 1940—with much of Europe at war an the United States on the brink ''Manila John'' left New Jersey, enlisting in the military once again, this time joining the United States Marine Corps.

On October 24, 1942, Basilone earned his Congressional Medal of Honor. He was sent to a position on the Tenaru River at Guadalcanal and placed in command of two sections of heavy machine guns. Sergeant Basilone and his men were charged with defending Henderson Airfield, an important American foothold on the island. Although the Marine Contingent was vastly outnumbered and without needed support, Basilone and his men successfully repelled a Japanese assault. Other survivors reported that their success can be attributed to one man: ''Manila John.'' He crossed enemy lines to replenish a dangerously low stockpile of ammunition, repaired artillery pieces, and steadied his troops in the midst of torrential rain. He went several days and nights without food or sleep, and the US military was able to carry the day. His exploits became Marine lore, and served as a patriotic inspiration to others facing daunting challenges in the midst of war.

For his courage under fire and profound patriotism, Basilone was the first enlisted Marine to be awarded the Congressional Medal of Honor in World War II. When he returned to the United States, he was heralded as a hero and quickly sent on tour around the country to help finance the war through the sale of war bonds. The Marine Corps offered to commission Basilone as an officer and station him far away from the frontlines.

But, Basilone was not interested in riding out the war in Washington, D.C. He was quoted as saying, ''I ain't no officer, and I ain't no museum piece. I belong back with my outfit.'' In December 1944, he got his wish and returned to the frontlines.

General Douglas MacArthur called him ''a one-man army,'' and on February 19, 1945 at Iwo Jima, Basilone once again lived up to that reputation. Basilone destroyed an enemy stronghold, a blockhouse on that small Japanese island and commanded his young troops to move the heavy guns off the beach. Unfortunately, less than two hours into the assault on that fateful day in February, Basilone and four of his fellow marines were killed when any enemy mortar shell exploded nearby.

When Gunnery Sergeant John Basilone died, he was only 27, but he had already earned the Congressional Medal of Honor, the Navy Cross, the Purple Heart, and the appreciation of his Nation. Basilone is a true American patriot whose legacy should be preserved.

Now more than ever, the United States needs to honor and praise the courageous efforts put forth by the men and woman of our military. I strongly urge my colleagues to support this resolution as an important message to our soldiers that we appreciate and admire all of their efforts in the war on terrorism.

AMENDMENTS SUBMITTED & PROPOSED

SA 4891. Mr. KERRY (for himself, Mr. BROWNBACK, and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill S. 2869, to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers; which was referred to the Committee on Commerce, Science, and Transportation.

SA 4892. Mr. REID (for Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire)) proposed an amendment to the bill H.R. 1070, to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

SA 4893. Mr. REID (for Mr. THOMPSON) proposed an amendment to the bill S. 2530, to amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.

SA 4894. Mr. REID (for Mr. DODD) proposed an amendment to the bill S. 969, to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

SA 4895. Mr. REID (for Mr. ENSIGN (for himself, Mr. ALLARD, and Mr. ALLEN)) proposed an amendment to the bill S. 1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools.

SA 4896. Mr. REID (for Mr. BIDEN (for himself and Mr. THURMOND)) proposed an amendment to the bill S. 1868, to amend the National Child Protection Act of 1993, and for other purposes.

SA 4897. Mr. REID (for Mr. SARBANES) proposed an amendment to the bill S. 2239, to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

TEXT OF AMENDMENTS

SA 4891. Mr. KERRY (for himself, Mr. BROWNBACK, and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill S. 2869, to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers; which was referred to the Committee on Commerce, Science, and Transportation; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. RELIEF FROM CONTINUING OBLIGATIONS.

A winning bidder to which the Commission has not granted an Auction 35 license may irrevocably elect to relinquish any right, title, or interest in that license and the associated license application by formal written notice to the Commission. Such an election may only be made within 30 days after the date of enactment of this Act. A winning bidder that makes such an election shall be free of any obligation the winning bidder would otherwise have with respect to that license, the associated license application, and the associated winning bid, including the obligation to pay the amount of its winning bid that would be otherwise due for such license.

SEC. 2. RETURN OF DEPOSITS AND DOWNPAYMENTS.

Within 37 days after receiving an election that meets the requirements of section 3 from an Auction 35 winning bidder that has made the election described in section 1, the Commission shall refund any deposit or down-payment made with respect to a winning bidder for the license that is the subject of the election.

SEC. 3. COMMISSION TO ISSUE PUBLIC NOTICE.

(a) PUBLIC NOTICE.—Within 5 days after the date of enactment of this Act, the Commission shall issue a public notice specifying the form and the process for the return of deposits and downpayments under section 2.

(b) TIME FOR ELECTION.—An election under this section is not valid unless it is made within 30 days after the date of enactment of this Act.

SEC. 4. WAIVER OF PAPERWORK REDUCTION ACT REQUIREMENTS.

Section 3507 of title 44, United States Code, shall not apply to the Commission's implementation of this Act.

SEC. 5. NO INFERENCE WITH RESPECT TO NEXTWAVE CASE.

It is the sense of the Congress that no inference with respect to any issue of law or

fact in *Federal Communications Commission* v. *NextWAVE Personal Communications, Inc., et al.* (Supreme Court Docket No. 01–653) should be drawn from the introduction, amendment, defeat, or enactment of this Act.

SEC. 6. DEFINITIONS.

In this Act:

(1) AUCTION 35.—The term ''Auction 35'' means the C and F block broadband personal communications service spectrum auction of the Commission that began on December 1, 2000, and ended on January 6, 2001, insofar as that auction related to spectrum previously licensed to NextWave Personal Communications, Inc., NextWave Power Partners, Inc., or Urban Comm North Carolina, Inc.

(2) COMMISSION.—The term ''Commission'' means the Federal Communications Commission or a bureau or division thereof acting on delegated authority.

(3) WINNING BIDDER.—The term ''winning bidder'' means any person who is entitled under Commission order FCC 02–99 (released March 27, 2002), to a refund of a substantial portion of monies on deposit for spectrum formerly licensed to NextWave and Urban Comm as defined in that order.

SA 4892. Mr. REID (for Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire)) proposed an amendment to the bill H.R. 1070, to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Great Lakes and Lake Champlain Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GREAT LAKES

Sec. 101. Short title.
Sec. 102. Report on remedial action plans.
Sec. 103. Remediation of sediment contamination in areas of concern in the Great Lakes.
Sec. 104. Relationship to Federal and State authorities.
Sec. 105. Authorization of appropriations.
Sec. 106. Research and development program.

TITLE II—LAKE CHAMPLAIN

Sec. 201. Short title.
Sec. 202. Lake Champlain Basin Program.

TITLE III—MISCELLANEOUS

Sec. 301. Phase II storm water program.
Sec. 302. Preservation of reporting requirements.
Sec. 303. Repeal.
Sec. 304. Cross Harbor Freight Movement Project EIS, New York City.

TITLE I—GREAT LAKES

SEC. 101. SHORT TITLE.

This title may be cited as the ''Great Lakes Legacy Act of 2002''.

SEC. 102. REPORT ON REMEDIAL ACTION PLANS.

Section 118(c)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(3)) is amended by adding at the end the following:

''(E) REPORT.—Not later than 1 year after the date of enactment of this subparagraph, the Administrator shall submit to Congress a report on such actions, time periods, and resources as are necessary to fulfill the duties of the Agency relating to oversight of Remedial Action Plans under—

''(i) this paragraph; and

''(ii) the Great Lakes Water Quality Agreement.''.

SEC. 103. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN IN THE GREAT LAKES.

Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) is amended by adding at the end the following:

''(12) REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.—

''(A) IN GENERAL.—In accordance with this paragraph, the Administrator, acting through the Program Office, may carry out projects that meet the requirements of subparagraph (B).

''(B) ELIGIBLE PROJECTS.—A project meets the requirements of this subparagraph if the project is to be carried out in an area of concern located wholly or partially in the United States and the project—

''(i) monitors or evaluates contaminated sediment;

''(ii) subject to subparagraph (D), implements a plan to remediate contaminated sediment; or

''(iii) prevents further or renewed contamination of sediment.

''(C) PRIORITY.—In selecting projects to carry out under this paragraph, the Administrator shall give priority to a project that—

''(i) constitutes remedial action for contaminated sediment;

''(ii)(I) has been identified in a Remedial Action Plan submitted under paragraph (3); and

''(II) is ready to be implemented;

''(iii) will use an innovative approach, technology, or technique that may provide greater environmental benefits, or equivalent environmental benefits at a reduced cost; or

''(iv) includes remediation to be commenced not later than 1 year after the date of receipt of funds for the project.

''(D) LIMITATION.—The Administrator may not carry out a project under this paragraph for remediation of contaminated sediments located in an area of concern—

''(i) if an evaluation of remedial alternatives for the area of concern has not been conducted, including a review of the short-term and long-term effects of the alternatives on human health and the environment; or

''(ii) if the Administrator determines that the area of concern is likely to suffer significant further or renewed contamination from existing sources of pollutants causing sediment contamination following completion of the project.

''(E) NON-FEDERAL SHARE.—

''(i) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph shall be at least 35 percent.

''(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of a project carried out under this paragraph may include the value of in-kind services contributed by a non-Federal sponsor.

''(iii) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project carried out under this paragraph—

''(I) may include monies paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or judicial consent decree; but

''(II) may not include any funds paid pursuant to, or the value of any in-kind service performed under, a unilateral administrative order or court order.

''(iv) OPERATION AND MAINTENANCE.—The non-Federal share of the cost of the operation and maintenance of a project carried out under this paragraph shall be 100 percent.

''(F) MAINTENANCE OF EFFORT.—The Administrator may not carry out a project under this paragraph unless the non-Federal sponsor enters into such agreements with the Administrator as the Administrator may require to ensure that the non-Federal sponsor will maintain its aggregate expenditures from all other sources for remediation programs in the area of concern in which the project is located at or above the average level of such expenditures in the 2 fiscal years preceding the date on which the project is initiated.

''(G) COORDINATION.—In carrying out projects under this paragraph, the Administrator shall coordinate with the Secretary of the Army, and with the Governors of States in which the projects are located, to ensure that Federal and State assistance for remediation in areas of concern is used as efficiently as practicable.

''(H) AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2004 through 2008.

''(ii) AVAILABILITY.—Funds made available under clause (i) shall remain available until expended.

''(13) PUBLIC INFORMATION PROGRAM.—

''(A) IN GENERAL.—The Administrator, acting through the Program Office and in coordination with States, Indian tribes, local governments, and other entities, may carry out a public information program to provide information relating to the remediation of contaminated sediment to the public in areas of concern that are located wholly or partially in the United States.

''(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $1,000,000 for each of fiscal years 2004 through 2008.''.

SEC. 104. RELATIONSHIP TO FEDERAL AND STATE AUTHORITIES.

Section 118(g) of the Federal Water Pollution Control Act (33 U.S.C. 1268(g)) is amended—

(1) by striking ''construed to affect'' and inserting the following: ''construed—

''(1) to affect'';

(2) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(2) to affect any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes.''.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended—

(1) by striking the second sentence; and

(2) in the first sentence—

(A) by striking ''not to exceed $11,000,000'' and inserting ''not to exceed—

''(1) $11,000,000'';

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(2) such sums as are necessary for each of fiscal years 1992 through 2003; and

''(3) $25,000,000 for each of fiscal years 2004 through 2008.''.

SEC. 106. RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—In coordination with other Federal, State, and local officials, the Administrator of the Environmental Protection Agency may conduct research on the development and use of innovative approaches, technologies, and techniques for the remediation of sediment contamination in areas of concern that are located wholly or partially in the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts authorized under other laws, there is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2004 through 2008.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.

TITLE II—LAKE CHAMPLAIN

SEC. 201. SHORT TITLE.

This title may be cited as the ''Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002''.

SEC. 202. LAKE CHAMPLAIN BASIN PROGRAM.

Section 120 of the Federal Water Pollution Control Act (33 U.S.C. 1270) is amended—

(1) by striking the section heading and all that follows through ''There is established'' in subsection (a) and inserting the following:

''SEC. 120. LAKE CHAMPLAIN BASIN PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established'';

(2) in subsection (a) (as amended by paragraph (1)), by adding at the end the following:

''(2) IMPLEMENTATION.—The Administrator—

''(A) may provide support to the State of Vermont, the State of New York, and the New England Interstate Water Pollution Control Commission for the implementation of the Lake Champlain Basin Program; and

''(B) shall coordinate actions of the Environmental Protection Agency under subparagraph (A) with the actions of other appropriate Federal agencies.'';

(3) in subsection (d), by striking ''(1)'';

(4) in subsection (e)—

(A) in paragraph (1), by striking ''(hereafter in this section referred to as the 'Plan')''; and

(B) in paragraph (2)—

(i) in subparagraph (D), by striking ''and'' at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(F) be reviewed and revised, as necessary, at least once every 5 years, in consultation with the Administrator and other appropriate Federal agencies.'';

(5) in subsection (f)—

(A) in paragraph (1), by striking ''the Management Conference,'' and inserting ''participants in the Lake Champlain Basin Program,''; and

(B) in paragraph (2), by striking ''development of the Plan'' and all that follows and inserting ''development and implementation of the Plan.'';

(6) in subsection (g)—

(A) by striking ''(g)'' and all that follows through ''the term'' and inserting the following:

''(g) DEFINITIONS.—In this section:

''(1) LAKE CHAMPLAIN BASIN PROGRAM.—The term 'Lake Champlain Basin Program' means the coordinated efforts among the Federal Government, State governments, and local governments to implement the Plan.

''(2) LAKE CHAMPLAIN DRAINAGE BASIN.—The term'';

(B) in paragraph (2) (as designated by subparagraph (A))—

(i) by inserting ''Hamilton,'' after ''Franklin,''; and

(ii) by inserting ''Bennington,'' after ''Rutland,''; and

(C) by adding at the end the following:

''(3) PLAN.—The term 'Plan' means the plan developed under subsection (e).'';

(7) by striking subsection (h) and inserting the following:

''(h) NO EFFECT ON CERTAIN AUTHORITY.—Nothing in this section—

''(1) affects the jurisdiction or powers of—

''(A) any department or agency of the Federal Government or any State government; or

''(B) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory;

''(2) provides new regulatory authority for the Environmental Protection Agency; or

''(3) affects section 304 of the Great Lakes Critical Programs Act of 1990 (Public Law 101–596; 33 U.S.C. 1270 note).''; and

(8) in subsection (i)—

(A) by striking ''section $2,000,000'' and inserting ''section—

''(1) $2,000,000'';

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(2) such sums as are necessary for each of fiscal years 1996 through 2003; and

''(3) $11,000,000 for each of fiscal years 2004 through 2008.''.

TITLE III—MISCELLANEOUS

SEC. 301. PHASE II STORM WATER PROGRAM.

Notwithstanding any other provision of law, for fiscal year 2003, funds made available to a State to carry out nonpoint source management programs under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) may, at the option of the State, be used to carry out projects and activities in the State relating to the development or implementation of phase II of the storm water program of the Environmental Protection Agency established by the rule entitled ''National Pollutant Discharge Elimination System—Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges'', promulgated by the Administrator of the Environmental Protection Agency on December 8, 1999 (64 Fed. Reg. 68722).

SEC. 302. PRESERVATION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note; Public Law 104–66) does not apply to any report required to be submitted under any of the following provisions of law:

(1) EFFECTS OF POLLUTION ON ESTUARIES OF THE UNITED STATES.—Section 104(n)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)(3)).

(2) IMPLEMENTATION OF GREAT LAKES WATER QUALITY AGREEMENT OF 1978.—Section 118(c)(10) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(10)).

(3) COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN FOR LONG ISLAND SOUND.—Section 119(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(7)).

(4) LEVEL B PLAN ON ALL RIVER BASINS.—Section 209(b) of the Federal Water Pollution Control Act (33 U.S.C. 1289(b)).

(5) STATE REPORTS ON WATER QUALITY OF ALL NAVIGABLE WATERS.—Section 305(b) of the Federal Water Pollution Control Act (33 U.S.C. 1315(b)).

(6) EXEMPTIONS FROM WATER POLLUTION CONTROL REQUIREMENTS FOR EXECUTIVE AGENCIES.—Section 313(a) of the Federal Water Pollution Control Act (33 U.S.C. 1323(a)).

(7) STATUS OF WATER QUALITY IN UNITED STATES LAKES.—Section 314(a) of the Federal Water Pollution Control Act (33 U.S.C. 1324(a)).

(8) NATIONAL ESTUARY PROGRAM ACTIVITIES.—Section 320(j)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1330(j)(2)).

(9) REPORTS ON CONTRACTS ENTERED INTO RELATING TO PROCUREMENT FROM VIOLATORS OF WATER QUALITY STANDARDS.—Section 508(e) of the Federal Water Pollution Control Act (33 U.S.C. 1368(e)).

(10) NATIONAL REQUIREMENTS AND COSTS OF WATER POLLUTION CONTROL.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375).

(b) OTHER REPORTS.—

(1) IN GENERAL.—Effective November 10, 1998, section 501 of the Federal Reports Elimination Act of 1998 (Public Law 105–362; 112 Stat. 3283) is amended by striking subsections (a), (b), (c), and (d).

(2) APPLICABILITY.—The Federal Water Pollution Control Act (33 U.S.C. 1254(n)(3)) shall be applied and administered on and after the date of enactment of this Act as if the amendments made by subsections (a), (b), (c), and (d) of section 501 of the Federal Reports Elimination Act of 1998 (Public Law 105–362; 112 Stat. 3283) had not been enacted.

SEC. 303. REPEAL.

Title VII of Public Law 105–78 (20 U.S.C. 50 note; 111 Stat. 1524) (other than section 702) is repealed.

SEC. 304. CROSS HARBOR FREIGHT MOVEMENT PROJECT EIS, NEW YORK CITY.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 305) is amended in item number 1320 of the table by striking ''Reconstruct 79th Street Traffic Circle, New York City'' and inserting ''Cross Harbor Freight Movement Project EIS, New York City''.

SEC. 305. CENTER FOR BROWNFIELDS EXCELLENCE.

(a) IN GENERAL.—To demonstrate the transfer of technology and expertise from the Federal Government to the private sector, and to demonstrate the effectiveness of the reuse by the private sector of properties and assets that Federal Government, has determined, through applicable statutes and processes, that it no longer needs. The Administrator of the Environmental Protection Agency shall make a grant to not less than one eligible sponsor to establish and operate a center for brownfields excellence.

(b) RESPONSIBILITIES OF CENTER.—The responsibilities of a center established under this section shall include the transfer of technology and expertise in the redevelopment of abandoned or underutilized property that may have environmental contamination and the dissemination of information regarding successful models for such redevelopment.

(c) PRIORITY.—In carrying out this section, the Administrator shall give priority consideration to a grant application submitted by an eligible sponsor that meets the following criteria:

(1) Demonstrated ability to facilitate the return of property that may have environmental contamination to productive use.

(2) Demonstrated ability to facilitate public-private partnerships and regional cooperation.

(3) Capability to provide leadership in making both national and regional contributions to addressing the problem of underutilized or abandoned properties.

(4) Demonstrated ability to work with Federal departments and agencies to facilitate reuse by the private sector of properties and assets no longer needed by the Federal Government.

(5) Demonstrated ability to foster technology transfer.

(d) ELIGIBLE SPONSOR DEFINED.—In this section, the term ''eligible sponsor'' means a regional nonprofit community redevelopment organization assisting an area that—

(1) has lost jobs due to the closure of a private sector or Federal installation; and

(2) as a result, has an underemployed workforce and underutilized or abandoned properties.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000.

SEC. 206. Louisiana Highway 1026 Project, Louisiana.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 272) is amended in item number 426 of the table by striking ''Louisiana Highway 16'' and inserting the following: ''Louisiana Highway 1026.''

SA 4893. Mr. REID (for Mr. THOMPSON) proposed an amendment to the bill S. 2530, to amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers; as follows:

On page 4, strike lines 15 through 22, and insert the following:

''(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

''(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

SA 4894. Mr. REID (for Mr. DODD) proposed an amendment to the bill S. 969, to establish a Tick-Borne Disorders Advisory Committee, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Lyme disease is a common but frequently misunderstood illness that, if not caught early and treated properly, can cause serious health problems.

(2) Lyme disease is a bacterial infection that is transmitted by a tick bite. Early signs of infection may include a rash and flu-like symptoms such as fever, muscle aches, headaches, and fatigue.

(3) Although Lyme disease can be treated with antibiotics if caught early, the disease often goes undetected because it mimics other illnesses or may be misdiagnosed. Untreated, Lyme disease can lead to severe heart, neurological, eye, and joint problems because the bacteria can affect many different organs and organ systems.

(4) If an individual with Lyme disease does not receive treatment, such individual can develop severe heart, neurological, eye, and joint problems.

(5) Although Lyme disease accounts for 90 percent of all vector-borne infections in the United States, the ticks that spread Lyme disease also spread other disorders, such as ehrlichiosis, babesiosis, and other strains of Borrelia. All of these diseases in 1 patient makes diagnosis and treatment more difficult.

(6) Although tick-borne disease cases have been reported in 49 States and the District of Columbia, about 90 percent of the 15,000 cases have been reported in the following 10 States: Connecticut, Pennsylvania, New York, New Jersey, Rhode Island, Maryland, Massachusetts, Minnesota, Delaware, and Wisconsin. Studies have shown that the actual number of tick-borne disease cases are approximately 10 times the amount reported due to poor surveillance of the disease.

(7) Persistence of symptomatology in many patients without reliable testing makes treatment of patients more difficult.

SEC. 2. ESTABLISHMENT OF A TICK-BORNE DISORDERS ADVISORY COMMITTEE.

(a) ESTABLISHMENT OF COMMITTEE.—Not later than 180 days after the date of enactment of this Act, there shall be established an advisory committee to be known as the Tick-Borne Disorders Advisory Committee (referred to in this Act as the ''Committee'') organized in the Office of the Secretary.

(b) DUTIES.—The Committee shall advise the Secretary and Assistant Secretary of Health regarding how to—

(1) assure interagency coordination and communication and minimize overlap regarding efforts to address tick-borne disorders;

(2) identify opportunities to coordinate efforts with other Federal agencies and private organizations addressing tick-borne disorders; and

(3) develop informed responses to constituency groups regarding the Department of Health and Human Services' efforts and progress.

(c) MEMBERSHIP.—

(1) APPOINTED MEMBERS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall appoint voting members to the Committee from among the following member groups:

(i) Scientific community members.

(ii) Representatives of tick-borne disorder voluntary organizations.

(iii) Health care providers.

(iv) Patient representatives who are individuals who have been diagnosed with tick-borne illnesses or who have had an immediate family member diagnosed with such illness.

(v) Representatives of State and local health departments and national organizations who represent State and local health professionals.

(B) REQUIREMENT.—The Secretary shall ensure that an equal number of individuals are appointed to the Committee from each of the member groups described in clauses (i) through (v) of subparagraph (A).

(2) EX OFFICIO MEMBERS.—The Committee shall have nonvoting ex officio members determined appropriate by the Secretary.

(d) CO-CHAIRPERSONS.—The Assistant Secretary of Health shall serve as the co-chairperson of the Committee with a public co-chairperson chosen by the members described under subsection (c). The public co-chairperson shall serve a 2-year term and retain all voting rights.

(e) TERM OF APPOINTMENT.—All members shall be appointed to serve on the Committee for 4 year terms.

(f) VACANCY.—If there is a vacancy on the Committee, such position shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of that term. Members may serve after the expiration of their terms until their successors have taken office.

(g) MEETINGS.—The Committee shall hold public meetings, except as otherwise determined by the Secretary, giving notice to the public of such, and meet at least twice a year with additional meetings subject to the call of the co-chairpersons. Agenda items can be added at the request of the Committee members, as well as the co-chairpersons. Meetings shall be conducted, and records of the proceedings kept as required by applicable laws and Departmental regulations.

(h) REPORTS.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out under this Act.

(2) CONTENT.—Such reports shall describe—

(A) progress in the development of accurate diagnostic tools that are more useful in the clinical setting; and

(B) the promotion of public awareness and physician education initiatives to improve the knowledge of health care providers and the public regarding clinical and surveillance practices for Lyme disease and other tick-borne disorders.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act, $250,000 for each of fiscal years 2003 and 2004. Amounts appropriated under this subsection shall be used for the expenses and per diem costs incurred by the Committee under this section in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), except that no voting member of the Committee shall be a permanent salaried employee.

SEC. 3. AUTHORIZATION FOR RESEARCH FUNDING.

There are authorized to be appropriated $10,000,000 for each of fiscal years 2003 through 2007 to provide for research and educational activities concerning Lyme disease and other tick-borne disorders, and to carry out efforts to prevent Lyme disease and other tick-borne disorders.

SEC. 4. GOALS.

It is the sense of the Senate that, in carrying out this Act, the Secretary of Health and Human Services (referred to in this section as the ''Secretary''), acting as appropriate in consultation with the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Committee, and other agencies, should consider carrying out the following:

(1) FIVE-YEAR PLAN.—It is the sense of the Senate that the Secretary should consider the establishment of a plan that, for the five fiscal years following the date of the enactment of this Act, provides for the activities to be carried out during such fiscal years toward achieving the goals under paragraphs (2) through (4). The plan should, as appropriate to such goals, provide for the coordination of programs and activities regarding Lyme disease and other tick-borne disorders that are conducted or supported by the Federal Government.

(2) FIRST GOAL: DIAGNOSTIC TEST.—The goal described in this paragraph is to develop a diagnostic test for Lyme disease and other tick-borne disorders for use in clinical testing.

(3) SECOND GOAL: SURVEILLANCE AND REPORTING OF LYME DISEASE AND OTHER TICK-BORNE DISORDERS.—The goal described in this paragraph is to accurately determine the prevalence of Lyme disease and other tick-borne disorders in the United States.

(4) THIRD GOAL: PREVENTION OF LYME DISEASE AND OTHER TICK-BORNE DISORDERS.—The goal described in this paragraph is to develop the capabilities at the Department of Health and Human Services to design and implement improved strategies for the prevention and control of Lyme disease and other tick-borne diseases. Such diseases may include Masters' disease, ehrlichiosis, babesiosis, other bacterial, viral and rickettsial diseases such as tularemia, tick-borne encephalitis, Rocky Mountain Spotted Fever, and bartonella, respectively.

SA 4895. Mr. REID (for Mr. ENSIGN (for himself, Mr. ALLARD, and Mr. ALLEN)) proposed an amendment to the bill S. 1998, to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FOREIGN SCHOOL ELIGIBILITY.

(a) IN GENERAL.—Section 102(a)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)(2)(A)) is amended to read as follows:

''(A) IN GENERAL.—For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 101 (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 101(a)(4)). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of title IV unless—

''(i) in the case of a graduate medical school located outside the United States—

''(I)(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of title IV; and

''(bb) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of title IV; or

''(II) the institution has a clinical training program that was approved by a State as of January 1, 1992; or

''(ii) in the case of a veterinary school located outside the United States that does not meet the requirements of section 101(a)(4), the institution's students complete their clinical training at an approved veterinary school located in the United States.''.

(b) EFFECTIVE DATE.—This Act and the amendments made by this Act shall be effective as if enacted on October 1, 1998.

SA 4896. Mr. REID (for Mr. BIDEN (for himself and Mr. THURMOND)) proposed an amendment to the bill S. 1868, to amend the National Child Protection Act of 1993, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Child Protection and Volunteers for Children Improvement Act of 2002''.

SEC. 2. DEFINITIONS.

Section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c) is amended—

(1) in paragraph (10), by striking ''and'' at the end; and

(2) by inserting after paragraph (10) the following:

''(10A) the term 'qualified State program' means the policies and procedures referred to in section 3(a)(1) of a State that are in place in order to implement this Act, including policies and procedures that require—

''(A) requests for national criminal history background checks to be routinely returned to a qualified entity not later than 20 business days after the date on which the request was made;

''(B) authorized agencies to charge not more than $18 for State background checks;

''(C) the designation of the authorized agencies that may receive national criminal history background check requests from qualified entities; and

''(D) the designation of the qualified entities that shall submit background check requests to an authorized agency;

''(10B) the term 'routinely' means—

''(A) instances where 85 percent or more of nationwide background check requests are returned to qualified entities within 20 business days; or

''(B) instances where 90 percent or more of nationwide background check requests are returned to qualified entities within 30 business days; and''.

SEC. 3. STRENGTHENING AND ENFORCING THE NATIONAL CHILD PROTECTION ACT AND THE VOLUNTEERS FOR CHILDREN ACT.

Section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''A State may'' and inserting the following: ''REQUEST.—A State may'';

(ii) by inserting after ''procedures'' the following: ''meeting the guidelines set forth in subsection (b)'';

(iii) by inserting after ''regulation)'' the following: ''or a qualified State program'';

and

(iv) by striking ''convicted of'' and all that follows through the period and inserting ''convicted of, or is under pending arrest or indictment for, a crime that renders the provider unfit to provide care to children, the elderly, or individuals with disabilities.'';

(B) in paragraph (2)—

(i) by striking ''The authorized agency'' and inserting the following: ''RESPONSE.—The authorized agency'';

(ii) by striking ''make reasonable efforts to'';

(iii) by striking ''15'' and inserting ''20'';

and

(iv) by adding at the end the following: ''The Attorney General shall respond to the inquiry of the State authorized agency within 15 business days of the request. A State is not in violation of this section if the Attorney General fails to respond to the inquiry within 15 business days of the request.''; and

(C) by striking paragraph (3), and inserting the following:

''(3) ABSENCE OF QUALIFIED STATE PROGRAM.—

''(A) REQUEST.—Not later than 12 months after the date of enactment of the National Child Protection and Volunteers for Children Improvement Act of 2002, a qualified entity doing business in a State that does not have a qualified State program may request a national criminal background check from the Attorney General for the purpose of determining whether a provider has been convicted of, or is under pending arrest or indictment for, a crime that renders the provider unfit to provide care to children, the elderly, or individuals with disabilities.

''(B) REVIEW AND RESPONSE.—The Attorney General shall respond to the request of a qualified entity made under subparagraph (A) not later than 20 business days after the request is made.''; and

(2) in subsection (b)—

(A) in paragraph (4), by striking ''shall make'' and inserting ''may make''; and

(B) in paragraph (5)—

(i) by inserting after ''qualified entity'' the following: ''or by a State authorized agency that disseminates criminal history records information directly to qualified entities''; and

(ii) by striking ''pursuant to subsection (a)(3)''.

SEC. 4. DISSEMINATION OF INFORMATION.

The National Child Protection Act of 1993 (42 U.S.C. 5119 et seq.) is amended by adding at the end the following:

''SEC. 6. DISSEMINATION OF INFORMATION.

''Notwithstanding any other provision of law, the Attorney General and authorized agencies of States may disseminate criminal history background check record information to a qualified entity.

''SEC. 7. OFFICE FOR VOLUNTEER AND PROVIDER SCREENING.

''(a) IN GENERAL.—The Attorney General shall establish an Office for Volunteer and Provider Screening (referred to in this Act as the 'Office') which shall serve as a point of contact for qualified entities to request a national criminal background check pursuant to section 3(a)(3).

''(b) MODEL GUIDELINES.—The Office shall provide model guidelines concerning standards to guide qualified entities in making fitness determinations regarding care providers based upon the criminal history record information of those providers.''.

SEC. 5. FEES.

Section 3(e) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(e)) is amended—

(1) by striking ''In the case'' and inserting the following:

''(1) IN GENERAL.—In the case''; and

(2) by adding at the end the following:

''(2) VOLUNTEER WITH QUALIFIED ENTITY.—In the case of a national criminal fingerprint background check conducted pursuant to section 3(a)(3) on a person who volunteers with a qualified entity, the fee collected by the Federal Bureau of Investigation shall not exceed $5.

''(3) PROVIDER.—In the case of a national criminal fingerprint background check on a provider who is employed by or applies for a position with a qualified entity, the fee collected by the Federal Bureau of Investigation shall not exceed $18.''.

SEC. 6. STRENGTHENING STATE FINGERPRINT TECHNOLOGY.

(a) ESTABLISHMENT OF MODEL PROGRAM IN EACH STATE TO STRENGTHEN CRIMINAL DATA REPOSITORIES AND FINGERPRINT TECHNOLOGY.—The Attorney General shall establish a model program in each State and the District of Columbia for the purpose of improving fingerprinting technology which shall grant to each State funds to either—

(1) purchase Live-Scan fingerprint technology and a State-vehicle to make such technology mobile and these mobile units shall be used to travel within the State to assist in the processing of fingerprint background checks; or

(2) purchase electric fingerprint imaging machines for use throughout the State to send fingerprint images to the Attorney General to conduct background checks.

(b) ADDITIONAL FUNDS.—In addition to funds provided in subsection (a), funds shall be provided to each State and the District of Columbia to hire personnel to provide information and training to each county law enforcement agency within the State regarding all requirements for input of criminal and disposition data into the national criminal history background check system under the National Child Protection Act of 1993 (42 U.S.C. 5119 et seq.).

(c) FUNDING ELIGIBILITY.—States with a qualified State program shall be eligible for not more than $2,000,000 under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section sums sufficient to improve fingerprint technology units and hire data entry improvement personnel in each of the 50 States and the District of Columbia for each of fiscal years 2004 through 2008.

(2) AVAILABILITY.—Sums appropriated in accordance with this section shall remain available until expended.

SEC. 7. PRIVACY PROTECTIONS.

(a) INFORMATION.—Information derived as a result of a national criminal fingerprint background check request under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) shall not be adjusted, deleted, or altered in any way except as required by law for national security purposes.

(b) DESIGNATED REPRESENTATIVE.—

(1) IN GENERAL.—Each qualified entity (as defined in section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c)) shall assign a representative in their respective organization to receive and process information requested under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).

(2) DELETION OF INFORMATION.—Each representative assigned under paragraph (1) shall review the requested information and delete all information that is not needed by the requesting entity in making an employment decision.

(c) CRIMINAL PENALTIES.—Any person who knowingly releases information derived as a result of a national criminal fingerprint background check to any person other than the hiring authority or organizational leadership with the qualified entity shall be—

(1) fined $50,000 for each violation; or

(2) imprisoned not more than 1 year.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act—

(1) $100,000,000 for fiscal year 2004; and

(2) such sums as may be necessary for each of fiscal years 2005 through 2008.

(b) AVAILABILITY OF FUNDS.—Sums appropriated in accordance with this section shall remain available until expended.

Amend the title so as to read: ''A bill to amend the National Child Protection Act of 1993, and for other purposes.''.

SA 4897. Mr. REID (for Mr. SARBANES) proposed an amendment to the bill S. 2239, to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers; as follows:

At the end, add the following:

SEC. 4. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

(a) The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 206 the following new section 206A (12 U.S.C.) 1712A):

''SEC. 206A. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

''METHOD OF INDEXING.—(a) The dollar amounts set forth in—

''(A) section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

''(B) section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

''(C) section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

''(D) section 221(d)(3)(ii)(A) (12 U.S.C. 1715l(d)(3)(ii)(A));

''(E) section 221(d)(4)(ii)(A) (12 U.S.C. 1715l(d)(4)(ii)(A));

''(F) section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and

''(G) section 234(e)(3)(A) (12 USC1715y(e)(3)(A))

(collectively hereinafter referred to as the ''Dollar Amounts'') shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

(b) The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in paragraph (a) and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.''.

(b) TECHNICAL AND CONFERENCE CHANGES.—

(1) Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(a) by inserting ''(A)'' after ''(3)'';

(b) by striking ''and except that the Secretary'' through and including ''in this paragraph'' and inserting in lieu thereof; ''(B) the Secretary may, by regulation, increase any of the dollar amount limitation in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)''.

(2) Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(a) by inserting ''(A)'' following ''(2)'';

(b) by striking '':Provided further, That'' the first time that it occurs, through and including ''contained in this paragraph'' and inserting in lieu thereof: '';(B)(I) the Secretary may, by regulation, increase any of the dollar amount limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)'';

(c) by striking '':Provided further. That'' the second time it occurs and inserting in lieu thereof: ''; and (II)'';

(d) by striking '': And provided further, That'' and inserting in lieu thereof: ''; and (III)'';

(e) by striking ''with this subsection without regard to the preceding proviso'' at the end of that subsection and inserting in lieu thereof: ''with this paragraph (B)(I).''.

(3) Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(a) by inserting ''(I)'' following ''(iii)'';

(b) by striking ''design; and except that'' and inserting in lieu thereof: ''design; and (II)'';

(c) by striking ''any of the foregoing dollar amount limitations contained in this clause'' and inserting in lieu thereof: ''any of the dollar amount limitations in subclause (B)(iii)(I)(as such limitations may have been adjusted in accordance with Section 206A of this Act)'';

(d) by striking '':Provided, That'' through and including ''proviso'' and inserting in lieu thereof: ''with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II), the Secretary may, by regulation, increase the dollar amount limitations contained in subclause (B)(ii)(I) (as such limitations may have been adjusted in accordance with Section 206A of this Act)'';

(e) by striking '': Provided further,'' and inserting in lieu thereof: '';(III)'';

(f) by striking ''subparagraph'' in the second proviso and inserting in lieu thereof ''subclause (B)(iii)(I)'';

(g) in the last proviso, by striking '': And provided further, That'' and all that follows through and including ''this clause'' and inserting in lieu thereof: ''; (IV) with respect to rehabilitation projects involving not more than five family units, the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects.''

(4) Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended—

(a) by inserting ''(A)'' following ''(ii)'';

(b) by striking ''; and except that'' and all that follows through and including ''in this clause'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar amount limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)'';

(5) Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended—

(a) by inserting ''(A)'' following ''(ii)'';

(b) by striking ''; and except that'' and all that follows through and including ''in this clause'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)''.

(6) Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(a) by inserting ''(A)'' following ''(2)'';

(b) by striking ''; and except that'' and all that follows through and including ''in this paragraph'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)'';

(c) by striking '': Provided, That'' and all that follows through and including ''of this section'' and inserting in lieu thereof: ''; (C) the Secretary may, by regulation, increase any of the dollar limitations in paragraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)''.

(7) Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(a) by inserting ''(A)'' following ''(3)'';

(b) by replacing ''$38,025'' and ''$42,048''; $42,120'' with ''48,481''; $50,310'' with ''$58,469''; ''$62,010'' with ''$74,840''; ''$70,200'' with ''$83,375''; ''43,875''; with ''$44,250''; ''$49,140'' with ''$50,724''; ''$60,255'' with ''$61,680''; ''$75,465'' with ''$79,793''; and ''$85,328'' with ''$87,588'';

(c) by striking ''; except that each'' and all that follows through and including ''contained in this paragraph'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)''.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 17, 2002 at 10:00 a.m. to hold an open hearing with the House Permanent Select Committee on Intelligence concerning the Joint Inquiry into the events of September 11, 2001.

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

GREAT LAKES LEGACY ACT OF 2001

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of calendar 704, H.R. 1070.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1070) to amend the Federal Water Pollution Control Act to make grants for remediation of sediment contamination in areas of concern and to authorize assistance for research and development of innovative technologies for such purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with an amendment, as follows:

(The part of the bill intended to be stricken is shown in black brackets and the part of the bill intended to be inserted is shown in italic.)

H.R. 1070

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 ''Great Lakes Legacy Act of 2002''.

[SEC. 2. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN IN THE GREAT LAKES.

[Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) is amended by adding at the end the following:

[''(12) REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.—

[''(A) IN GENERAL.—In accordance with this paragraph, the Administrator, acting through the Great Lakes National Program Office and in coordination with the Office of Research and Development, may carry out qualified projects.

[''(B) QUALIFIED PROJECT.—In this paragraph, a qualified project is a project to be carried out in an area of concern located wholly or in part in the United States that—

[''(i) monitors or evaluates contaminated sediment;

[''(ii) subject to subparagraph (D), implements a plan to remediate contaminated sediment; or

[''(iii) prevents further or renewed contamination of sediment.

[''(C) PRIORITY.—In selecting projects to carry out under this paragraph, the Administrator shall give priority to a project that—

[''(i) constitutes remedial action for contaminated sediment;

[''(ii) has been identified in a Remedial Action Plan submitted pursuant to paragraph (3) and is ready to be implemented; or

[''(iii) will use an innovative approach, technology, or technique that may provide greater environmental benefits or equivalent environmental benefits at a reduced cost.

[''(D) LIMITATION.—The Administrator may not carry out a project under this paragraph for remediation of contaminated sediments located in an area of concern—

[''(i) if an evaluation of remedial alternatives for the area of concern has not been conducted, including a review of the short-term and long-term effects of the alternatives on human health and the environment; or

[''(ii) if the Administrator determines that the area of concern is likely to suffer significant further or renewed contamination from existing sources of pollutants causing sediment contamination following completion of the project.

[''(E) NON-FEDERAL MATCHING REQUIREMENT.—

[''(i) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph shall be not less than 35 percent.

[''(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of a project carried out under this paragraph may include the value of in-kind services contributed by a non-Federal sponsor, including any in-kind service performed under an administrative order on consent or judicial consent decree, but not including any in-kind services performed under a unilateral administrative order or court order.

[''(iii) OPERATION AND MAINTENANCE.—The non-Federal share of the cost of the operation and maintenance of a project carried out under this paragraph shall be 100 percent.

[''(F) MAINTENANCE OF EFFORT.—The Administrator may not carry out a project under this paragraph unless the non-Federal sponsor enters into such agreements with the Administrator as the Administrator may require to ensure that the non-Federal sponsor will maintain its aggregate expenditures from all other sources for remediation programs in the area of concern in which the project is located at or above the average level of such expenditures in its 2 fiscal years preceding the date on which the project is initiated.

[''(G) COORDINATION.—In carrying out projects under this paragraph, the Administrator shall coordinate with the Secretary of the Army, and with the Governors of States in which the projects are located, to ensure that Federal and State assistance for remediation in areas of concern is used as efficiently as possible.

[''(H) AUTHORIZATION OF APPROPRIATIONS.—

[''(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2003 through 2007.

[''(ii) AVAILABILITY.—Funds appropriated under clause (i) shall remain available until expended.''.

[SEC. 3. RELATIONSHIP TO FEDERAL AND STATE AUTHORITIES.

[Section 118(g) of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended—

[(1) by striking ''construed to affect'' and inserting the following: ''construed—

[''(1) to affect'';

[(2) by striking the period at the end and inserting ''; or'';

[(3) by adding at the end the following:

[''(2) to affect any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes.''; and

[(4) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraph (2) (as added by paragraph (3) of this section).

[SEC. 4. RESEARCH AND DEVELOPMENT PROGRAM.

[(a) IN GENERAL.—In coordination with other Federal and local officials, the Administrator of the Environmental Protection Agency is authorized to conduct research on the development and use of innovative approaches, technologies, and techniques for the remediation of sediment contamination in areas of concern in the Great Lakes.

[(b) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—In addition to amounts authorized under other laws, there is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2003 through 2007.

[(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Great Lakes and Lake Champlain Program Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GREAT LAKES

Sec. 101. Short title.
Sec. 102. Report on remedial action plans.
Sec. 103. Remediation of sediment contamination in areas of concern in the Great Lakes.
Sec. 104. Relationship to existing Federal and State laws and international agreements.
Sec. 105. Authorization of appropriations.

TITLE II—LAKE CHAMPLAIN

Sec. 201. Short title.
Sec. 202. Lake Champlain basin program.
Sec. 203. Lake Champlain watershed, Vermont and New York.

TITLE III—MISCELLANEOUS

Sec. 301. Phase II storm water program.

TITLE I—GREAT LAKES

SEC. 101. SHORT TITLE.

This title may be cited as the ''Great Lakes Legacy Act of 2002''.

SEC. 102. REPORT ON REMEDIAL ACTION PLANS.

Section 118(c)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(3)) is amended by adding at the end the following:

''(E) REPORT.—Not later than 1 year after the date of enactment of this subparagraph, the Administrator shall submit to Congress a report on such actions, time periods, and resources as are necessary to fulfill the duties of the Agency relating to oversight of Remedial Action Plans under—

''(i) this paragraph; and

''(ii) the Great Lakes Water Quality Agreement.''.

SEC. 103. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN IN THE GREAT LAKES.

Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) is amended by adding at the end the following:

''(12) REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.—

''(A) DEFINITION OF QUALIFIED PROJECT.—In this paragraph, the term 'qualified project' means a project, to be carried out in an area of concern located wholly or in part in the United States, to—

''(i) monitor or evaluate contaminated sediment, including conducting a site characterization;

''(ii) remediate contaminated sediment (including disposal of the contaminated sediment); or

''(iii) prevent further or renewed contamination of sediment.

''(B) PROJECTS.—The Administrator, acting through the Program Office and in coordination with the Office of Research and Development of the Agency, may carry out qualified projects under this paragraph.

''(C) PRIORITY.—In carrying out this paragraph, the Administrator shall give priority to a qualified project that—

''(i) consists of remedial action for contaminated sediment;

''(ii) has been identified in a Remedial Action Plan that is—

''(I) submitted under paragraph (3); and

''(II) ready to be implemented;

''(iii) will use an innovative approach, technology, or technique for remediation; or

''(iv) includes remediation to be commenced not later than 1 year after the receipt of funds for the project.

''(D) LIMITATIONS.—The Administrator may not carry out a qualified project described in clause (ii) or (iii) of subparagraph (A)—

''(i) that is located in an area of concern that the Administrator determines is likely to suffer significant further or renewed sediment contamination from sources of pollutants after the completion of the qualified project; or

''(ii) at a site that has not had a thorough site characterization.

''(E) NON-FEDERAL MATCHING REQUIREMENT.—

''(i) IN GENERAL.—The non-Federal share of the cost of a qualified project carried out under this paragraph shall be not less than 35 percent.

''(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of a qualified project carried out under this paragraph may include the value of in-kind services contributed by a non-Federal sponsor.

''(iii) OPERATION AND MAINTENANCE.—The non-Federal share of the cost of the operation and maintenance of a qualified project carried out under this paragraph shall be 100 percent.

''(F) COORDINATION.—In carrying out qualified projects under this paragraph, the Administrator shall coordinate with the Secretary of the Army, and with the Governors of States in which qualified projects assisted under this paragraph are located, to ensure that Federal and State assistance for remediation in areas of concern is used as efficiently as practicable.

''(G) AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—In addition to other amounts authorized to be appropriated under this section, there is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2004 through 2008.

''(ii) AVAILABILITY.—Funds appropriated under clause (i) shall remain available until expended.

''(13) RESEARCH AND DEVELOPMENT PROGRAM.—

''(A) IN GENERAL.—The Administrator, in coordination with other Federal and local officials, shall conduct research on the development and use of innovative approaches, technologies, and techniques for the remediation of sediment contamination in areas of concern in the Great Lakes.

''(B) AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—In addition to amounts authorized to be appropriated under other law, there is authorized to be appropriated to carry out this paragraph $2,000,000 for each of fiscal years 2004 through 2008.

''(ii) AVAILABILITY.—Funds appropriated under clause (i) shall remain available until expended.

''(14) PUBLIC INFORMATION PROGRAM.—

''(A) IN GENERAL.—The Administrator, acting through the Program Office and in coordination with the Office of Research and Development of the Agency, States, Indian tribes, local governments, and other entities, may carry out a public information program to provide—

''(i) information relating to the remediation of contaminated sediment to the public in areas of concern that are—

''(I) located wholly within the United States; or

''(II) shared with Canada; and

''(ii) local coordination and organization in those areas.

''(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $5,000,000 for each of fiscal years 2004 through 2008.''.

SEC. 104. RELATIONSHIP TO EXISTING FEDERAL AND STATE LAWS AND INTERNATIONAL AGREEMENTS.

Section 118(g) of the Federal Water Pollution Control Act (33 U.S.C. 1268(g)) is amended by inserting '', including the cleanup and protection of the Great Lakes'' after ''Lakes''.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended by striking the first sentence and inserting the following: ''There is authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2004 through 2008.''.

TITLE II—LAKE CHAMPLAIN

SEC. 201. SHORT TITLE.

This title may be cited as the ''Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002''.

SEC. 202. LAKE CHAMPLAIN BASIN PROGRAM.

Title I of the Federal Water Pollution Control Act is amended by striking section 120 (33 U.S.C. 1270) and inserting the following:

''SEC. 120. LAKE CHAMPLAIN BASIN PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) COMMITTEE.—The term 'Committee' means the steering committee of the program comprised of representatives of Federal, State, and local governments and other persons, as specified in the Plan.

''(2) LAKE CHAMPLAIN BASIN.—

''(A) IN GENERAL.—The term 'Lake Champlain basin' means all water and land resources in the United States in the drainage basin of Lake Champlain.

''(B) INCLUSIONS.—The term 'Lake Champlain basin' includes—

''(i) Clinton, Essex, Franklin, Hamilton, Warren, and Washington counties in the State of New York; and

''(ii) Addison, Bennington, Caledonia, Chittenden, Franklin, Grand Isle, Lamoille, Orange, Orleans, Rutland, and Washington counties in the State of Vermont.

''(3) PLAN.—The term 'Plan' means the plan entitled 'Opportunities for Action: An Evolving Plan for the Future of the Lake Champlain Basin', approved by Lake Champlain Steering Committee on January 30, 2002, that describes the actions necessary to protect and enhance the environmental integrity and the social and economic benefits of the Lake Champlain basin.

''(4) PROGRAM.—The term 'program' means the Lake Champlain Basin Program established by subsection (b)(1).

''(b) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established a program to be known as the 'Lake Champlain Basin Program'.

''(2) PURPOSES.—The purposes of the program are—

''(A) to protect and enhance the environmental integrity and social and economic benefits of the Lake Champlain basin; and

''(B) to achieve the environmental goals described in the Plan, including—

''(i) the reduction of phosphorous inputs to Lake Champlain from point sources and nonpoint sources so as to—

''(I) promote a healthy and diverse ecosystem; and

''(II) provide for sustainable human use and enjoyment of Lake Champlain;

''(ii) the reduction of toxic contamination, such as contamination by mercury and polychlorinated biphenyls, to protect public health and the ecosystem of the Lake Champlain basin;

''(iii) the control of the introduction, spread, and impacts of nonnative nuisance species to preserve the integrity of the ecosystem of the Lake Champlain basin;

''(iv) the minimization of risks to humans from water-related health hazards in the Lake Champlain basin, including through the protection of sources of drinking water in the Lake Champlain basin;

''(v) the restoration and maintenance of a healthy and diverse community of fish and wildlife in the Lake Champlain basin;

''(vi) the protection and restoration of wetland, streams, and riparian habitat in the Lake Champlain basin, including functions and values provided by those areas;

''(vii) the management of Lake Champlain, including shorelines and tributaries of Lake Champlain, to achieve—

''(I) the protection of natural and cultural resources of Lake Champlain; and

''(II) the maintenance of recreational uses of Lake Champlain;

''(viii) the protection of recreation and cultural heritage resources of the Lake Champlain basin;

''(ix) the continuance of the Lake Champlain long-term water quality and biological monitoring program; and

''(x) the promotion of healthy and diverse economic activity and sustainable development principles in the Lake Champlain basin.

''(c) IMPLEMENTATION.—The Committee, in consultation with appropriate heads of Federal agencies, shall implement the program.

''(d) REVISION OF PLAN.—At least once every 5 years, the Committee shall review and, as necessary, revise the Plan.

''(e) GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Administrator may, in consultation with the Committee, make grants, for the purpose of implementing the management strategies contained in the Plan, to—

''(A) State, interstate, and regional water pollution control agencies; and

''(B) public or nonprofit agencies, institutions, and organizations.

''(2) COST SHARING.—The Federal share of the cost of any activity carried out using funds from a grant provided under this subsection shall not exceed 75 percent.

''(3) ADDITIONAL REQUIREMENTS.—The Administrator may establish such additional requirements for the administration of grants provided under this subsection as the Administrator determines to be appropriate.

''(f) COORDINATION OF FEDERAL PROGRAMS.—

''(1) AGRICULTURE.—The Secretary of Agriculture shall support the implementation of the program by providing financial and technical assistance relating to best management practices for controlling nonpoint source pollution, particularly with respect to preventing pollution from agricultural activities.

''(2) INTERIOR.—

''(A) GEOLOGICAL SURVEY.—The Secretary of the Interior, acting through the United States Geological Survey, shall support the implementation of the program by providing financial, scientific, and technical assistance and applicable watershed research, such as—

''(i) stream flow monitoring;

''(ii) water quality monitoring;

''(iii) evaluation of effectiveness of best management practices;

''(iv) research on the transport and final destination of toxic chemicals in the environment; and

''(v) development of an integrated geographic information system for the Lake Champlain basin.

''(B) FISH AND WILDLIFE.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and in cooperation with the Committee, shall support the implementation of the program by—

''(i) supporting the protection and restoration of wetland, streams, aquatic, and riparian habitat;

''(ii) supporting restoration of interjurisdictional fisheries and declining aquatic species in the Lake Champlain watershed through—

''(I) propagation of fish in hatcheries; and

''(II) continued advancement in fish culture and aquatic species management technology;

''(iii) supporting the control and management of aquatic nuisance species that have adverse effects on—

''(I) fisheries; or

''(II) the form, function, or structure of the ecosystem of the Lake Champlain basin;

''(iv) providing financial and technical assistance in accordance with the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) to private landowners seeking to improve fish and wildlife habitat, a goal of which is—

''(I) restoration of full function to degraded habitat;

''(II) enhancement of specific habitat functions; or

''(III) establishment of valuable fish and wildlife habitat that did not previously exist on a particular parcel of real property; and

''(v) taking other appropriate action to assist in implementation of the Plan.

''(C) NATIONAL PARKS.—The Secretary of the Interior, acting through the Director of the National Park Service, shall support the implementation of the program by providing, through the use of funds in the National Recreation and Preservation Appropriation account of the National Park Service, financial and technical assistance for programs concerning cultural heritage, natural resources, recreational resources, or other programs consistent with the mission of the National Park Service that are associated with the Lake Champlain basin, as identified in the Plan.

''(3) COMMERCE.—The Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, shall support the implementation of the program by providing financial and technical assistance, through the national sea grant program of the Department of Commerce, for—

''(A) research;

''(B) management of fisheries and other aquatic resources;

''(C) related watershed programs; and

''(D) other appropriate action to assist in implementation of the Plan.

''(g) NO EFFECT ON OTHER AUTHORITY.—Nothing in this section affects the authority of—

''(1) any Federal or State agency; or

''(2) any international entity relating to Lake Champlain established by an international agreement to which the United States is a party.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $11,000,000 for each of fiscal years 2003 through 2007, of which—

''(1) $5,000,000 shall be made available to the Administrator;

''(2) $3,000,000 shall be made available to the Secretary of the Interior;

''(3) $1,000,000 shall be made available to the Secretary of Commerce; and

''(4) $2,000,000 shall be made available to the Secretary of Agriculture.''.

SEC. 203. LAKE CHAMPLAIN WATERSHED, VERMONT AND NEW YORK.

Section 542 of the Water Resources Development Act of 2000 (114 Stat. 2671) is amended—

(1) in subsection (a)—

(A) by striking ''(a)'' and all that follows through ''(A) the land areas'' and inserting the following:

''(a) DEFINITION OF LAKE CHAMPLAIN WATERSHED.—In this section, the term 'Lake Champlain watershed' means—

''(1) the land areas'';

(B) by striking ''(B)(i) the'' and inserting the following:

''(2)(A) the'';

(C) by striking ''(ii) the'' and inserting the following:

''(B) the'';

(D) in paragraph (2)(A) (as redesignated by subparagraph (B)), by inserting ''Hamilton,'' after ''Franklin,''; and

(E) in paragraph (2)(B) (as redesignated by subparagraph (C)), by striking ''clause (i)'' and inserting ''subparagraph (A)'';

(2) in subsections (b) through (e), by striking ''critical restoration'' each place it appears and inserting ''ecosystem restoration'';

(3) in subsection (b)—

(A) in the subsection heading, by striking ''CRITICAL RESTORATION PROJECTS'' and inserting ''ECOSYSTEM RESTORATION PROGRAM'';

(B) in paragraph (1), by striking ''participate in'' and inserting ''provide design and construction assistance to non-Federal interests for''; and

(C) in paragraph (2)—

(i) by striking ''A'' and inserting ''An''; and

(ii) in subparagraph (E), by inserting before the period at the end the following: '', including remote sensing and the development of a geographic information system for the Lake Champlain basin by the Cold Regions Research and Engineering Laboratory'';

(4) in subsection (c)—

(A) by striking ''assistance for a'' and inserting ''design and construction assistance for an''; and

(B) in paragraph (2), by inserting ''ecosystem restoration or'' after ''form of'';

(5) in subsection (d)—

(A) by striking ''(d)'' and all that follows through ''(A) IN GENERAL.—A'' and inserting the following:

''(d) CRITERIA FOR ELIGIBILITY.—

''(1) IN GENERAL.—An''; and

(B) by striking ''(B) SPECIAL'' and inserting the following:

''(2) SPECIAL''; and

(6) in subsection (e)—

(A) in paragraph (1)—

(i) by striking ''to a'' and inserting ''to an'';

(ii) by striking ''project,'' and inserting ''project (which assistance may include the provision of funds through the Lake Champlain Basin Program),''; and

(iii) by striking ''agreement that shall require the non-Federal interest'' and inserting the following: ''agreement that is in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) and under which the non-Federal interest agrees'';

(B) in paragraph (2)(C), by striking ''50'' and inserting ''100''; and

(C) by adding at the end the following:

''(3) CREDIT FOR AGRICULTURAL CONSERVATION.—Funds provided to a non-Federal interest under the conservation reserve enhancement program of the Department of Agriculture announced on May 27, 1998 (63 Fed. Reg. 28965), or the wetlands reserve program under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.), for use in carrying out a project under the Plan shall be credited toward the non-Federal share of the cost of the project if the Secretary of Agriculture certifies that those funds may be used for the purpose of the project under the Plan.''.

TITLE III—MISCELLANEOUS

SEC. 301. PHASE II STORM WATER PROGRAM.

Notwithstanding any other provision of law, for fiscal year 2003, funds made available to carry out nonpoint source management programs under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) in a State may, at the option of the State, be used to carry out projects and activities in the State relating to the development or implementation of phase II of the storm water program of the Environmental Protection Agency established by the final rule entitled ''National Pollutant Discharge Elimination System—Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges'', promulgated by the Administrator of the Environmental Protection Agency on December 8, 1999 (64 Fed. Reg. 68722).

Amend the title so as to read: ''An Act to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to provide assistance for remediation of sediment contamination in areas of concern, to authorize assistance for research and development of innovative technologies for such remediation, and to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 2000 to modify provisions relating to the Lake Champlain basin, and for other purposes.''.

Mr. REID. Mr. President, I understand Senator JEFFORDS and Senator SMITH of New Hampshire have a substitute amendment at the desk. I ask unanimous consent the amendment be considered and agreed to, the committee-reported substitute amendment, as amended, be agreed to, the bill, as amended, be read three times and passed, and the motion to reconsider be laid upon the table with any statements being printed in the RECORD without intervening action or debate.

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

The amendment (No. 4892) was agreed to.

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

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

The bill (H.R. 1070), as amended, was read the third time and passed.

To title amendment was agreed to.

TO AMEND THE DISTRICT OF COLUMBIA RETIREMENT PROTECTION ACT OF 1997

Mr. REID. I ask unanimous consent we proceed to the consideration of H.R. 5205.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5205) to amend the District of Columbia Retirement Protection Act of 1997 to permit the Secretary of the Treasury to use estimated amounts in determining the service longevity component of the Federal benefit payment required to be paid under such Act to certain retirees of the Metropolitan Police Department of the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, there be no intervening action or debate, and any statements be printed in the RECORD.

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

The bill (H.R. 5205) was read the third time and passed.

AUTHORIZING PRINTING OF SENATE RULES AND MANUAL

Mr. REID. I ask that the Senate proceed to the consideration of S. Res. 349, submitted earlier today by Senator DODD.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A resolution (S. Res. 349) to authorize printing of revised edition of Senate Rules and Manual.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 349) was agreed to, as follows:

S. RES. 349

Resolved, That (a) the Committee on Rules and Administration shall prepare a revised edition of the Senate Rules and Manual for the use of the 108th Congress.

(b) The manual shall be printed as a Senate document.

(c) In addition to the usual number of documents, 1,500 additional copies of the manual shall be bound of which—

(1) 500 paperbound copies shall be for the use of the Senate; and

(2) 1000 copies shall be bound (550 paperbound; 250 nontabbed black skiver; 200 tabbed black skiver) and delivered as may be directed by the Committee on Rules and Administration.

ORDER TO FILE EXECUTIVE CALENDAR BUSINESS

Mr. REID. I ask unanimous consent that the Senate committees may file Legislative and Executive Calendar business notwithstanding an adjournment of the Senate, and they may do this on Monday, November 4, from 10 a.m. to 2 p.m.

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

AUTHORIZATION TO MAKE APPOINTMENTS

Mr. REID. I ask unanimous consent notwithstanding our recess or adjournment of the Senate for the duration of the 107th Congress, the President of the Senate President pro tempore and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences or interparliamentary conferences authorized by law and concurrent action of the two Houses or by order of the Senate.

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

AUTHORIZING BASE CONTRACT OF NAVY-MARINE CORPS INTRANET

Mr. REID. I ask unanimous consent we now proceed to the consideration of H.R. 5647.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5647) to authorize the duration of the base contract of the Navy-Marine Corps Intranet contract to be more than five years but not more than seven years.

There being no objection, the Senate proceeded to the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time, passed, the motion to reconsider be laid upon the table, and there be no intervening action or debate.

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

The bill (H.R. 5647) was read the third time and passed.

FHA DOWNPAYMENT SIMPLIFICATION ACT OF 2002

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of calendar 703, S. 2239.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2239) to amend the National Housing Act to simplify the downpayment required of FHA mortgage insurance for single family homebuyers.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2239

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 ''FHA Downpayment Simplification Act of 2002''.

SEC. 2. DOWNPAYMENT SIMPLIFICATION.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(1) in subsection (b)—

(A) by striking ''shall—'' and inserting ''shall comply with the following:'';

(B) in paragraph (2)—

(i) in subparagraph (A), in the matter that precedes clause (ii), by moving the margin 2 ems to the right;

(ii) in the undesignated matter immediately following subparagraph (B)(iii)—

(I) by striking the second and third sentences of such matter; **[**and

[(II) by striking the sixth sentence (relating to the increases for costs of solar energy systems) and all that follows through the end of the last undesignated paragraph (relating to disclosure notice); and**]**

[*(II) by striking the seventh sentence (relating to principal obligation) and all that follows through the end of the ninth sentence (relating to charges and fees); and*

(III) by striking the eleventh sentence (relating to disclosure notice) and all that follows through the end of the last undesignated paragraph (relating to disclosure notice requirements); and

(iii) by striking subparagraph (B) and inserting the following:

''(B) not to exceed an amount equal to the sum of—

''(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

''(ii) in the case of—

''(I) a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

''(II) a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property;

''(III) a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

''(IV) notwithstanding subclauses (II) and (III), a mortgage for a property with an appraised value in excess of $50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.'';

(C) by transferring and inserting the text of paragraph (10)(B) after the period at the end of the first sentence of the undesignated paragraph that immediately follows paragraph (2)(B) (relating to the definition of ''area''); and

(D) by striking paragraph (10); and

(2) by inserting after subsection (e), the following:

''(f) DISCLOSURE OF OTHER MORTGAGE PRODUCTS.—

''(1) IN GENERAL.—In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

''(2) NOTICE.—The notice required under paragraph (1) shall include—

''(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

''(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.''.

SEC. 3. CONFORMING AMENDMENTS.

Section 245 of the National Housing Act (12 U.S.C. 1715z–10) is amended—

(1) in subsection (a), by striking '', or if the mortgagor'' and all that follows through ''case of veterans''; and

(2) in subsection (b)(3), by striking '', or, if the'' and all that follows through ''for veterans,''.

SEC. 4. REPEAL OF GNMA GUARANTEE FEE INCREASE.

Section 972 of the Higher Education Amendments of 1998 (Public Law 105–244; 112 Stat. 1837) is hereby repealed.

Mr. SARBANES. Mr. President, S. 2239, the FHA Downpayment Simplification Act, has been cosponsored by 23 Senators, including 15 members of the Committee on Banking, Housing, and Urban Affairs. This legislation takes a program that has been in place since October, 1997, and makes it permanent. The program simplifies the downpayment process for FHA borrowers which, in turn, makes it work better for lenders, realtors, and sellers, as well. The bill was also amended by Senator Reed and others to prevent an increase in the GNMA fee from taking place in 2005. This fee increase is not

needed for the safety or soundness of the GNMA program, and it raises the costs of the program for homeowners. Finally, included with this is an amendment that has been worked out by Senators CORZINE and GRAMM to index the FHA multifamily loan limits. This will help keep the multifamily loan limits viable as costs go up in the future.

This legislation is supported by HUD, the Mortgage Bankers Association, the National Association of Realtors, and the National Association of Homebuilders. If the Congress does not act, the authority to use the simplified downpayment calculation will expire at the end of the year, resulting in a more complex process and higher costs for thousands of American homebuyers.

I urge that the legislation, S. 2239, as reported out of the Banking Committee be taken up with the amendment and passed. I ask unanimous consent the letter from the Congressional Budget Office be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 18, 2002.

Hon. PAUL S. SARBANES,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2239, the FHA Downpayment Simplification Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
SPENDING SUBJECT TO APPROPRIATION						
FHA and GNMA Spending Under Current Law:						
Estimated Authorization Level [1]	−2,854	−3,100	−3,107	−3,187	−3,267	−3,348
Estimated Outlays	−2,854	−3,100	−3,107	−3,187	−3,267	−3,348
Proposed Changes:						
Down-Payment Simplification:						
Estimated Authorization Level	0	6	8	8	9	9
Estimated Outlays	0	6	8	8	9	9
GNMA Guarantee Fee:						
Estimated Authorization Level	0	0	0	56	58	59
Estimated Outlays	0	0	0	56	58	59
Total Changes:						
Estimated Authorization Level	0	6	8	64	67	68
Estimated Outlays	0	6	8	64	67	68
Total Spending Under S. 2239						
Estimated Authorization Level	−2,854	−3,094	−3,099	−3,123	−3,200	−3,280
Estimated Outlays		−3,094	−3,099	−3,123	−3,200	−3,280

[1] The 2002–2007 levels are CBO's baseline estimates of the amount of offsetting collections generated by FHA's single-family program and GNMA's single-family Mortgage-Backed Securities program.

Basis of estimate: CBO estimates that implementing the bill would cost $213 million over the 2003–2007 period, assuming appropriation action consistent with the bill's proposed changes to FHA and GNMA programs. The estimated costs are for the provisions concerning down-payment simplification for FHA's mortgage guarantee program, and the fee charged by GNMA. These provisions are explained below.

Down-payment simplification

Currently, the down payment for FHA's single-family program is calculated using a formula established in 1996. Under this formula, the maximum mortgage amount that FHA could insure is determined by a fixed percentage of the home value. The authority to use this formula is scheduled to expire on December 31, 2002, but this legislation would make its use permanent.

Based on information from FHA, CBO estimates that continuing the use of the current downpayment formula would slightly increase the cost of guaranteeing FHA loans because it would lead to a small increase in the loan-to-value (LTV) ratios for about 15 percent of the loans guaranteed each year after 2002. The LTV ratio indicates how much equity a borrower initially has in the home, and serves as a good predictor of the likelihood of default. On average, borrowers with less equity (that is, higher LTV ratios) have higher default rates than borrowers with more equity. We estimate that this provision would increase the cost of guaranteeing some loans, resulting in a cost of $6 million in 2003 and $40 million over the 2003–2007 period. The estimated changes in FHA's loan subsidy cost—which are treated as discretionary spending—would be recorded in each year as new loans are disbursed.

GNMA guarantee fee

GNMA is responsible for guaranteeing securities backed by pools of mortgages insured by the federal government. (These securities are known as mortgage-backed securities or MBS.) In exchange for a fee charged to lenders or issuers of the securities, GNMA guarantees the timely payments of scheduled principal and interest due on the pooled mortgages that back these securities. Under current law, GNMA charges lenders or issuers an annual fee of 6 cents for every $100 (6 basis points) of guaranteed mortgage-backed securities backed by single-family loans. Furthermore, a fee increase to 9 basis points is scheduled to take effect on October 1, 2004. Section 901 would repeal that fee increase. CBO estimates that eliminating the fee increase would increase the subsidy rate associated with the single-family MBS program and increase the demand for the program.

Based on information from GNMA, CBO estimates that lowering guarantee fees would reduce the subsidy for the single-family MBS program from negative 0.56 percent to negative 0.37 percent. (As with the FHA single-family program, GNMA guarantee fees for the mortgage-backed securities more than offset the costs of expected defaults, resulting in net collections from the MBS program.) Under the bill, CBO expects that extending the lower fee of 6 basis points would allow GNMA to remain competitive with other MBS programs and continue to guarantee more than $100 billion worth of mortgage-backed securities, as it does under the current fee structure. Thus, while repealing the fee increase would result in a less profitable program, this loss would be partially offset by additional receipts stemming from an expected increase in demand for GNMA services of about 25 percent. On balance, CBO estimates that implementing this provision would cost $56 million in 2005 and $173 million over the 2005–2007 period.

S. 2239—FHA Downpayment Simplification Act of 2002

Summary: S. 2239 would permanently change the process the Federal Housing Administration (FHA) uses to determine the amount of a down payment that is necessary for mortgages on the single-family homes that it insures. This legislation also would repeal a 3 basis point increase in the Government National Mortgage Association's (GNMA's) guarantee fee, scheduled to be implemented in 2005 under current law.

CBO estimates that implementing this legislation would cost $6 million in 2003 and $213 million over the 2003–2007 period, assuming appropriation action consistent with the bill. Enacting this bill would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply.

S. 2239 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2239 is shown in the following table. The costs of this legislation fall within budget function 370 (mortgage and housing credit).

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 2239 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimates: On August 21, 2002, CBO transmitted a cost estimate for H.R. 3995, the Housing Affordability Act of 2002, as ordered reported by the House Committee on the Judiciary on July 23, 2002, and on September 10, 2002, CBO transmitted a cost estimate for H.R. 3995 as ordered reported by the House Committee on Financial Services on July 9, 2002. Both versions of H.R. 3995 include the provision included in S. 2239, and our cost estimates are the same.

Estimate prepared by: Federal Costs: Susanne S. Mehlman. Impact on State, Local, and Tribal Governments: Greg Waring. Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. REID. Mr. President, I ask unanimous consent the committee amendments be agreed to, that a Sarbanes amendment at the desk be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed.

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

The committee amendments were agreed to.

The amendment (No. 4897) was agreed to, as follows:

(Purpose: To provide for the indexing of multi-family mortgage limits for purposes of the Federal Housing Administration's mortgage insurance programs)

At the end, add the following:

SEC. 4. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

(a) The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 206 the following new section 206A (12 U.S.C. 1712A):

"SEC. 206A. INDEXING OF FHA MULTIFAMILY HOUSING LOANS LIMITS.

''METHOD OF INDEXING.—(a) The dollar amounts set forth in—

(A) section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

(B) section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

(C) section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

(D) section 221(d)(3)(ii)(A) (12 U.S.C. 1715l(d)(3)(ii)(A));

(E) section 221(d)(4)(ii)(A) (12 U.S.C. 1715l(d)(4)(ii)(A));

(F) section 231(c)(2)(A) (12 U.S.C. 1715l(c)(2)(A)); and

(G) section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A))

(collectively hereinafter referred to as the ''Dollar Amounts'') shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

(b) The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in paragraph (a) and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.''.

(b) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended)—

(A) by inserting ''(A)'' after ''(3)'';

(B) by striking ''and except that the Secretary'' through and including ''in this paragraph'' and inserting in lieu thereof: ''(B) the Secretary may, by regulation, increase any of the dollar amount limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)''.

(2) Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(A) by inserting ''(A)'' following ''(2)'';

(B) by striking '': *Provided further*, That'' the first time that it occurs, through and including ''contained in this paragraph'' and inserting in lieu thereof: ''; (B)(I) the Secretary may, by regulation, increase any of the dollar amount limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)'';

(C) by striking '': *Provided further*, That'' the second time it occurs and inserting in lieu thereof: ''; and (II)'';

(D) by striking '': And *provided further*, That'' and inserting in lieu thereof: ''; and (III)'';

(E) by striking ''with this subsection without regard to the preceding proviso'' at the end of that subsection and inserting in lieu thereof: ''with this paragraph (B)(I).''.

(3) Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(A) by inserting ''(I)'' following ''(iii)'';

(B) by striking ''design; and except that'' and inserting in lieu thereof: ''design; and (II)'';

(C) by striking ''any of the foregoing dollar amount limitations contained in this clause'' and inserting in lieu thereof: ''any of the dollar amount limitations in subclause (B)(iii)(I) (as such limitations may have been adjusted in accordance with Section 206A of this Act)'';

(D) by striking '': *Provided*, That'' through and including ''proviso'' and inserting in lieu thereof: ''with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II), the Secretary may, by regulation, increase the dollar amount limitations contained in subclause (B)(iii)(I) (as such limitations may have been adjusted in accordance with Section 206A of this Act)'';

(E) by striking '': *Provided further*,'' and inserting in lieu thereof: ''; (III)'';

(F) by striking ''subparagraph'' in the second proviso and inserting in lieu thereof ''subclause (B)(iii)(I)'';

(G) in the last proviso, by striking '': And *provided further*, That'' and all that follows through and including ''this clause'' and inserting in lieu thereof: ''; (IV) with respect to rehabilitation projects involving not more than five family units, the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects''.

(4) Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715*l*(d)(3)(ii)) is amended—

(A) by inserting ''(A)'' following ''(ii)'';

(B) by striking ''; and except that'' and all that follows through and including ''in this clause'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar amount limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)''.

(5) Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715*l*(d)(4)(ii)) is amended—

(A) by inserting ''(A)'' following ''(ii)'';

(B) by striking ''; and except that'' and all that follows through and including ''in this clause'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)''.

(6) Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(A) by inserting ''(A) following ''(2)'';

(B) by striking ''; and except that'' and all that follows through and including ''in this paragraph'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 296A of this Act)'';

(C) by striking '': *Provided*, That'' and all that follows through and including ''of this section'' and inserting in lieu thereof: ''; (C) the Secretary may, by regulation, increase any of the dollar limitations in paragraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)''.

(7) Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(A) by inserting ''(A) following ''(3)'';

(B) by replacing ''$38,025'' with ''$42,048''; ''$42,120'' with ''$48,481''; ''$50,310'' with ''$58,469''; ''$62,010'' with ''$74,840''; ''$70,200'' with ''$83,375''; ''$43,875'' with ''$44,250''; ''$49,140'' with ''$50,724''; ''$60,255'' with ''$61,680''; ''$75,465'' with ''$79,793''; and ''$85,328'' with ''$87,588'';

(C) by striking ''; except that each'' and all that follows through and including ''contained in this paragraph'' and inserting in lieu thereof: ''; (B) the Secretary may, by regulation, increase any of the dollar limitations in paragraph (A) (as such limitations may have been adjusted in accordance with Section 206A of this Act)''.

The bill (S. 2239), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

REAL INTERSTATE DRIVER EQUITY ACT OF 2001

Mr. REID. I ask unanimous consent the Senate proceed to the consideration of H.R. 2546.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2546) to amend title 49, United States Code, to prohibit States from requiring a license or fee on account of the fact that a motor vehicle is providing interstate pre-arranged ground transportation service, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2546

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 ''Real Interstate Driver Equity Act of 2001''.

SEC. 2. REGULATION OF INTERSTATE PRE-ARRANGED GROUND TRANSPORTATION SERVICE.

Section 14501 of title 49, United States Code, is amended by adding at the end the following:

''(d) PRE-ARRANGED GROUND TRANSPORTATION.—

''(1) IN GENERAL.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law requiring a license or fee on account of the fact that a motor vehicle is providing pre-arranged ground transportation service if the motor carrier providing such service—

''(A) meets all applicable registration requirements under chapter 139 for the interstate transportation of passengers;

''(B) meets all applicable vehicle and intrastate passenger licensing requirements of the State or States in which the motor carrier is domiciled or registered to do business; and

''(C) is providing such service pursuant to a contract for—

[''(i) travel from one State, including intermediate stops, to a destination in another State; or

''(ii) travel from one State, including one or more intermediate stops in another State, to a destination in the original State.]

''(i) transportation by the motor carrier from one State, including intermediate stops, to a destination in another State; or

''(ii) transportation by the motor carrier from one State, including intermediate stops in another State, to a destination in the original State.

''(2) INTERMEDIATE STOP DEFINED.—In this section, the term 'intermediate stop', with respect to transportation by a motor carrier, means a pause in the transportation in order for one or more passengers to engage in personal or business activity, but only if the driver providing the transportation to such passenger or passengers does not, before resuming the transportation of such passenger (or at least 1 of such passengers), provide transportation to any other person not included among the passengers being transported when the pause began.

[''(2)] *(3)* MATTERS NOT COVERED.—Nothing in this subsection shall be construed—

''(A) as subjecting taxicab service to regulation under chapter 135 or section 31138;

''(B) as prohibiting or restricting an airport, train, or bus terminal operator from contracting to provide preferential access or facilities to one or more providers of pre-arranged ground transportation service; and

''(C) as restricting the right of any State or political subdivision of a State to [require] *require, in a nondiscriminatory manner,* that any individual operating a vehicle providing prearranged ground transportation service originating in the State or political subdivision have submitted to *pre-licensing drug testing or* a criminal background investigation of the records of the State in which the operator is domiciled, [by the motor carrier providing such service or] by the State or political subdivision by which the operator is licensed to provide such service, *or by the motor carrier providing such service,* as a condition of providing such service.''.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 13102 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (17), (18), (19), (20), (21), and (22) as paragraphs (18), (19), (21), (22), (23), and (24), respectively;

(2) by inserting after paragraph (16) the following:

''(17) PRE-ARRANGED GROUND TRANSPORTATION SERVICE.—The term 'pre-arranged ground transportation service' means transportation for a passenger (or a group of passengers) that is arranged in advance (or is operated on a regular route or between specified points) and is provided in a motor vehicle with a seating capacity not exceeding 15 passengers (including the driver).''; and

(3) by inserting after paragraph (19) (as so redesignated) the following:

''(20) TAXICAB SERVICE.—The term 'taxicab service' means passenger transportation in a motor vehicle having a capacity of not more than 8 passengers (including the driver), not operated on a regular route or between specified places, and that—

''(A) is licensed as a taxicab by a State or a local jurisdiction; or

''(B) is offered by a person that—

''(i) provides local transportation for a fare determined (except with respect to transportation to or from airports) primarily on the basis of the distance traveled; and

''(ii) does not primarily provide transportation to or from airports.''.

(b) CONFORMING AMENDMENTS.—

(1) MOTOR CARRIER TRANSPORTATION.—Section 13506(a)(2) of title 49, United States Code, is amended to read as follows:

''(2) a motor vehicle providing taxicab service;''.

(2) MINIMUM FINANCIAL RESPONSIBILITY.—Section 31138(e)(2) of such title is amended to read as follows:

''(2) providing taxicab service (as defined in section 13102);''.

Mr. REID. Mr. President, I ask unanimous consent that the committee-reported amendments be agreed to, the bill, as amended, be read three times and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD, with no intervening action or debate.

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

The committee amendments were agreed to.

The bill (H.R. 2546), as amended, was read the third time and passed.

EXPRESSING SYMPATHY FOR THOSE MURDERED AND INJURED IN THE TERRORIST ATTACK IN BALI, INDONESIA, ON OCTOBER 12, 2002

Mr. REID. I ask unanimous consent that we now proceed to S. Res. 350 introduced earlier today by Senator FEINSTEIN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 350) expressing sympathy for those murdered and injured in the terrorist attack in Bali, Indonesia, on October 12, 2002.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. CLINTON. Mr. President, on October 12, the world was shocked as we learned of the tragedy in Indonesia. As news spread across the globe, we heard about the victims, the missing, and the utter devastation unleashed by a group of nameless and faceless murderers. New Yorkers and Americans understand the grief that has enveloped those who lost loved ones in the Bali bombing, and we wish them solace in this time of great personal loss.

This was the largest terrorist attack since September 11, and while 13 months have passed since that fateful day in September, the images of that day remain crystal clear in our minds. While words often fail to provide comfort, perhaps knowing that there are others who can empathize with the shock that's felt in the days and weeks and months after such a tragedy, can console a grieving nation, city, and friend.

After the attacks on the World Trade Centers, New Yorkers were so grateful for the outpouring of support that came from every corner of the globe. It is a sense of solidarity that no country wishes to share, but we must use it to strengthen our efforts in our war against terrorism.

In the weeks and months ahead, New Yorkers will do everything we can to help those impacted by the bombings in Bali. This act of terror has taken nearly 200 lives and injured hundreds. These were parents, children, husbands and wives and friends from so many countries: Indonesia, Australia, Japan, Italy, Great Britain, South Korea, Germany, and two Americans. Five Americans are still unaccounted for. For many, watching family members go to hospitals in Bali carrying pictures of their loved ones is an all too familiar sight. But every opportunity to maintain hope in a desperate time should be pursued.

Bali is known as a peaceful place where people from many different religions, races, and backgrounds can come for relaxation and recreation. Its hospitality is honored around the world. These bombings were a deliberate attempt to disrupt that tranquility and undermine the Indonesian government and its economy. We stand with the Indonesian government as they seek to punish those who are responsible and root out the terrorists in their midst.

Australia was also deeply impacted by these bombings, and to date they are mourning the loss of 33 citizens and wait desperately to learn about 119 who are still missing. In New York's time of need, Australia provided us with so much kindness and generosity. They supported our efforts to defend freedom and we send our deepest condolences to the Australian people.

Last week, we were reminded that the terrorists are still organized and determined to inflict violence and bloodshed in furtherance of their destructive goals. Whether it is murdering innocent people on vacation or bombing a French tanker in Yemen or killing American soldiers in Kuwait, those who wish to do us harm will continue to disrupt this world until we stop them. We must maintain our resolve to seek out and destroy every network in every country until the war on terror has been won.

Mr. REID. I ask unanimous consent the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and any statements in relation thereto be printed in the RECORD.

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

The resolution (S. Res. 350) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 350

Whereas more than 180 innocent people were murdered and at least 300 injured by a cowardly and brutal terrorist bombing of a nightclub in Bali, Indonesia, on October 12, 2002, the worst terrorist incident since September 11, 2001;

Whereas those killed include two United States citizens, as well as citizens from Indonesia, Germany, the United Kingdom, Canada, and elsewhere but the vast majority of those killed and injured were Australian, with more than 119 Australians still missing;

Whereas two American citizens are still missing;

Whereas this bloody attack appears to be part of an ongoing terror campaign by al-Qaida, and strong evidence exists that suggests the involvement of al-Qaida, together with Jemaah Islamiah, in this attack; and

Whereas the people of the United States and Australia have developed a strong friendship based on mutual respect for democracy and freedom: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its deepest condolences and sympathies to the families of the American victims, to the other families of those murdered and injured in this heinous attack, and to the people of Australia, Indonesia,Great Britain, Canada, and Germany;

(2) condemns in the strongest possible terms the vicious terrorist attacks of October 12, 2002, in Bali, Indonesia;

(3) expresses the solidarity of the United States with Australia in our common struggle against terrorism;

(4) supports the Government of Australia in its call for the al-Qaida-linked Jemaah Islamiah to be listed by the United Nations as a terrorist group;

(5) urges the Secretary of State to designate Jemaah Islamiah as a foreign terrorist organization; and

(6) calls on the Government of Indonesia to take every appropriate measure to bring to justice those responsible for this reprehensible attack.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of the following calendar items: Calendar No. 718, H.R. 3034; Calendar No. 719, H.R. 3738; Calendar No. 720, H.R. 3739; Calendar No. 721, H.R. 3740; Calendar No. 722, H.R. 4102; Calendar No. 723, H.R. 4717; Calendar No. 724, H.R. 4755; Calendar No. 725, H.R. 4794; Calendar No. 726, H.R. 4797; Calendar No. 728, H.R. 5308; Calendar No. 729, H.R. 5333; and Calendar No. 730, H.R. 5336.

Mr. REID. I ask unanimous consent that the bills be read three times, passed, the motions to reconsider be laid on the table en bloc, without any intervening action or debate, and any statements relating thereto be printed in the RECORD.

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

FRANK SINATRA POST OFFICE BUILDING

The bill (H.R. 3034) to redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the ''Frank Sinatra Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

HERBERT ARLENE POST OFFICE BUILDING

The bill (H.R. 3738) to designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the ''Herbert Arlene Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

REV. LEON SULLIVAN POST OFFICE BUILDING

The bill (H.R. 3739) to designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the ''Rev. Leon Sullivan Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

WILLIAM A. CIBOTTI POST OFFICE BUILDING

The bill (H.R. 3740) to designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the ''William A. Cibotti Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

ROLLAN D. MELTON POST OFFICE BUILDING

The bill (H.R. 4102) to designate the facility of the United States Postal Service located at 120 North Maine Street in Fallon, Nevada, as the ''Rollan D. Melton Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

JIM FONTENO POST OFFICE BUILDING

The bill (H.R. 4717) to designate the facility of the United States Postal Service located at 1199 Pasadena Boulevard in Pasadena, Texas, as the ''Jim Fonteno Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

CLARENCE MILLER POST OFFICE BUILDING

The bill (H.R. 4755) to designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the ''Clarence Miller Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

RONALD C. PACKARD POST OFFICE BUILDING

The bill (H.R. 4794) to designate the facility of the United States Postal Service located at 1895 Avenida Del Oro in Oceanside, California, as the ''Ronald C. Packard Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

NAT KING COLE POST OFFICE

The bill (H.R. 4797) to redesignate the facility of the United States Postal Service located at 265 South Western Avenue, Los Angeles, California, as the ''Nat King Cole Post Office'' was considered, ordered to a third reading, read the third time, and passed.

BARNEY APODACA POST OFFICE

The bill (H.R. 5308) to designate the facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, as the ''Barney Apodaca Post Office'' was considered, ordered to a third reading, read the third time, and passed.

JOSEPH D. EARLY POST OFFICE BUILDING

The bill (H.R. 5333) to designate the facility of the United States Postal Service located at 4 East Central Street in Worcester, Massachusetts, as the ''Joseph D. Early Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

PETER J. GANCI, JR. POST OFFICE BUILDING

The bill (H.R. 5336) to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the ''Peter J. Ganci, Jr. Post Office Building'' was considered, ordered to a third reading, read the third time, and passed.

ROBERT WAYNE JENKINS STATION POST OFFICE

FRANCIS DAYLE ''CHICK'' HEARN POST OFFICE

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration en bloc of H.R. 4851 and H.R. 5340, which are at the desk.

The PRESIDING OFFICER. The clerk will report the bills by title.

A bill (H.R. 4851) to redesignate the facility of the United States Postal Service located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, as the ''Robert Wayne Jenkins Station''.

A bill (H.R. 5340) to designate the facility of the United States Postal Service located at 5805 White Oak Avenue in Encino, California, as the ''Francis Dayle 'Chick' Hearn Post Office''.

Mr. REID. I ask unanimous consent the bills be read three times, passed, the motions to reconsider be laid on the table en bloc, with no intervening action or debate, and any statements submitted thereto be printed in the RECORD.

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

The bills (H.R. 4841 and H.R. 5340) were read the third time and passed, en bloc.

ALPHONSE F. AUCLAIR POST OFFICE BUILDING

BRUCE F. COTTA POST OFFICE BUILDING

MICHAEL LEE WOODCOCK POST OFFICE BUILDING

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of H.R. 669, H.R. 670, H.R. 5574, en bloc.

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

Mr. REID. I ask unanimous consent that the bills be read three times and passed, the motion to reconsider be laid upon the table en bloc, with no intervening action or debate, and that any statements relating thereto be printed in the RECORD.

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

The bills (H.R. 669, H.R. 670, and H.R. 5574) were read a third time and passed.

SMITHSONIAN INSTITUTION PERSONNEL FLEXIBILITY ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3149 submitted earlier today by Senators LEAHY, FRIST, and COCHRAN.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3149) to provide authority for the Smithsonian Institution to use voluntary separation incentives for personnel flexibility, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements regarding this matter be printed in the RECORD.

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

The bill (S. 3149) was read a third time and passed, as follows:

S. 3149

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 ''Smithsonian Institution Personnel Flexibility Act of 2002''.

SEC. 2. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—

(A) IN GENERAL.—The term ''employee'' means an employee of the Smithsonian Institution in the civil service who—

(i) is serving under an appointment without time limitation; and

(ii) has been employed for a continuous period of at least 3 years in the civil service at the Smithsonian Institution.

(B) EXCLUSION.—The term ''employee'' does not include—

(i) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code or any other retirement system for employees of the Federal Government;

(ii) an employee having a disability on the basis of which the employee is, or would be, eligible for disability retirement under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or any other retirement system for employees of the Federal Government;

(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this Act or any other authority;

(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

(vi) any employee who—

(I) during the 24-month period preceding the employee's date of separation, received and did not repay a recruitment or relocation bonus under section 5753 of title 5, United States Code;

(II) within the 12-month period preceding the employee's date of separation, received and did not repay a retention allowance under section 5754 of title 5, United States Code; or

(III) within the 36-month period preceding the employee's date of separation, received and did not repay funds provided for student loan repayment under section 5379 of title 5, United States Code;

unless the paying agency has waived its right of recovery of those funds.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Smithsonian Institution.

SEC. 3. AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) IN GENERAL.—The Secretary may pay, or authorize the payment of, voluntary separation incentive payments to employees of the Smithsonian Institution only in accordance with the plan required under section 4.

(b) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—A voluntary separation incentive payment—

(1) shall be offered to employees on the basis of—

(A) organizational unit;

(B) occupational series or level;

(C) geographic location;

(D) specific periods during which eligible employees may elect a voluntary separation incentive payment;

(E) skills, knowledge, or other job-related factors; or

(F) a combination of any of the factors specified in subparagraphs (A) through (E);

(2) shall be paid in a lump sum after the employee's separation;

(3) shall be in an amount equal to the lesser of—

(A) the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under that section (without adjustment for any previous payment made); or

(B) an amount determined by the Secretary, not to exceed $25,000;

(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this Act;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Federal Government benefit;

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation; and

(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

(c) LIMITATION.—No amount shall be payable under this Act based on any separation occurring more than 3 years after the date of enactment of this Act.

SEC. 4. INSTITUTION PLAN; CONSULTATION.

(a) IN GENERAL.—Before obligating any resources for voluntary separation incentive payments under section 3, the Secretary shall develop a plan outlining—

(1) the intended use of such incentive payments; and

(2) a proposed organizational chart for the Smithsonian Institution once such incentive payments have been completed.

(b) PLAN.—The Smithsonian Institution's plan under subsection (a) shall include—

(1) the specific positions and functions of the Smithsonian Institution to be reallocated;

(2) a description of which categories of employees will be offered voluntary separation incentive payments;

(3) the time period during which voluntary separation incentive payments may be paid;

(4) the number and amounts of voluntary separation incentive payments to be offered; and

(5) a description of how the Smithsonian Institution will operate with the reallocation of positions to other functions.

(c) CONSULTATION.—The Secretary shall consult with the Office of Management and Budget regarding the Smithsonian Institution's plan prior to implementation.

SEC. 5. EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE FEDERAL GOVERNMENT.

(a) DEFINITION OF EMPLOYMENT.—In this section the term ''employment''—

(1) in subsection (b), includes employment under a personal services contract with the Federal Government (other than the legislative branch); and

(2) in subsection (c), does not include employment under a contract described in paragraph (1).

(b) REPAYMENT REQUIREMENT.—Except as provided in subsection (c), an individual who has received a voluntary separation incentive payment under section 3 and accepts any employment for compensation with the Federal Government (other than the legislative branch) within 5 years after the date of the separation on which the payment is based shall be required to pay to the Smithsonian Institution, prior to the individual's first day of employment, the entire amount of the voluntary separation incentive payment.

(c) WAIVER OF REPAYMENT REQUIREMENT.—

(1) EXECUTIVE BRANCH.—If the employment under this section is with an Executive agency (as defined in section 105 of title 5, United States Code) other than the United States Postal Service or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if—

(A) the individual involved possesses unique abilities; or

(B) in the case of an emergency involving a direct threat to life or property, the individual involved—

(i) has skills directly related to resolving the emergency; and

(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

(2) JUDICIAL BRANCH.—If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved—

(A) possesses unique abilities; and

(B) is the only qualified applicant available for the position.

SEC. 6. ADDITIONAL SPACE AND RESOURCES FOR NATIONAL COLLECTIONS HELD BY THE SMITHSONIAN INSTITUTION.

(a) IN GENERAL.—Public Law 94–98 (20 U.S.C. 50 note; 89 Stat. 480) is amended by adding at the end the following:

"SEC. 4. ADDITIONAL SPACE AND RESOURCES FOR NATIONAL COLLECTIONS HELD BY THE SMITHSONIAN INSTITUTION.

''(a) IN GENERAL.—The Board of Regents of the Smithsonian Institution may plan, design, construct, and equip additional storage and laboratory space at the museum support facility of the Smithsonian Institution in Suitland, Maryland, to accommodate the care, preservation, conservation, deposit, and study of national collections held in trust by the Institution.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $2,000,000 for fiscal year 2003; and

''(2) such sums as are necessary for each of fiscal years 2004 through 2008.''.

(b) CONFORMING AMENDMENT.—Section 3 of Public Law 94–98 (20 U.S.C. 50 note; 89 Stat. 480) is amended in the first sentence by striking ''the purposes of this Act.'' and inserting ''this Act (other than section 4).''.

(c) MUSEUM SUPPORT CENTER.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Smithsonian Institution may enter into a single procurement contract for the construction of additional facilities at the Museum Support Center of the Institution.

(2) REQUIREMENT.—The contract entered into under paragraph (1) and the solicitation for the contract shall include the clause specified in section 52.232–18 of title 48, Code of Federal Regulations.

SEC. 7. PATENT OFFICE BUILDING IMPROVEMENTS.

(a) AUTHORIZATION.—Pursuant to sections 5579, 5583, 5586, and 5588 of the Revised Statutes (20 U.S.C. 41, 46, 50, and 52) and Public Law 85–357 (72 Stat. 68), the Board of Regents of the Smithsonian Institution may plan, design, and construct improvements, which may include a roof covering for the courtyard, to the Patent Office Building transferred to the Smithsonian Institution by Public Law 85–357 (72 Stat. 68) in order to provide increased public space, enhanced visitors' services, and improved public access.

(b) DESIGN AND SPECIFICATIONS.—The design and specifications for any exterior alterations authorized by subsection (a) shall be—

(1) submitted by the Secretary to the Commission of Fine Arts for comments and recommendations; and

(2) subject to the review and approval of the National Capital Planning Commission in accordance with section 8722 of title 40, United States Code, and D.C. Code 6–641.15.

(c) AUTHORITY OF HISTORIC PRESERVATION AGENCIES.—

(1) IN GENERAL.—The Secretary shall—

(A) take into account the effect of the improvements authorized by subsection (a) on the historic character of the Patent Office Building; and

(B) provide the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such improvements.

(2) STATUS OF SMITHSONIAN.—In carrying out this subsection, and for other projects in the District of Columbia subject to the review and approval of the National Capital Planning Commission in accordance with D.C. Code 6–641.15, the Smithsonian Institution shall be deemed to be an agency for purposes of compliance with regulations promulgated by the Advisory Council on Historic Preservation pursuant to section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

(d) RENOVATION OF PATENT OFFICE BUILDING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Smithsonian Institution may enter into a single procurement contract for the repair and renovation of the Patent Office Building.

(2) REQUIREMENT.—The contract entered into under paragraph (1) and the solicitation for the contract shall include the clause specified in section 52.232–18 of title 48, Code of Federal Regulations.

SEC. 8. SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) On December 4, 1987, Congress approved House Concurrent Resolution 57, designating jazz as ''a rare and valuable national American treasure''.

(2) Jazz has inspired some of the Nation's leading creative artists and ranks as 1 of the greatest cultural exports of the United States.

(3) Jazz is an original American art form which has inspired dancers, choreographers, poets, novelists, filmmakers, classical composers, and musicians in many other kinds of music.

(4) Jazz has become an international language that bridges cultural differences and brings people of all races, ages, and backgrounds together.

(5) The jazz heritage of the United States should be appreciated as broadly as possible and should be part of the educational curriculum for children in the United States.

(6) The Smithsonian Institution's National Museum of American History has established April as Jazz Appreciation Month to pay tribute to jazz as both a historic and living American art form.

(7) The Smithsonian Institution's National Museum of American History has received great contributions toward this effort from other governmental agencies and cultural organizations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Smithsonian Institution has played a vital role in the preservation of American culture, including art and music;

(2) the Smithsonian Institution's National Museum of American History should be commended for establishing a Jazz Appreciation Month; and

(3) musicians, schools, colleges, libraries, concert halls, museums, radio and television stations, and other organizations should develop programs to explore, perpetuate, and honor jazz as a national and world treasure.

INSPECTOR GENERAL ACT OF 1978 AMENDMENT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 443, S. 2530.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2530) to amend the Inspector General Act of 1978—5 U.S.C. App—to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.

There being no objection, the Senate proceeded to consider the bill.

Mr. THOMPSON. Mr. President, I am pleased that the Senate is taking up S. 2530, a bill to provide statutory law enforcement authority for certain Inspectors General, which I have introduced along with Senator LIEBERMAN. In July of 2000, the Governmental Affairs Committee held a hearing on Inspector General issues. Among the issues addressed in that hearing was the need for statutory law enforcement authority. This bill was reported favorably by the committee on June 25, 2002 without opposition.

Currently there are 23 Offices of Inspector General whose qualified law enforcement agents are deputized by the Attorney General on a periodic basis. Over the last five years, IGs have been responsible for over 25,000 successful criminal prosecutions, over $12 billion in investigative recoveries, and over 35,000 suspensions and debarments based on their investigations. In addition, they have played key roles in numerous joint task forces with Federal, State and local law enforcement officials. Under the current system, the Attorney General must renew each of these law enforcement deputations periodically.

Unfortunately, there are some problems that exist under the current regime. First, the deputation process places a heavy burden on the U.S. Marshals Service. The Marshals Service is given responsibility for 2,500 IG agents without sufficient resources to conduct proper oversight. In addition, as we learned at our hearing, gaps in the renewal process could compromise ongoing investigations. Finally, many are concerned that the current blanket deputation process could leave an agent's actions open to legal challenge.

This bill would remedy these problems without conferring any additional authorities on the IGs. And it provides for more oversight than currently exists under the deputation process. Specifically, it requires that the IGs conduct periodic peer reviews of their use of law enforcement authority and to provide reports from those reviews to the relevant IG as well as the Attorney General. Those peer reviews are not currently required under the deputation process. If the Attorney General determines than an IG no longer needs law enforcement authority, or that an IG has violated relevant guidelines, then that authority can be rescinded. Simply put, by making the process statutory, we will solidify a process already in place, provide for more oversight of the law enforcement authority than currently exists, and relieve some unnecessary administrative burdens.

In addition, I believe that the bill is even more important in light of the events of September 11. The IGs provided valuable personnel and law enforcement assistance in the months following the tragedy. They served as sky marshals while permanent personnel were being trained. They helped the FBI run down leads in its followup investigation. And they worked within their own agencies to provide information about individuals on the FBI's watch list. The IG community's law enforcement agents provide a valuable

service to this country, on top of the valuable service they provide every day, and they deserve to be recognized for what they are—valuable law enforcement agents.

I am pleased that the Department of Justice and the Federal Bureau of Investigation have written to me in support of the legislation. The Justice Department suggested one change in the legislation—that the Attorney General be allowed to rescind law enforcement authority for individual agents as well as for entire offices—and I am happy to add that provision. I am gratified that the Senate will move forward with this important legislation and send it to the House.

I ask unanimous consent that a copy of each of these letters be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 30, 2002.

Hon. FRED THOMPSON,
Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR THOMPSON: This responds to your request for the views of the Department of Justice on S. 2530, a bill ''[t]o amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.'' Subject to the concern outlined below, we support enactment of this legislation.

Under administrative procedures that are currently in place, Inspector General agents are granted ''blanket special deputations'' (including law enforcement authorities, such as the authority to make arrests and to carry firearms) by the Attorney General. As part of this program, the Attorney General is able to rescind or suspend the police powers of individual Inspector General agents for failure to comply with guidelines governing the exercise of the special deputation police powers that the Attorney General has granted. Proposed section 6(e)(5) of the Inspector General Act, however, only permits the Attorney General to rescind or suspend the police powers of an entire Office of Inspector General upon a determination that the respective Office has not complied with applicable guidelines promulgated by the Attorney General. Because such an action against an entire Office of Inspector General could severely disrupt numerous ongoing criminal investigations, such an enforcement mechanism is neither desirable nor practicable. Accordingly, we strongly recommend that the Attorney General's current authority to suspend police powers of individual agents for failures to comply with applicable Attorney General guidelines or standards be incorporated in the bill as an important component of the oversight of the respective Inspectors General offices.

Thank you for the opportunity to present our views regarding this legislation. If we may be of additional assistance, we trust that you will not hesitate to call upon us. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

DANIEL J. BRYANT,
Assistant Attorney General.

DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, October 4, 2002.

Hon. FRED THOMPSON
Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR THOMPSON: The Federal Bureau of Investigation supports the passage of S. 2530, a bill ''[t]o amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General Agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.'' The FBI reviewed the bill and made some recommendations which were forwarded to the Department of Justice. The Department of Justice has forwarded its recommendations to you.

Sincerely,

ROBERT S. MUELLER, III,
Director.

Mr. REID. Mr. President, I ask unanimous consent that the Thompson amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

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

The amendment (No. 4893) was agreed to, as follows:

(Purpose: To provide that the Attorney General may rescind or suspend certain authority with respect to an individual, and for other purposes)

On page 4, strike lines 15 through 22, and insert the following:

''(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

''(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

The bill (S. 2530), as amended, was read a third time and passed. as follows:

S. 2530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

''(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

''(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

''(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

''(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

''(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

''(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

''(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

''(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

''(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

''(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

''(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

''(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

''(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within

each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

''(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.''.

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term ''memoranda of understanding'' means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LAPSE OF AUTHORITY.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 716, S. 2936.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2936) to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percent relating to periods of receiving disability payments, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment and an amendment to the title.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 2936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

[Section 8415 of title 5, United States Code, is amended—

[(1) by redesignating the second subsection (i) and subsection (j) as subsections (j) and (k), respectively; and

[(2) by adding at the end the following:

''[(1) In the case of any annuity computation under this section that includes, in the aggregate, at least 1 year of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percent.''.]

SECTION 1. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (i) as subsection (k); and

(2) by adding at the end the following:

''(l) In the case of any annuity computation under this section that includes, in the aggregate, at least 1 year of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percentage point.''

(b) CONFORMING AMENDMENT.—Section 8422(d)(2) of title 5, United States Code (as added by section 122(b)(2) of Public Law 107–135), is amended by striking ''8415(i)'' and inserting ''8415(k)''.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any annuity entitlement which is based on a separation from service occurring on or after the date of enactment of this Act.

Amend the title so as to read: ''A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.''.

Mr. ALLEN. Mr. President, today I rise to thank my colleagues for their unanimous support of S. 2936 which will adjust Federal employees retirement computations to offset reductions in their retirement arising from on-the-job injuries covered by the Workers Compensation program. An extraordinary amount of hard work went into this legislation and I would like to thank my colleague from New York, Senator CLINTON, for her most valuable assistance on her side of the aisle in pushing this important measure through the legislative process. I would also like to thank Senators AKAKA, COCHRAN, LIEBERMAN, and THOMPSON of the Governmental Affairs Committee for their advice and bipartisan support, and Senator WARNER for his support from the first day I introduced this bill.

S. 2936 addresses a problem in the retirement program for federal employees that has been recognized but unresolved since 1986 when the current retirement system was established. Unfortunately, complications arising from the Tax Code and the Workers Rehabilitation Act of 1973 have blocked any solution.

My resolve to address the problem was inspired by Ms. Louise Kurtz, a federal employee who was severely injured in the September 11 attack on the Pentagon. She suffered burns over 70% of her body, lost her fingers, yet fights daily in rehabilition and hopes to return to work some day. Current law does not allow Mrs. Kurtz to contribute to her retirement program while she is recuperating and receiving Worker's Compensation disability payments. As a result, after returning to work and eventually retiring, she will find herself inadequately prepared and unable to afford to retire because of the lack of contributions during her recuperation.

As Ms. Kurtz's situation reveals, federal employees under the Federal Employees Retirement System who have sustained an on-the-job injury and are receiving disability compensation from the Department of Labor's Office of Workers' Compensation Programs are unable to make contributions or payments into Social Security or the Thrift Savings Plan. Therefore, the future retirement benefits from both sources are reduced.

This legislation offsets the reductions in Social Security and Thrift Savings Plan retirement benefits by increasing the Federal Employees Retirement System Direct Benefit calculation by one percentage point for extended periods of disability.

The passage of this bill ensures that the pensions of our hard-working federal employees will be kept whole during a period of injury and recuperation, especially now that many of them are on the frontlines of protecting our homeland security in this new war on terror. By protecting the retirement security of injured federal employees, we have provided an incentive for them to return to work and increased our ability to retain our most dedicated and experienced federal workers. This is a reasonable and fair approach in which the whole Senate has acted in a logical and compassionate manner.

I wish to reiterate my gratitude to Senators LIEBERMAN and THOMPSON and their staffs for their assistance in passing this legislation. I also wish to thank Office of Personnel Management Director Kay Coles James and Harry Wolf, Ted Newland, and Mary Ellen Wilson of her staff for helping craft this legislative solution to a heretofore insolvable problem. They are truly wonderful, creative, caring, and principled leaders who worked long hours to accomplish this equitable solution.

I am glad to see the Senate come together and pass this important legislation and again thank my colleague from New York for her leadership. I have truly enjoyed working with her for the successful passage of this positive and constructive legislation that will improve the retirement security of America's dedicated federal employees.

Mr. REID. Mr. President, I ask that the Senate agree to the committee substitute; the bill, as amended, be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table with no

intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

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

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

The title amendment was agreed to.

The bill (S. 2936), as amended, was read a third time and passed.

IMPROPER PAYMENTS REDUCTION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 727, H.R. 4878.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4878) to provide for estimates and reports of improper payments by Federal agencies.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 4878

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 ''Improper Payments Information Act of 2002''.

[SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

[(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.

[(b) ESTIMATION OF IMPROPER PAYMENT.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

[(1) estimate the annual amount of improper payments; and

[(2) include that estimate in its annual budget submission.

[(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed one percent of the total program or activity budget or $1,000,000 annually (whichever is less), the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

[(1) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

[(2) if the agency does not have such systems and infrastructure, a description of the resources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

[(3) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

[(d) DEFINITIONS.—For the purposes of this section:

[(1) AGENCY.—The term ''agency'' means an executive agency, as that term is defined in section 102 of title 31, United States Code.

[(2) IMPROPER PAYMENT.—The term ''improper payment''—

[(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

[(B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

[(3) PAYMENT.—The term ''payment'' means any payment (including a commitment for future payment, such as a loan guarantee) that is—

[(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

[(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

[(e) APPLICATION.—This section—

[(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

[(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

[(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Improper Payments Information Act of 2002''.

SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.

(b) ESTIMATION OF IMPROPER PAYMENT.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

(1) estimate the annual amount of improper payments; and

(2) submit those estimates to Congress before March 31 of the following applicable year, with all agencies using the same method of reporting, as determined by the Director of the Office of Management and Budget.

(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed $10,000,000, the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

(1) a discussion of the causes of the improper payments identified, actions taken to correct those causes, and results of the actions taken to address those causes;

(2) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

(3) if the agency does not have such systems and infrastructure, a description of the resources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

(4) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

(d) DEFINITIONS.—For the purposes of this section:

(1) AGENCY.—The term ''agency'' means an executive agency, as that term is defined in section 102 of title 31, United States Code.

(2) IMPROPER PAYMENT.—The term ''improper payment''—

(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

(3) PAYMENT.—The term ''payment'' means any payment (including a commitment for future payment, such as a loan guarantee) that is—

(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

(e) APPLICATION.—This section—

(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.

Mr. REID. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

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

The bill (H.R. 4878), as amended, was read a third time and passed.

THE MEDICAL DEVICE USER FEE AND MODERNIZATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of H.R. 5651.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5651) to amend the Federal Food, Drug and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I am pleased to support passage of H.R. 5651, ''The Medical Device User Fee and

Modernization Act of 2002.'' Just as passage of a user-fee program was a breakthrough in the regulation of critical prescription drugs, this legislation is a breakthrough in regulation of life-saving medical devices, devices that can open blocked arteries, keep hearts beating, save the lives of stroke patients, and diagnose deadly cancers in time for effective treatment.

Currently, because FDA lacks adequate resources, too many critical devices are unnecessarily slowed in their progress to patients' bedsides by the regulatory process. At the same time, careful FDA oversight is essential to assure that patients not suffer serious injury or even lose their lives because of devices which are unsafe or ineffective.

By assessing a modest fee on device manufacturers, raising the level of appropriated funds, and setting ambitious performance targets for the FDA, this bill is just what the doctor ordered to speed life-saving devices to the market while protecting the public health.

The goal of establishing a user-fee program for medical devices is one that I have pursued for more than a decade. I am gratified that this legislation finally brings that goal to fruition. It will mean life and hope for thousands of patients each year.

The legislation also improves regulation of potentially faulty and harmful reprocessed devices. Patients deserve to know that the devices that are used in their medical treatment are safe and effective, whether they are being used for the first time or whether they are being reused.

The legislation provides for a new regime of third party inspections for device manufacturers who manufacture products for both the United States and export. This regime will reduce duplicative inspections, while assuring that FDA remains the final arbiter and safety check on the quality of the manufacturing process for medical devices.

For many years, the FDA's Center for devices and Radiological Health, CDRH, has needed additional funding and staff to better assure the safety and effectiveness of new and innovative medical technologies. As the coauthor of the Medical device User Fee Act of 1994, I have long advocated medical device user fees and I am proud that we have finally secured such funding through a fair and efficient system of user fees.

This legislation will provide great benefits to patient health and safety. I am confident that these fees will assure greater certainty for consumers and manufacturers that the FDA can meet its statutory responsibilities for the timely and thorough review of medical devices.

Under Federal law, medical devices must be reviewed by the FDA prior to marketing. These reviews must be completed in accordance with ambitious statutory timeframes. While the FDA has done an excellent job of reviewing lower risk devices in a timely manner, it has frequently lacked the resources and staff to achieve similar success with the most sophisticated devices, which require premarket approval.

Under this legislation, device companies will pay the FDA fees for the application they submit for review. These fees will raise nearly $150 million over the next 5 years. The legislation also calls for tens of millions of dollars in newly appropriated funding for the FDA's device center.

These funds will be devoted to reviewing device applications and to assuring the post-market safety of devices. I am pleased that the legislation authorizes an additional $3 million in fiscal year 2003 and $6 million in fiscal year 2004 for the post-market surveillance of medical devices.

I want to acknowledge the contributions of Senator HATCH in ensuring that the user fees are fair and equitable to small businesses and startup companies.

The user-fee program will sunset after 5 years, allowing Congress to review whether it has expedited the review of devices and whether improvements are needed to better assure public health and safety.

In addition to medical device user fees, the legislation strengthens the FDA's regulation of reprocessed devices. I believe that the American people will greatly benefit from the new requirements for substantial equivalence determinations and premarket approvals of such devices. I am particularly pleased that there are robust requirements for the assurance of safety and effectiveness of any reprocessed class III devices, such as angioplasty balloons or heart valves.

Finally, the legislation authorizes a 10-year program for third-party inspections of device manufacturing plants. This will enable FDA to better target its enforcement resources—resources that we also increase in the legislation. To ensure that third parties operate appropriately, the bill places important controls over conflicts of interest and places third parties at risk of significant civil monetary, criminal, and debarment penalties, if they act in a manner inconsistent with public health and safety.

Moreover, the bill limits inspections to plants which manufacture devices for export, and ensures that FDA conduct every third inspection before additional third-party inspections take place.

Let me acknowledge the important work of Congressmen TAUZIN, DINGELL, GREENWOOD, Congresswoman ESHOO, and Senator GREGG, the ranking member of the Committee on Health, Education, Labor, and Pensions, in drafting this legislation. I also want to acknowledge the leadership role played by Senator WELLSTONE in moving this legislation through the Senate, and by Senator DURBIN in enduring strong protections over reprocessed devices.

I would like to thank FDA Deputy Commissioner Lester Crawford, Associate Commissioner Peggy Dotzell, Associate Commissioner Amit Sachdev, Center for Devices Director David Feigel, Linda Kahan, and Frank Claunts.

I want to recognize the hard work and dedication of Michael Myers, David Nexon, David Dorsey, and Paul Kim on my staff, as well as Vince Ventimiglia with Senator GREGG, Pat Morrisey, and Brent Delmonte with Congressman TAUZIN, and John Ford and David Nelson with Congressman DINGELL.

Let me also recognize the contributions of Patti Unruh and Richard McKeon with Senator WELLSTONE, Lisa German and Daborah Wolf with Senator JACK REED, Adam Gluck with Senator HARKIN, Deborah Barrett and Stephanie Sikora with Senator DODD, Christina Ho with Senator CLINTON, Rhonda Richards with Senator MIKULSKI, Anne Grady with Senator MURRAY, Dean Rosen with Senator FRIST, Anne Marie Murphy with Senator DURBIN, Bruce Artim and Trisha Knight with Senator HATCH, Karen Nelson and Ann Witt with Congressman WAXMAN, and Steve Tilton with Congressman BILIRAKIS.

I ask my colleagues to join me in supporting passage of H.R. 5651, ''The Medical Device User Fee and Modernization Act of 2002.''

Mr. GREGG. Mr. President, I would like to make a few comments concerning the Medical Device User Fee and Modernization Act of 2002, which was passed by both the House and Senate earlier this morning.

This legislation was the product of a tremendous amount of hard work—from folks in both Chambers and on both sides of the aisle—and includes the most significant improvements in the way medical devices are reviewed and regulated, arguably since 1976.

More importantly, these changes will have a very positive and lasting impact on both patients and consumers.

The legislation accomplishes this in several ways:

User Fees: First, it ensures adequate resources for the Food and Drug Administration (FDA), by creating a new user-fee program, modeled after the one used to review drugs and biologics—which has been incredibly successful.

FDA resources at the device center have dramatically declined in the last 10 years, resulting in significant staff turn-over (as high as 10%) and increased review times (more than 400 days per submission when the statute requires reviews of 180 days).

By charging manufacturers a reasonable fee for reviewing their products, FDA can hire more staff, meet review deadlines, and ensure that patients have timely access to the newest, most innovative medical technologies. I particularly want to thank my friend from Utah, Senator HATCH, for his work on this issue.

Moreover, in order to protect some of the smaller companies—including a substantial number in New Hampshire—the bill in many cases exempt or significantly reduce these fees.

Re-Use: Second, the legislation provides greater protection to patients from reused and reprocessed medical devices. The bill ensures that medical devices—especially some of the more delicate, high risk products, such as angioplasty balloons—are not used over and over again on different patients without first demonstrating that this can be done safely and reliably.

On that note, I would especially like to thank Senator DURBIN for his invaluable assistance in working with us to craft this very important provision. I believe that it will save a great many lives. The legislation that he and I worked on this summer and have introduced separately today represents the foundation for the final product included in this bill.

Third-Party Inspections: Third, it increases the frequency and quality of inspections of medical device manufacturing facilities—both here and abroad—by allowing inspections from FDA-accredited third-parties.

On average, the FDA is currently able to inspect a U.S. facility only once every 7 years, and foreign facilities once every 11 years. This is unacceptable and in direct contravention to the current statutory requirement for inspections every 2 years.

By augmenting FDA's inspection capabilities, we will help ensure that these medical devices are being manufactured in accordance with established manufacturing practices.

Modernizing FDA: Finally, the bill brings FDA regulation into the 21st century, by instituting electronic labeling, electronic registration, and modular reviews of applications. It also establishes a more effective review process for the fastest wave of innovative combination biotechnologies, including drug and biologics coated stents, drug pumps, and engineered tissues.

Working together, these changes will give FDA the tools it needs to work more effectively, and to get the next generation of life-saving medical devices into the hands of doctors and patients more quickly than ever before.

I am also pleased to report that this legislation is widely supported by the administration, FDA, patient/consumer groups, industry, and provider/hospital groups.

I am proud of what we have been able to accomplish here today and believe that this legislation will have a tremendous positive impact on people's lives as they enjoy the benefits of today and tomorrow's medical technology.

Mr. DODD. Mr. President, I would like to applaud my colleagues in both the House and the Senate, particularly Congressman BILLY TAUZIN, Congressman JOHN DINGELL, Senator JUDD GREGG, and Senator TED KENNEDY, for reaching a compromise on this important legislation. I know that there were several difficult issues to be negotiated, and I am pleased that we were able to reach a bipartisan agreement before the end of this Congress.

I support this legislation because, first and foremost, it could increase the quality of patient care. At the same time, it will also prove beneficial to the manufacturers who make these devices, and the hospitals and health care providers that use them. By creating a system of user fees for FDA approval of medical devices, we are ensuring that life-improving and life-saving technologies will be available on the market in a more efficient and timely manner. Put more simply, this bill could save lives. In creating a user fee structure, we are expanding a model that has already proven dramatically successful in the prescription drug market.

This bill will also have a positive impact on patient safety by expanding FDA regulation of the medical device reprocessing industry. Device reprocessing can certainly be beneficial when used appropriately. There are environmental benefits, as well as cost savings for hospitals. However, we must ensure that patient safety is not sacrificed. This legislation will do that by providing us with a better understanding of the impact that reprocessing has on the safety and efficacy of devices, and allowing the FDA to prevent the reprocessing of devices when safety is in question.

Again, I thank my colleagues for working so diligently to come to this agreement, and I proudly support this legislation.

HEALTH CARE SAFETY NET AMENDMENTS ACT

Mr. FRIST. Mr. President, I am pleased to speak today on behalf of the Health Care Safety Net Amendments Act, which passed the House of Representatives by a wide margin earlier this week. I urge my colleagues to support this critical bill. This legislation represents an important next step towards improving the quality and availability of health care services for our nation's uninsured and medically underserved.

This critical legislation strengthens our Nation's health care safety net and is vital to helping millions of uninsured Americans get the health care they need. Far too many Americans lack health insurance today. We must tackle this problem head on to reduce the number of people who are not receiving care. This bill takes important steps to expand access to care and responds to the challenges providers, particularly our community health centers, face.

The Health Care Safety Net Amendments Act reauthorizes the Consolidated Health Center program, the National Health Service Corps and the rural health outreach and telehealth grant programs, and establishes the Healthy Communities Access Program. Together, these programs represent our first line of defense in providing health care to the nation's uninsured and underserved. The bill increases funding for these programs, expands access to health centers, improves existing health infrastructures and takes steps to improve the recruitment and retention of health professionals in underserved areas.

A key component of the bill is an increase in funding for the Consolidated Health Centers program, providing more than $1.3 billion for this program. This increase further demonstrates the commitment to this program, which today serves more than 9 million people each year. This is critical to achieving President Bush's goal of doubling the number of community health centers across America.

In 1996, the Health Centers Consolidation Act reauthorized the community health centers, the migrant health centers, health centers for the homeless, and health centers for residents of public housing until 2001. Today, our nation's health centers face difficult environmental and operational challenges. Not only do they serve a significant number of uninsured and increasing numbers of immigrants, but health centers are also affected by aging facilities and difficulties in recruitment, retention, and retraining of health center leadership. Today's legislation responds to those difficulties in order to reinforce the important work being done by our Nation's health centers.

The bill also expands and strengthens the National Health Service Corps, a program that has placed over 20,000 health care providers in health professional shortage areas in the last 30 years. Presently, over 4 million people currently receive care from National Health Service Corps clinicians. However, to help communities meet their basic health care needs, more clinicians are needed in these areas. The legislation improves recruitment and retention of health care professionals through expanded use of scholarship and loan repayment programs and added flexibility for local communities.

Finally, data indicates that uninsured individuals receive most of their care from private health care providers and that private hospitals bear over 60 percent of the costs of uncompensated care; and private, office-based physicians provide more than 75 percent of the ambulatory care for uninsured patients with Medicaid coverage. Given this, today's bill takes into account safety net providers other than those supported by Consolidated Health Centers and the National Health Service Corp, such as local hospitals and emergency room departments, public health departments, home health agencies, and many other health care organizations, through the establishment of the Healthy Communities Access Program that seeks to integrate all of the safety net providers within a community.

I appreciate the hard work and dedication to this issue among my colleagues, including Senators KENNEDY, GREGG and BOND and Representatives TAUZIN, DINGELL, BILIRAKIS and BROWN. I also appreciate the hard work of my

staff, Shana Christrup, Craig Burton and Dean Rosen, on this important bill.

Mr. REED. Mr. President, I rise to express my reservations with the Medical Device User Fee and Modernization Act of 2002. While the legislation offers some improvements to the current medical device approval and regulation process, I have serious concerns about some aspects of the bill and about the process leading to its impending passage in the Senate.

User fees will allow the Food and Drug Administration, FDA, to expedite the review and approval of medical devices, resulting in faster patient access to new and potentially lifesaving technologies. Third party inspections similarly have the potential to enhance the agency's ability to ensure that manufacturing sites are meeting FDA quality standards for device production. And regulating the reprocessing of single use devices should be a positive step for the safe use of these devices. All of these elements of the legislation, however, carry significant potential risk. In our attempts to enhance the efficiency of an agency to which we are not able to give adequate appropriations, we run the risk of undermining FDA's scientific and policy authority and its vital public health mission.

It will be up to the Senate Health, Education, Labor and Pensions Committee, of which I am a member, to pay close attention to the health and safety implications of these provisions as they are implemented. As part of that ongoing oversight, the committee should review and evaluate the manner in which the bill was written and passed. While I understand the importance of this legislation, I am deeply troubled by the lack of a formal process in its development and consideration. I assure you and my colleagues that I will be paying close attention as these new provisions are implemented in the coming months, and I urge my colleagues to do likewise to protect the public health and maintain the vital mission of the FDA.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD with no intervening action or debate.

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

The bill (H.R. 5651) was read a third time and passed.

HEALTH CARE SAFETY NET AMENDMENTS OF 2002

Mr. REID. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill, S. 1553, to amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and to establish the Healthy Communities Access Program, which will help coordinate services for the uninsured and underinsured, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Health Care Safety Net Amendments of 2002''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSOLIDATED HEALTH CENTER PROGRAM AMENDMENTS

Sec. 101. Health centers.
Sec. 102. Telemedicine; incentive grants regarding coordination among States.

TITLE II—RURAL HEALTH

Subtitle A—Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement Grant Programs

Sec. 201. Grant programs.

Subtitle B—Telehealth Grant Consolidation

Sec. 211. Short title.
Sec. 212. Consolidation and reauthorization of provisions.

Subtitle C—Mental Health Services Telehealth Program and Rural Emergency Medical Service Training and Equipment Assistance Program

Sec. 221. Programs.

TITLE III—NATIONAL HEALTH SERVICE CORPS PROGRAM

Sec. 301. National Health Service Corps.
Sec. 302. Designation of health professional shortage areas.
Sec. 303. Assignment of Corps personnel.
Sec. 304. Priorities in assignment of Corps personnel.
Sec. 305. Cost-sharing.
Sec. 306. Eligibility for Federal funds.
Sec. 307. Facilitation of effective provision of Corps services.
Sec. 308. Authorization of appropriations.
Sec. 309. National Health Service Corps Scholarship Program.
Sec. 310. National Health Service Corps Loan Repayment Program.
Sec. 311. Obligated service.
Sec. 312. Private practice.
Sec. 313. Breach of scholarship contract or loan repayment contract.
Sec. 314. Authorization of appropriations.
Sec. 315. Grants to States for loan repayment programs.
Sec. 316. Demonstration grants to States for community scholarship programs.
Sec. 317. Demonstration project.

TITLE IV—HEALTHY COMMUNITIES ACCESS PROGRAM

Sec. 401. Purpose.
Sec. 402. Creation of Healthy Communities Access Program.
Sec. 403. Expanding availability of dental services.
Sec. 404. Study regarding barriers to participation of farmworkers in health programs.

TITLE V—STUDY AND MISCELLANEOUS PROVISIONS

Sec. 501. Guarantee study.
Sec. 502. Graduate medical education.

TITLE VI—CONFORMING AMENDMENTS

Sec. 601. Conforming amendments.

TITLE I—CONSOLIDATED HEALTH CENTER PROGRAM AMENDMENTS

SEC. 101. HEALTH CENTERS.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) in subsection (b)(1)(A)—

(A) in clause (i)(III)(bb), by striking ''screening for breast and cervical cancer'' and inserting ''appropriate cancer screening'';

(B) in clause (ii), by inserting ''(including specialty referral when medically indicated)'' after ''medical services''; and

(C) in clause (iii), by inserting ''housing,'' after ''social,'';

(2) in subsection (b)(2)—

(A) in subparagraph (A)(i), by striking ''associated with water supply;'' and inserting the following: ''associated with—

''(I) water supply;

''(II) chemical and pesticide exposures;

''(III) air quality; or

''(IV) exposure to lead;'';

(B) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively; and

(C) by inserting before subparagraph (C) (as so redesignated by subparagraph (B)) the following:

''(A) behavioral and mental health and substance abuse services;

''(B) recuperative care services;'';

(D) in subparagraph (B)—

(3) in subsection (c)(1)—

(A) in subparagraph (B)—

(i) in the heading, by striking ''COMPREHENSIVE SERVICE DELIVERY'' and inserting ''MANAGED CARE'';

(ii) in the matter preceding clause (i), by striking ''network or plan'' and all that follows to the period and inserting ''managed care network or plan.''; and

(iii) in the matter following clause (ii), by striking ''Any such grant may include'' and all that follows through the period; and

(B) by adding at the end the following:

''(C) PRACTICE MANAGEMENT NETWORKS.—The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop practice management networks that will enable the centers to—

''(i) reduce costs associated with the provision of health care services;

''(ii) improve access to, and availability of, health care services provided to individuals served by the centers;

''(iii) enhance the quality and coordination of health care services; or

''(iv) improve the health status of communities.

''(D) USE OF FUNDS.—The activities for which a grant may be made under subparagraph (B) or (C) may include the purchase or lease of equipment, which may include data and information systems (including paying for the costs of amortizing the principal of, and paying the interest on, loans for equipment), the provision of training and technical assistance related to the provision of health care services on a prepaid basis or under another managed care arrangement, and other activities that promote the development of practice management or managed care networks and plans.'';

(4) in subsection (d)—

(A) by striking the subsection heading and inserting ''LOAN GUARANTEE PROGRAM.—'';

(B) in paragraph (1)—

(i) in subparagraph (A), by striking ''the principal and interest on loans'' and all that follows through the period and inserting ''up to 90 percent of the principal and interest on loans made by non-Federal lenders to health centers, funded under this section, for the costs of developing and operating managed care networks or plans described in subsection (c)(1)(B), or practice management networks described in subsection (c)(1)(C).'';

(ii) in subparagraph (B)—

(I) in clause (i), by striking ''or'';

(II) in clause (ii), by striking the period and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) to refinance an existing loan (as of the date of refinancing) to the center or centers, if the Secretary determines—

''(I) that such refinancing will be beneficial to the health center and the Federal Government;

''(II) that the center (or centers) can demonstrate an ability to repay the refinanced loan equal to or greater than the ability of the center (or centers) to repay the original loan on the date the original loan was made.''; and

(iii) by adding at the end the following:

''(D) PROVISION DIRECTLY TO NETWORKS OR PLANS.—At the request of health centers receiving assistance under this section, loan guarantees provided under this paragraph may be made directly to networks or plans that are at least majority controlled and, as applicable, at least majority owned by those health centers.

''(E) FEDERAL CREDIT REFORM.—The requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) shall apply with respect to loans refinanced under subparagraph (B)(iii).''; and

(C)(i) by striking paragraphs (6) and (7); and

(ii) by redesignating paragraph (8) as paragraph (6);

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''subsection (j)(3)'' and inserting ''subsection (k)(3)''; and

(ii) by adding at the end the following:

''(C) OPERATION OF NETWORKS AND PLANS.—The Secretary may make grants to health centers that receive assistance under this section, or at the request of the health centers, directly to a network or plan (as described in subparagraphs (B) and (C) of subsection (c)(1)) that is at least majority controlled and, as applicable, at least majority owned by such health centers receiving assistance under this section, for the costs associated with the operation of such network or plan, including the purchase or lease of equipment (including the costs of amortizing the principal of, and paying the interest on, loans for equipment).'';

(B) in paragraph (5)—

(i) in subparagraph (A), by inserting ''subparagraphs (A) and (B) of'' after ''any fiscal year under'';

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(iii) by inserting after subparagraph (A) the following:

''(B) NETWORKS AND PLANS.—The total amount of grant funds made available for any fiscal year under paragraph (1)(C) and subparagraphs (B) and (C) of subsection (c)(1) to a health center or to a network or plan shall be determined by the Secretary, but may not exceed 2 percent of the total amount appropriated under this section for such fiscal year.''; and

(C) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(5) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting ''and seasonal agricultural worker'' after ''agricultural worker''; and

(ii) in subparagraph (B), by striking ''and members of their families'' and inserting ''and seasonal agricultural workers, and members of their families,''; and

(B) in paragraph (3)(A), by striking ''on a seasonal basis'';

(6) in subsection (h)—

(A) in paragraph (1), by striking ''homeless children and children at risk of homelessness'' and inserting ''homeless children and youth and children and youth at risk of homelessness'';

(B)(i) by redesignating paragraph (4) as paragraph (5); and

(ii) by inserting after paragraph (3) the following:

''(4) TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.—If any grantee under this subsection has provided services described in this section under the grant to a homeless individual, such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months.''; and

(C) in paragraph (5)(C) (as redesignated by subparagraph (B)), by striking ''and residential treatment'' and inserting '', risk reduction, outpatient treatment, residential treatment, and rehabilitation'';

(7) in subsection (j)(3)—

(A) in subparagraph (E)—

(i) in clause (i)—

(I) by striking ''(i)'' and inserting ''(i)(I)'';

(II) by striking ''plan; or'' and inserting ''plan; and''; and

(III) by adding at the end the following:

''(II) has or will have a contractual or other arrangement with the State agency administering the program under title XXI of such Act (42 U.S.C. 1397aa et seq.) with respect to individuals who are State children's health insurance program beneficiaries; or''; and

(ii) by striking clause (ii) and inserting the following:

''(ii) has made or will make every reasonable effort to enter into arrangements described in subclauses (I) and (II) of clause (i);'';

(B) in subparagraph (G)—

(i) in clause (ii)(II), by striking ''; and'' and inserting '';'';

(ii) by redesignating clause (iii) as clause (iv); and

(iii) by inserting after clause (ii) the following:

''(iii)(I) will assure that no patient will be denied health care services due to an individual's inability to pay for such services; and

''(II) will assure that any fees or payments required by the center for such services will be reduced or waived to enable the center to fulfill the assurance described in subclause (I); and'';

(C) in subparagraph (H), in the matter following clause (iii), by striking ''or (p)'' and inserting ''or (q)'';

(D) in subparagraph (K)(ii), by striking ''and'' at the end;

(E) in subparagraph (L), by striking the period and inserting ''; and''; and

(F) by inserting after subparagraph (L), the following:

''(M) the center encourages persons receiving or seeking health services from the center to participate in any public or private (including employer-offered) health programs or plans for which the persons are eligible, so long as the center, in complying with this subparagraph, does not violate the requirements of subparagraph (G)(iii)(I).'';

(8)(A) by redesignating subsection (l) as subsection (s) and moving that subsection (s) to the end of the section;

(B) by redesignating subsections (j), (k), and (m) through (q) as subsections (n), (o), and (p) through (s), respectively; and

(C) by inserting after subsection (i) the following:

''(j) ACCESS GRANTS.—

''(1) IN GENERAL.—The Secretary may award grants to eligible health centers with a substantial number of clients with limited English speaking proficiency to provide translation, interpretation, and other such services for such clients with limited English speaking proficiency.

''(2) ELIGIBLE HEALTH CENTER.—In this subsection, the term 'eligible health center' means an entity that—

''(A) is a health center as defined under subsection (a);

''(B) provides health care services for clients for whom English is a second language; and

''(C) has exceptional needs with respect to linguistic access or faces exceptional challenges with respect to linguistic access.

''(3) GRANT AMOUNT.—The amount of a grant awarded to a center under this subsection shall be determined by the Administrator. Such determination of such amount shall be based on the number of clients for whom English is a second language that is served by such center, and larger grant amounts shall be awarded to centers serving larger numbers of such clients.

''(4) USE OF FUNDS.—An eligible health center that receives a grant under this subsection may use funds received through such grant to—

''(A) provide translation, interpretation, and other such services for clients for whom English is a second language, including hiring professional translation and interpretation services; and

''(B) compensate bilingual or multilingual staff for language assistance services provided by the staff for such clients.

''(5) APPLICATION.—An eligible health center desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, including—

''(A) an estimate of the number of clients that the center serves for whom English is a second language;

''(B) the ratio of the number of clients for whom English is a second language to the total number of clients served by the center;

''(C) a description of any language assistance services that the center proposes to provide to aid clients for whom English is a second language; and

''(D) a description of the exceptional needs of such center with respect to linguistic access or a description of the exceptional challenges faced by such center with respect to linguistic access.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, in addition to any funds authorized to be appropriated or appropriated for health centers under any other subsection of this section, such sums as may be necessary for each of fiscal years 2002 through 2006.'';

(9) by striking subsection (m) (as redesignated by paragraph (9)(B)) and inserting the following:

''(m) TECHNICAL ASSISTANCE.—The Secretary shall establish a program through which the Secretary shall provide technical and other assistance to eligible entities to assist such entities to meet the requirements of subsection (l)(3). Services provided through the program may include necessary technical and nonfinancial assistance, including fiscal and program management assistance, training in fiscal and program management, operational and administrative support, and the provision of information to the entities of the variety of resources available under this title and how those resources can be best used to meet the health needs of the communities served by the entities.'';

(10) in subsection (q) (as redesignated by paragraph (9)(B)), by striking ''(j)(3)(G)'' and inserting ''(l)(3)(G)''; and

(11) in subsection (s) (as redesignated by paragraph (9)(A))—

(A) in paragraph (1), by striking ''$802,124,000'' and all that follows through the period and inserting ''$1,340,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''(j)(3))'' and inserting ''(l)(3))''; and

(II) by striking ''(j)(3)(G)(ii)'' and inserting ''(l)(3)(H)''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) DISTRIBUTION OF GRANTS.—For fiscal year 2002 and each of the following fiscal years, the Secretary, in awarding grants under this section, shall ensure that the proportion of the amount made available under each of subsections (g), (h), and (i), relative to the total amount appropriated to carry out this section for that fiscal year, is equal to the proportion of the amount made available under that subsection for fiscal year 2001, relative to the total

amount appropriated to carry out this section for fiscal year 2001.''.

SEC. 102. TELEMEDICINE; INCENTIVE GRANTS REGARDING COORDINATION AMONG STATES.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to State professional licensing boards to carry out programs under which such licensing boards of various States cooperate to develop and implement State policies that will reduce statutory and regulatory barriers to telemedicine.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.

TITLE II—RURAL HEALTH

Subtitle A—Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement Grant Programs

SEC. 201. GRANT PROGRAMS.

Section 330A of the Public Health Service Act (42 U.S.C. 254c) is amended to read as follows:

"SEC. 330A. RURAL HEALTH CARE SERVICES OUTREACH, RURAL HEALTH NETWORK DEVELOPMENT, AND SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANT PROGRAMS.

''(a) PURPOSE.—The purpose of this section is to provide grants for expanded delivery of health care services in rural areas, for the planning and implementation of integrated health care networks in rural areas, and for the planning and implementation of small health care provider quality improvement activities.

''(b) DEFINITIONS.—

''(1) DIRECTOR.—The term 'Director' means the Director specified in subsection (d).

''(2) FEDERALLY QUALIFIED HEALTH CENTER; RURAL HEALTH CLINIC.—The terms 'Federally qualified health center' and 'rural health clinic' have the meanings given the terms in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)).

''(3) HEALTH PROFESSIONAL SHORTAGE AREA.—The term 'health professional shortage area' means a health professional shortage area designated under section 332.

''(4) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' has the meaning given the term in section 799B.

''(5) MEDICALLY UNDERSERVED POPULATION.—The term 'medically underserved population' has the meaning given the term in section 330(b)(3).

''(c) PROGRAM.—The Secretary shall establish, under section 301, a small health care provider quality improvement grant program.

''(d) ADMINISTRATION.—

''(1) PROGRAMS.—The rural health care services outreach, rural health network development, and small health care provider quality improvement grant programs established under section 301 shall be administered by the Director of the Office of Rural Health Policy of the Health Resources and Services Administration, in consultation with State offices of rural health or other appropriate State government entities.

''(2) GRANTS.—

''(A) IN GENERAL.—In carrying out the programs described in paragraph (1), the Director may award grants under subsections (e), (f), and (g) to expand access to, coordinate, and improve the quality of essential health care services, and enhance the delivery of health care, in rural areas.

''(B) TYPES OF GRANTS.—The Director may award the grants—

''(i) to promote expanded delivery of health care services in rural areas under subsection (e);

''(ii) to provide for the planning and implementation of integrated health care networks in rural areas under subsection (f); and

''(iii) to provide for the planning and implementation of small health care provider quality improvement activities under subsection (g).

''(e) RURAL HEALTH CARE SERVICES OUTREACH GRANTS.—

''(1) GRANTS.—The Director may award grants to eligible entities to promote rural health care services outreach by expanding the delivery of health care services to include new and enhanced services in rural areas. The Director may award the grants for periods of not more than 3 years.

''(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection for a project, an entity—

''(A) shall be a rural public or rural nonprofit private entity;

''(B) shall represent a consortium composed of members—

''(i) that include 3 or more health care providers; and

''(ii) that may be nonprofit or for-profit entities; and

''(C) shall not previously have received a grant under this subsection for the same or a similar project, unless the entity is proposing to expand the scope of the project or the area that will be served through the project.

''(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

''(B) a description of the manner in which the project funded under the grant will meet the health care needs of rural underserved populations in the local community or region to be served;

''(C) a description of how the local community or region to be served will be involved in the development and ongoing operations of the project;

''(D) a plan for sustaining the project after Federal support for the project has ended;

''(E) a description of how the project will be evaluated; and

''(F) other such information as the Secretary determines to be appropriate.

''(f) RURAL HEALTH NETWORK DEVELOPMENT GRANTS.—

''(1) GRANTS.—

''(A) IN GENERAL.—The Director may award rural health network development grants to eligible entities to promote, through planning and implementation, the development of integrated health care networks that have combined the functions of the entities participating in the networks in order to—

''(i) achieve efficiencies;

''(ii) expand access to, coordinate, and improve the quality of essential health care services; and

''(iii) strengthen the rural health care system as a whole.

''(B) GRANT PERIODS.—The Director may award such a rural health network development grant for implementation activities for a period of 3 years. The Director may also award such a rural health network development grant for planning activities for a period of 1 year, to assist in the development of an integrated health care network, if the proposed participants in the network do not have a history of collaborative efforts and a 3-year grant would be inappropriate.

''(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, an entity—

''(A) shall be a rural public or rural nonprofit private entity;

''(B) shall represent a network composed of participants—

''(i) that include 3 or more health care providers; and

''(ii) that may be nonprofit or for-profit entities; and

''(C) shall not previously have received a grant under this subsection (other than a grant for planning activities) for the same or a similar project.

''(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

''(B) an explanation of the reasons why Federal assistance is required to carry out the project;

''(C) a description of—

''(i) the history of collaborative activities carried out by the participants in the network;

''(ii) the degree to which the participants are ready to integrate their functions; and

''(iii) how the local community or region to be served will benefit from and be involved in the activities carried out by the network;

''(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the integration activities carried out by the network;

''(E) a plan for sustaining the project after Federal support for the project has ended;

''(F) a description of how the project will be evaluated; and

''(G) other such information as the Secretary determines to be appropriate.

''(g) SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANTS.—

''(1) GRANTS.—The Director may award grants to provide for the planning and implementation of small health care provider quality improvement activities. The Director may award the grants for periods of 1 to 3 years.

''(2) ELIGIBILITY.—To be eligible for a grant under this subsection, an entity—

''(A)(i) shall be a rural public or rural nonprofit private health care provider or provider of health care services, such as a critical access hospital or a rural health clinic; or

''(ii) shall be another rural provider or network of small rural providers identified by the Secretary as a key source of local care; and

''(B) shall not previously have received a grant under this subsection for the same or a similar project.

''(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

''(B) an explanation of the reasons why Federal assistance is required to carry out the project;

''(C) a description of the manner in which the project funded under the grant will assure continuous quality improvement in the provision of services by the entity;

''(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the activities carried out by the entity;

''(E) a plan for sustaining the project after Federal support for the project has ended;

''(F) a description of how the project will be evaluated; and

''(G) other such information as the Secretary determines to be appropriate.

''(4) EXPENDITURES FOR SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANTS.—In awarding a grant under this subsection, the Director shall ensure that the funds made available through the grant will be used to provide

services to residents of rural areas. The Director shall award not less than 50 percent of the funds made available under this subsection to providers located in and serving rural areas.

''(h) GENERAL REQUIREMENTS.—

''(1) PROHIBITED USES OF FUNDS.—An entity that receives a grant under this section may not use funds provided through the grant—

''(A) to build or acquire real property; or

''(B) for construction.

''(2) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate activities carried out under grant programs described in this section, to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar grant programs, to maximize the effect of public dollars in funding meritorious proposals.

''(3) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to entities that—

''(A) are located in health professional shortage areas or medically underserved communities, or serve medically underserved populations; or

''(B) propose to develop projects with a focus on primary care, and wellness and prevention strategies.

''(i) REPORT.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsections (e), (f), and (g).

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

Subtitle B—Telehealth Grant Consolidation

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''Telehealth Grant Consolidation Act of 2002''.

SEC. 212. CONSOLIDATION AND REAUTHORIZATION OF PROVISIONS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq) is amended by adding at the end the following:

''SEC. 330I. TELEHEALTH NETWORK AND TELEHEALTH RESOURCE CENTERS GRANT PROGRAMS.

''(a) DEFINITIONS.—In this section:

''(1) DIRECTOR; OFFICE.—The terms 'Director' and 'Office' mean the Director and Office specified in subsection (c).

''(2) FEDERALLY QUALIFIED HEALTH CENTER AND RURAL HEALTH CLINIC.—The term 'Federally qualified health center' and 'rural health clinic' have the meanings given the terms in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)).

''(3) FRONTIER COMMUNITY.—The term 'frontier community' shall have the meaning given the term in regulations issued under subsection (r).

''(4) MEDICALLY UNDERSERVED AREA.—The term 'medically underserved area' has the meaning given the term 'medically underserved community' in section 799B.

''(5) MEDICALLY UNDERSERVED POPULATION.—The term 'medically underserved population' has the meaning given the term in section 330(b)(3).

''(6) TELEHEALTH SERVICES.—The term 'telehealth services' means services provided through telehealth technologies.

''(7) TELEHEALTH TECHNOLOGIES.—The term 'telehealth technologies' means technologies relating to the use of electronic information, and telecommunications technologies, to support and promote, at a distance, health care, patient and professional health-related education, health administration, and public health.

''(b) PROGRAMS.—The Secretary shall establish, under section 301, telehealth network and telehealth resource centers grant programs.

''(c) ADMINISTRATION.—

''(1) ESTABLISHMENT.—There is established in the Health and Resources and Services Administration an Office for the Advancement of Telehealth. The Office shall be headed by a Director.

''(2) DUTIES.—The telehealth network and telehealth resource centers grant programs established under section 301 shall be administered by the Director, in consultation with the State offices of rural health, State offices concerning primary care, or other appropriate State government entities.

''(d) GRANTS.—

''(1) TELEHEALTH NETWORK GRANTS.—The Director may, in carrying out the telehealth network grant program referred to in subsection (b), award grants to eligible entities for projects to demonstrate how telehealth technologies can be used through telehealth networks in rural areas, frontier communities, and medically underserved areas, and for medically underserved populations, to—

''(A) expand access to, coordinate, and improve the quality of health care services;

''(B) improve and expand the training of health care providers; and

''(C) expand and improve the quality of health information available to health care providers, and patients and their families, for decisionmaking.

''(2) TELEHEALTH RESOURCE CENTERS GRANTS.—The Director may, in carrying out the telehealth resource centers grant program referred to in subsection (b), award grants to eligible entities for projects to demonstrate how telehealth technologies can be used in the areas and communities, and for the populations, described in paragraph (1), to establish telehealth resource centers.

''(e) GRANT PERIODS.—The Director may award grants under this section for periods of not more than 4 years.

''(f) ELIGIBLE ENTITIES.—

''(1) TELEHEALTH NETWORK GRANTS.—

''(A) GRANT RECIPIENT.—To be eligible to receive a grant under subsection (d)(1), an entity shall be a nonprofit entity.

''(B) TELEHEALTH NETWORKS.—

''(i) IN GENERAL.—To be eligible to receive a grant under subsection (d)(1), an entity shall demonstrate that the entity will provide services through a telehealth network.

''(ii) NATURE OF ENTITIES.—Each entity participating in the telehealth network may be a nonprofit or for-profit entity.

''(iii) COMPOSITION OF NETWORK.—The telehealth network shall include at least 2 of the following entities (at least 1 of which shall be a community-based health care provider):

''(I) Community or migrant health centers or other Federally qualified health centers.

''(II) Health care providers, including pharmacists, in private practice.

''(III) Entities operating clinics, including rural health clinics.

''(IV) Local health departments.

''(V) Nonprofit hospitals, including community access hospitals.

''(VI) Other publicly funded health or social service agencies.

''(VII) Long-term care providers.

''(VIII) Providers of health care services in the home.

''(IX) Providers of outpatient mental health services and entities operating outpatient mental health facilities.

''(X) Local or regional emergency health care providers.

''(XI) Institutions of higher education.

''(XII) Entities operating dental clinics.

''(2) TELEHEALTH RESOURCE CENTERS GRANTS.—To be eligible to receive a grant under subsection (d)(2), an entity shall be a nonprofit entity.

''(g) APPLICATIONS.—To be eligible to receive a grant under subsection (d), an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a description of the project that the eligible entity will carry out using the funds provided under the grant;

''(2) a description of the manner in which the project funded under the grant will meet the health care needs of rural or other populations to be served through the project, or improve the access to services of, and the quality of the services received by, those populations;

''(3) evidence of local support for the project, and a description of how the areas, communities, or populations to be served will be involved in the development and ongoing operations of the project;

''(4) a plan for sustaining the project after Federal support for the project has ended;

''(5) information on the source and amount of non-Federal funds that the entity will provide for the project;

''(6) information demonstrating the long-term viability of the project, and other evidence of institutional commitment of the entity to the project;

''(7) in the case of an application for a project involving a telehealth network, information demonstrating how the project will promote the integration of telehealth technologies into the operations of health care providers, to avoid redundancy, and improve access to and the quality of care; and

''(8) other such information as the Secretary determines to be appropriate.

''(h) TERMS; CONDITIONS; MAXIMUM AMOUNT OF ASSISTANCE.—The Secretary shall establish the terms and conditions of each grant program described in subsection (b) and the maximum amount of a grant to be awarded to an individual recipient for each fiscal year under this section. The Secretary shall publish, in a publication of the Health Resources and Services Administration, notice of the application requirements for each grant program described in subsection (b) for each fiscal year.

''(i) PREFERENCES.—

''(1) TELEHEALTH NETWORKS.—In awarding grants under subsection (d)(1) for projects involving telehealth networks, the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

''(A) ORGANIZATION.—The eligible entity is a rural community-based organization or another community-based organization.

''(B) SERVICES.—The eligible entity proposes to use Federal funds made available through such a grant to develop plans for, or to establish, telehealth networks that provide mental health, public health, long-term care, home care, preventive, or case management services.

''(C) COORDINATION.—The eligible entity demonstrates how the project to be carried out under the grant will be coordinated with other relevant federally funded projects in the areas, communities, and populations to be served through the grant.

''(D) NETWORK.—The eligible entity demonstrates that the project involves a telehealth network that includes an entity that—

''(i) provides clinical health care services, or educational services for health care providers and for patients or their families; and

''(ii) is—

''(I) a public library;

''(II) an institution of higher education; or

''(III) a local government entity.

''(E) CONNECTIVITY.—The eligible entity proposes a project that promotes local connectivity within areas, communities, or populations to be served through the project.

''(F) INTEGRATION.—The eligible entity demonstrates that health care information has been integrated into the project.

''(2) TELEHEALTH RESOURCE CENTERS.—In awarding grants under subsection (d)(2) for projects involving telehealth resource centers,

the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

''(A) PROVISION OF SERVICES.—The eligible entity has a record of success in the provision of telehealth services to medically underserved areas or medically underserved populations.

''(B) COLLABORATION AND SHARING OF EXPERTISE.—The eligible entity has a demonstrated record of collaborating and sharing expertise with providers of telehealth services at the national, regional, State, and local levels.

''(C) BROAD RANGE OF TELEHEALTH SERVICES.—The eligible entity has a record of providing a broad range of telehealth services, which may include—

''(i) a variety of clinical specialty services;

''(ii) patient or family education;

''(iii) health care professional education; and

''(iv) rural residency support programs.

''(j) DISTRIBUTION OF FUNDS.—

''(1) IN GENERAL.—In awarding grants under this section, the Director shall ensure, to the greatest extent possible, that such grants are equitably distributed among the geographical regions of the United States.

''(2) TELEHEALTH NETWORKS.—In awarding grants under subsection (d)(1) for a fiscal year, the Director shall ensure that—

''(A) not less than 50 percent of the funds awarded shall be awarded for projects in rural areas; and

''(B) the total amount of funds awarded for such projects for that fiscal year shall be not less than the total amount of funds awarded for such projects for fiscal year 2001 under section 330A (as in effect on the day before the date of enactment of the Health Care Safety Net Amendments of 2002).

''(k) USE OF FUNDS.—

''(1) TELEHEALTH NETWORK PROGRAM.—The recipient of a grant under subsection (d)(1) may use funds received through such grant for salaries, equipment, and operating or other costs, including the cost of—

''(A) developing and delivering clinical telehealth services that enhance access to community-based health care services in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations;

''(B) developing and acquiring, through lease or purchase, computer hardware and software, audio and video equipment, computer network equipment, interactive equipment, data terminal equipment, and other equipment that furthers the objectives of the telehealth network grant program;

''(C)(i) developing and providing distance education, in a manner that enhances access to care in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations; or

''(ii) mentoring, precepting, or supervising health care providers and students seeking to become health care providers, in a manner that enhances access to care in the areas and communities, or for the populations, described in clause (i);

''(D) developing and acquiring instructional programming;

''(E)(i) providing for transmission of medical data, and maintenance of equipment; and

''(ii) providing for compensation (including travel expenses) of specialists, and referring health care providers, who are providing telehealth services through the telehealth network, if no third party payment is available for the telehealth services delivered through the telehealth network;

''(F) developing projects to use telehealth technology to facilitate collaboration between health care providers;

''(G) collecting and analyzing usage statistics and data to document the cost-effectiveness of the telehealth services; and

''(H) carrying out such other activities as are consistent with achieving the objectives of this section, as determined by the Secretary.

''(2) TELEHEALTH RESOURCE CENTERS.—The recipient of a grant under subsection (d)(2) may use funds received through such grant for salaries, equipment, and operating or other costs for—

''(A) providing technical assistance, training, and support, and providing for travel expenses, for health care providers and a range of health care entities that provide or will provide telehealth services;

''(B) disseminating information and research findings related to telehealth services;

''(C) promoting effective collaboration among telehealth resource centers and the Office;

''(D) conducting evaluations to determine the best utilization of telehealth technologies to meet health care needs;

''(E) promoting the integration of the technologies used in clinical information systems with other telehealth technologies;

''(F) fostering the use of telehealth technologies to provide health care information and education for health care providers and consumers in a more effective manner; and

''(G) implementing special projects or studies under the direction of the Office.

''(l) PROHIBITED USES OF FUNDS.—An entity that receives a grant under this section may not use funds made available through the grant—

''(1) to acquire real property;

''(2) for expenditures to purchase or lease equipment, to the extent that the expenditures would exceed 40 percent of the total grant funds;

''(3) in the case of a project involving a telehealth network, to purchase or install transmission equipment (such as laying cable or telephone lines, or purchasing or installing microwave towers, satellite dishes, amplifiers, or digital switching equipment);

''(4) to pay for any equipment or transmission costs not directly related to the purposes for which the grant is awarded;

''(5) to purchase or install general purpose voice telephone systems;

''(6) for construction; or

''(7) for expenditures for indirect costs (as determined by the Secretary), to the extent that the expenditures would exceed 15 percent of the total grant funds.

''(m) COLLABORATION.—In providing services under this section, an eligible entity shall collaborate, if feasible, with entities that—

''(1)(A) are private or public organizations, that receive Federal or State assistance; or

''(B) are public or private entities that operate centers, or carry out programs, that receive Federal or State assistance; and

''(2) provide telehealth services or related activities.

''(n) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate activities carried out under grant programs described in subsection (b), to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar programs, to maximize the effect of public dollars in funding meritorious proposals.

''(o) OUTREACH ACTIVITIES.—The Secretary shall establish and implement procedures to carry out outreach activities to advise potential end users of telehealth services in rural areas, frontier communities, medically underserved areas, and medically underserved populations in each State about the grant programs described in subsection (b).

''(p) TELEHEALTH.—It is the sense of Congress that, for purposes of this section, States should develop reciprocity agreements so that a provider of services under this section who is a licensed or otherwise authorized health care provider under the law of 1 or more States, and who, through telehealth technology, consults with a licensed or otherwise authorized health care provider in another State, is exempt, with respect to such consultation, from any State law of the other State that prohibits such consultation on the basis that the first health care provider is not a licensed or authorized health care provider under the law of that State.

''(q) REPORT.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsection (b).

''(r) REGULATIONS.—The Secretary shall issue regulations specifying, for purposes of this section, a definition of the term 'frontier area'. The definition shall be based on factors that include population density, travel distance in miles to the nearest medical facility, travel time in minutes to the nearest medical facility, and such other factors as the Secretary determines to be appropriate. The Secretary shall develop the definition in consultation with the Director of the Bureau of the Census and the Administrator of the Economic Research Service of the Department of Agriculture.

''(s) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) for grants under subsection (d)(1), $40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006; and

''(2) for grants under subsection (d)(2), $20,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

Subtitle C—Mental Health Services Telehealth Program and Rural Emergency Medical Service Training and Equipment Assistance Program

SEC. 221. PROGRAMS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 212) is further amended by adding at the end the following:

''SEC. 330J. RURAL EMERGENCY MEDICAL SERVICE TRAINING AND EQUIPMENT ASSISTANCE PROGRAM.

''(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this section as the 'Secretary') shall award grants to eligible entities to enable such entities to provide for improved emergency medical services in rural areas.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

''(1) be—

''(A) a State emergency medical services office;

''(B) a State emergency medical services association;

''(C) a State office of rural health;

''(D) a local government entity;

''(E) a State or local ambulance provider; or

''(F) any other entity determined appropriate by the Secretary; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—

''(A) a description of the activities to be carried out under the grant; and

''(B) an assurance that the eligible entity will comply with the matching requirement of subsection (e).

''(c) USE OF FUNDS.—An entity shall use amounts received under a grant made under subsection (a), either directly or through grants to emergency medical service squads that are located in, or that serve residents of, a nonmetropolitan statistical area, an area designated as a rural area by any law or regulation of a State, or a rural census tract of a metropolitan statistical area (as determined under the most recent Goldsmith Modification, originally published in a notice of availability of funds in the Federal Register on February 27, 1992, 57 Fed. Reg. 6725), to—

''(1) recruit emergency medical service personnel;

''(2) recruit volunteer emergency medical service personnel;

''(3) train emergency medical service personnel in emergency response, injury prevention, safety awareness, and other topics relevant to the delivery of emergency medical services;

''(4) fund specific training to meet Federal or State certification requirements;

''(5) develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);

''(6) acquire emergency medical services equipment, including cardiac defibrillators;

''(7) acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; and

''(8) educate the public concerning cardiopulmonary resuscitation, first aid, injury prevention, safety awareness, illness prevention, and other related emergency preparedness topics.

''(d) PREFERENCE.—In awarding grants under this section the Secretary shall give preference to—

''(1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (F) of subsection (b)(1); and

''(2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (c).

''(e) MATCHING REQUIREMENT.—The Secretary may not award a grant under this section to an entity unless the entity agrees that the entity will make available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to 25 percent of the amount received under the grant.

''(f) EMERGENCY MEDICAL SERVICES.—In this section, the term 'emergency medical services'—

''(1) means resources used by a qualified public or private nonprofit entity, or by any other entity recognized as qualified by the State involved, to deliver medical care outside of a medical facility under emergency conditions that occur—

''(A) as a result of the condition of the patient; or

''(B) as a result of a natural disaster or similar situation; and

''(2) includes services delivered by an emergency medical services provider (either compensated or volunteer) or other provider recognized by the State involved that is licensed or certified by the State as an emergency medical technician or its equivalent (as determined by the State), a registered nurse, a physician assistant, or a physician that provides services similar to services provided by such an emergency medical services provider.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

''(2) ADMINISTRATIVE COSTS.—The Secretary may use not more than 10 percent of the amount appropriated under paragraph (1) for a fiscal year for the administrative expenses of carrying out this section.

''SEC. 330K. MENTAL HEALTH SERVICES DELIVERED VIA TELEHEALTH.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a public or nonprofit private telehealth provider network that offers services that include mental health services provided by qualified mental health providers.

''(2) QUALIFIED MENTAL HEALTH PROFESSIONALS.—The term 'qualified mental health professionals' refers to providers of mental health services reimbursed under the medicare program carried out under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who have additional training in the treatment of mental illness in children and adolescents or who have additional training in the treatment of mental illness in the elderly.

''(3) SPECIAL POPULATIONS.—The term 'special populations' refers to the following 2 distinct groups:

''(A) Children and adolescents in mental health underserved rural areas or in mental health underserved urban areas.

''(B) Elderly individuals located in long-term care facilities in mental health underserved rural or urban areas.

''(4) TELEHEALTH.—The term 'telehealth' means the use of electronic information and telecommunications technologies to support long distance clinical health care, patient and professional health-related education, public health, and health administration.

''(b) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Office for the Advancement of Telehealth of the Health Resources and Services Administration, shall award grants to eligible entities to establish demonstration projects for the provision of mental health services to special populations as delivered remotely by qualified mental health professionals using telehealth and for the provision of education regarding mental illness as delivered remotely by qualified mental health professionals using telehealth.

''(2) POPULATIONS SERVED.—The Secretary shall award the grants under paragraph (1) in a manner that distributes the grants so as to serve equitably the populations described in subparagraphs (A) and (B) of subsection (a)(4).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—An eligible entity that receives a grant under this section shall use the grant funds—

''(A) for the populations described in subsection (a)(4)(A)—

''(i) to provide mental health services, including diagnosis and treatment of mental illness, as delivered remotely by qualified mental health professionals using telehealth; and

''(ii) to collaborate with local public health entities to provide the mental health services; and

''(B) for the populations described in subsection (a)(4)(B)—

''(i) to provide mental health services, including diagnosis and treatment of mental illness, in long-term care facilities as delivered remotely by qualified mental health professionals using telehealth; and

''(ii) to collaborate with local public health entities to provide the mental health services.

''(2) OTHER USES.—An eligible entity that receives a grant under this section may also use the grant funds to—

''(A) pay telecommunications costs; and

''(B) pay qualified mental health professionals on a reasonable cost basis as determined by the Secretary for services rendered.

''(3) PROHIBITED USES.—An eligible entity that receives a grant under this section shall not use the grant funds to—

''(A) purchase or install transmission equipment (other than such equipment used by qualified mental health professionals to deliver mental health services using telehealth under the project involved); or

''(B) build upon or acquire real property.

''(d) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure, to the greatest extent possible, that such grants are equitably distributed among geographical regions of the United States.

''(e) APPLICATION.—An entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary determines to be reasonable.

''(f) REPORT.—Not later than 4 years after the date of enactment of the Health Care Safety Net Amendments of 2002, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall evaluate activities funded with grants under this section.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006.''.

TITLE III—NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 301. NATIONAL HEALTH SERVICE CORPS.

(a) IN GENERAL.—Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by adding at the end of subsection (a)(3) the following:

''(E)(i) The term 'behavioral and mental health professionals' means health service psychologists, licensed clinical social workers, licensed professional counselors, marriage and family therapists, psychiatric nurse specialists, and psychiatrists.

''(ii) The term 'graduate program of behavioral and mental health' means a program that trains behavioral and mental health professionals.'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''health professions'' and inserting ''health professions, including schools at which graduate programs of behavioral and mental health are offered,''; and

(B) in paragraph (2), by inserting ''behavioral and mental health professionals,'' after ''dentists,''; and

(3) by striking subsection (c) and inserting the following:

''(c)(1) The Secretary may reimburse an applicant for a position in the Corps (including an individual considering entering into a written agreement pursuant to section 338D) for the actual and reasonable expenses incurred in traveling to and from the applicant's place of residence to an eligible site to which the applicant may be assigned under section 333 for the purpose of evaluating such site with regard to being assigned at such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

''(2) The Secretary may also reimburse the applicant for the actual and reasonable expenses incurred for the travel of 1 family member to accompany the applicant to such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

''(3) In the case of an individual who has entered into a contract for obligated service under the Scholarship Program or under the Loan Repayment Program, the Secretary may reimburse such individual for all or part of the actual and reasonable expenses incurred in transporting the individual, the individual's family, and the family's possessions to the site of the individual's assignment under section 333. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.''.

(b) DEMONSTRATION PROJECTS.—Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

''(i)(1) In carrying out subpart III, the Secretary may, in accordance with this subsection, carry out demonstration projects in which individuals who have entered into a contract for obligated service under the Loan Repayment Program receive waivers under which the individuals are authorized to satisfy the requirement of obligated service through providing clinical service that is not full-time.

''(2) A waiver described in paragraph (1) may be provided by the Secretary only if—

''(A) the entity for which the service is to be performed—

''(i) has been approved under section 333A for assignment of a Corps member; and

''(ii) has requested in writing assignment of a health professional who would serve less than full time;

''(B) the Secretary has determined that assignment of a health professional who would serve less than full time would be appropriate for the area where the entity is located;

''(C) a Corps member who is required to perform obligated service has agreed in writing to be assigned for less than full-time service to an entity described in subparagraph (A);

''(D) the entity and the Corps member agree in writing that the less than full-time service provided by the Corps member will not be less than 16 hours of clinical service per week;

''(E) the Corps member agrees in writing that the period of obligated service pursuant to section 338B will be extended so that the aggregate amount of less than full-time service performed will equal the amount of service that would be performed through full-time service under section 338C; and

''(F) the Corps member agrees in writing that if the Corps member begins providing less than full-time service but fails to begin or complete the period of obligated service, the method stated in 338E(c) for determining the damages for breach of the individual's written contract will be used after converting periods of obligated service or of service performed into their full-time equivalents.

''(3) In evaluating a demonstration project described in paragraph (1), the Secretary shall examine the effect of multidisciplinary teams.''.

SEC. 302. DESIGNATION OF HEALTH PROFESSIONAL SHORTAGE AREAS.

(a) IN GENERAL.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting after the first sentence the following: ''All Federally qualified health centers and rural health clinics, as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)), that meet the requirements of section 334 shall be automatically designated as having such a shortage. Not earlier than 6 years after such date of enactment, and every 6 years thereafter, each such center or clinic shall demonstrate that the center or clinic meets the applicable requirements of the Federal regulations, issued after the date of enactment of this Act, that revise the definition of a health professional shortage area for purposes of this section.''; and

(B) in paragraph (3), by striking ''340(r)) may be a population group'' and inserting ''330(h)(4)), seasonal agricultural workers (as defined in section 330(g)(3)) and migratory agricultural workers (as so defined)), and residents of public housing (as defined in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1))) may be population groups'';

(2) in subsection (b)(2), by striking ''with special consideration to the indicators of'' and all that follows through ''services.'' and inserting a period; and

(3) in subsection (c)(2)(B), by striking ''XVIII or XIX'' and inserting ''XVIII, XIX, or XXI''.

(b) REGULATIONS.—

(1) REPORT.—

(A) IN GENERAL.—The Secretary shall submit the report described in subparagraph (B) if the Secretary, acting through the Administrator of the Health Resources and Services Administration, issues—

(i) a regulation that revises the definition of a health professional shortage area for purposes of section 332 of the Public Health Service Act (42 U.S.C. 254e); or

(ii) a regulation that revises the standards concerning priority of such an area under section 333A of that Act (42 U.S.C. 254f–1).

(B) REPORT.—On issuing a regulation described in subparagraph (A), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that describes the regulation.

(2) EFFECTIVE DATE.—Each regulation described in paragraph (1)(A) shall take effect 180 days after the committees described in paragraph (1)(B) receive a report referred to in paragraph (1)(B) describing the regulation.

(c) SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.—The Secretary of Health and Human Services, in consultation with organizations representing individuals in the dental field and organizations representing publicly funded health care providers, shall develop and implement a plan for increasing the participation of dentists and dental hygienists in the National Health Service Corps Scholarship Program under section 338A of the Public Health Service Act (42 U.S.C. 254l) and the Loan Repayment Program under section 338B of such Act (42 U.S.C. 254l–1).

(d) SITE DESIGNATION PROCESS.—

(1) IMPROVEMENT OF DESIGNATION PROCESS.—The Administrator of the Health Resources and Services Administration, in consultation with the Association of State and Territorial Dental Directors, dental societies, and other interested parties, shall revise the criteria on which the designations of dental health professional shortage areas are based so that such criteria provide a more accurate reflection of oral health care need, particularly in rural areas.

(2) PUBLIC HEALTH SERVICE ACT.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended by adding at the end the following:

''(i) DISSEMINATION.—The Administrator of the Health Resources and Services Administration shall disseminate information concerning the designation criteria described in subsection (b) to—

''(1) the Governor of each State;

''(2) the representative of any area, population group, or facility selected by any such Governor to receive such information;

''(3) the representative of any area, population group, or facility that requests such information; and

''(4) the representative of any area, population group, or facility determined by the Administrator to be likely to meet the criteria described in subsection (b).''.

(e) GAO STUDY.—Not later than February 1, 2005, the Comptroller General of the United States shall submit to the Congress a report on the appropriateness of the criteria, including but not limited to infant mortality rates, access to health services taking into account the distance to primary health services, the rate of poverty and ability to pay for health services, and low birth rates, established by the Secretary of Health and Human Services for the designation of health professional shortage areas and whether the deeming of Federally qualified health centers and rural health clinics as such areas is appropriate and necessary.

SEC. 303. ASSIGNMENT OF CORPS PERSONNEL.

Section 333 of the Public Health Service Act (42 U.S.C. 254f) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the matter before subparagraph (A), by striking ''(specified in the agreement described in section 334)'';

(ii) in subparagraph (A), by striking ''nonprofit''; and

(iii) by striking subparagraph (C) and inserting the following:

''(C) the entity agrees to comply with the requirements of section 334; and''; and

(B) in paragraph (3), by adding at the end ''In approving such applications, the Secretary shall give preference to applications in which a nonprofit entity or public entity shall provide a site to which Corps members may be assigned.''; and

(2) in subsection (d)—

(A) in paragraphs (1), (2), and (4), by striking ''nonprofit'' each place it appears; and

(B) in paragraph (1),

(i) in the second sentence—

(I) in subparagraph (C), by striking ''and'' at the end; and

(II) by striking the period and inserting '', and (E) developing long-term plans for addressing health professional shortages and improving access to health care.''; and

(ii) by adding at the end the following: ''The Secretary shall encourage entities that receive technical assistance under this paragraph to communicate with other communities, State Offices of Rural Health, State Primary Care Associations and Offices, and other entities concerned with site development and community needs assessment.''.

SEC. 304. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.

Section 333A of the Public Health Service Act (42 U.S.C. 254f–1) is amended—

(1) in subsection (a)(1)(A), by striking '', as determined in accordance with subsection (b)'';

(2) by striking subsection (b);

(3) in subsection (c), by striking the second sentence;

(4) in subsection (d)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

''(1) PROPOSED LIST.—The Secretary shall prepare and publish a proposed list of health professional shortage areas and entities that would receive priority under subsection (a)(1) in the assignment of Corps members. The list shall contain the information described in paragraph (2), and the relative scores and relative priorities of the entities submitting applications under section 333, in a proposed format. All such entities shall have 30 days after the date of publication of the list to provide additional data and information in support of inclusion on the list or in support of a higher priority determination and the Secretary shall reasonably consider such data and information in preparing the final list under paragraph (2).'';

(C) in paragraph (2) (as redesignated by subparagraph (A)), in the matter before subparagraph (A)—

(i) by striking ''paragraph (2)'' and inserting ''paragraph (3)'';

(ii) by striking ''prepare a list of health professional shortage areas'' and inserting ''prepare and, as appropriate, update a list of health professional shortage areas and entities''; and

(iii) by striking ''for the period applicable under subsection (f)'';

(D) by striking paragraph (3) (as redesignated by subparagraph (A)) and inserting the following:

''(3) NOTIFICATION OF AFFECTED PARTIES.—

''(A) ENTITIES.—Not later than 30 days after the Secretary has added to a list under paragraph (2) an entity specified as described in subparagraph (A) of such paragraph, the Secretary shall notify such entity that the entity has been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

''(B) INDIVIDUALS.—In the case of an individual obligated to provide service under the Scholarship Program, not later than 3 months before the date described in section 338C(b)(5), the Secretary shall provide to such individual the names of each of the entities specified as described in paragraph (2)(B)(i) that is appropriate for the individual's medical specialty and discipline.''; and

(E) by striking paragraph (4) (as redesignated by subparagraph (A)) and inserting the following:

''(4) REVISIONS.—If the Secretary proposes to make a revision in the list under paragraph (2), and the revision would adversely alter the status of an entity with respect to the list, the Secretary shall notify the entity of the revision. Any entity adversely affected by such a revision shall be notified in writing by the Secretary of the reasons for the revision and shall have 30 days to file a written appeal of the determination involved which shall be reasonably considered by the Secretary before the revision to the list becomes final. The revision to the list shall be effective with respect to assignment of Corps members beginning on the date that the revision becomes final.'';

(5) by striking subsection (e) and inserting the following:

''(e) LIMITATION ON NUMBER OF ENTITIES OFFERED AS ASSIGNMENT CHOICES IN SCHOLARSHIP PROGRAM.—

''(1) DETERMINATION OF AVAILABLE CORPS MEMBERS.—By April 1 of each calendar year, the Secretary shall determine the number of participants in the Scholarship Program who will be available for assignments under section 333 during the program year beginning on July 1 of that calendar year.

''(2) DETERMINATION OF NUMBER OF ENTITIES.—At all times during a program year, the number of entities specified under subsection (c)(2)(B)(i) shall be—

''(A) not less than the number of participants determined with respect to that program year under paragraph (1); and

''(B) not greater than twice the number of participants determined with respect to that program year under paragraph (1).'';

(6) by striking subsection (f); and

(7) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d) respectively.

SEC. 305. COST-SHARING.

Subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by striking section 334 and inserting the following:

''SEC. 334. CHARGES FOR SERVICES BY ENTITIES USING CORPS MEMBERS.

''(a) AVAILABILITY OF SERVICES REGARDLESS OF ABILITY TO PAY OR PAYMENT SOURCE.—An entity to which a Corps member is assigned shall not deny requested health care services, and shall not discriminate in the provision of services to an individual—

''(1) because the individual is unable to pay for the services; or

''(2) because payment for the services would be made under—

''(A) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

''(B) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.); or

''(C) the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.).

''(b) CHARGES FOR SERVICES.—The following rules shall apply to charges for health care services provided by an entity to which a Corps member is assigned:

''(1) IN GENERAL.—

''(A) SCHEDULE OF FEES OR PAYMENTS.—Except as provided in paragraph (2), the entity shall prepare a schedule of fees or payments for the entity's services, consistent with locally prevailing rates or charges and designed to cover the entity's reasonable cost of operation.

''(B) SCHEDULE OF DISCOUNTS.—Except as provided in paragraph (2), the entity shall prepare a corresponding schedule of discounts (including, in appropriate cases, waivers) to be applied to such fees or payments. In preparing the schedule, the entity shall adjust the discounts on the basis of a patient's ability to pay.

''(C) USE OF SCHEDULES.—The entity shall make every reasonable effort to secure from patients fees and payments for services in accordance with such schedules, and fees or payments shall be sufficiently discounted in accordance with the schedule described in subparagraph (B).

''(2) SERVICES TO BENEFICIARIES OF FEDERAL AND FEDERALLY ASSISTED PROGRAMS.—In the case of health care services furnished to an individual who is a beneficiary of a program listed in subsection (a)(2), the entity—

''(A) shall accept an assignment pursuant to section 1842(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(3)(B)(ii)) with respect to an individual who is a beneficiary under the medicare program; and

''(B) shall enter into an appropriate agreement with—

''(i) the State agency administering the program under title XIX of such Act with respect to an individual who is a beneficiary under the medicaid program; and

''(ii) the State agency administering the program under title XXI of such Act with respect to an individual who is a beneficiary under the State children's health insurance program.

''(3) COLLECTION OF PAYMENTS.—The entity shall take reasonable and appropriate steps to collect all payments due for health care services provided by the entity, including payments from any third party (including a Federal, State, or local government agency and any other third party) that is responsible for part or all of the charge for such services.''.

SEC. 306. ELIGIBILITY FOR FEDERAL FUNDS.

Section 335(e)(1)(B) of the Public Health Service Act (42 U.S.C. 254h(e)(1)(B)) is amended by striking ''XVIII or XIX'' and inserting ''XVIII, XIX, or XXI''.

SEC. 307. FACILITATION OF EFFECTIVE PROVISION OF CORPS SERVICES.

(a) HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 336 of the Public Health Service Act (42 U.S.C. 254h–1) is amended—

(1) in subsection (c), by striking ''health manpower'' and inserting ''health professional''; and

(2) in subsection (f)(1), by striking ''health manpower'' and inserting ''health professional''.

(b) TECHNICAL AMENDMENT.—Section 336A(8) of the Public Health Service Act (42 U.S.C. 254i(8)) is amended by striking ''agreements under''.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

Section 338(a) of the Public Health Service Act (42 U.S.C. 254k(a)) is amended—

(1) by striking ''(1) For'' and inserting ''For'';

(2) by striking ''1991 through 2000'' and inserting ''2002 through 2006''; and

(3) by striking paragraph (2).

SEC. 309. NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

Section 338A of the Public Health Service Act (42 U.S.C. 254l) is amended—

(1) in subsection (a)(1), by inserting ''behavioral and mental health professionals,'' after ''dentists,'';

(2) in subsection (b)(1)(B), by inserting '', or an appropriate degree from a graduate program of behavioral and mental health'' after ''other health profession'';

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''338D'' and inserting ''338E''; and

(B) in subparagraph (B), by striking ''338C'' and inserting ''338D'';

(4) in subsection (d)(1)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) the Secretary, in considering applications from individuals accepted for enrollment or enrolled in dental school, shall consider applications from all individuals accepted for enrollment or enrolled in any accredited dental school in a State; and'';

(5) in subsection (f)—

(A) in paragraph (1)(B)—

(i) in clause (iii), by striking ''and'' after the semicolon;

(ii) by redesignating clause (iv) as clause (v); and

(iii) by inserting after clause (iii) the following new clause:

''(iv) if pursuing a degree from a school of medicine or osteopathic medicine, to complete a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and''; and

(B) in paragraph (3), by striking ''338D'' and inserting ''338E''; and

(6) by striking subsection (i).

SEC. 310. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.

Section 338B of the Public Health Service Act (42 U.S.C. 254l–1) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''behavioral and mental health professionals,'' after ''dentists,''; and

(B) in paragraph (2), by striking ''(including mental health professionals)'';

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

''(A) have a degree in medicine, osteopathic medicine, dentistry, or another health profession, or an appropriate degree from a graduate program of behavioral and mental health, or be certified as a nurse midwife, nurse practitioner, or physician assistant;'';

(3) in subsection (e), by striking ''(1) IN GENERAL.—''; and

(4) by striking subsection (i).

SEC. 311. OBLIGATED SERVICE.

Section 338C of the Public Health Service Act (42 U.S.C. 254m) is amended—

(1) in subsection (b)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''section 338A(f)(1)(B)(iv)'' and inserting ''section 338A(f)(1)(B)(v)''; and

(B) in paragraph (5)—

(i) by striking all that precedes subparagraph (C) and inserting the following:

''(5)(A) In the case of the Scholarship Program, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for the degree for which the individual receives the scholarship, except that—

''(i) for an individual receiving such a degree after September 30, 2000, from a school of medicine or osteopathic medicine, such date shall be the date the individual completes a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and

''(ii) at the request of an individual, the Secretary may, consistent with the needs of the Corps, defer such date until the end of a period of time required for the individual to complete advanced training (including an internship or residency).'';

(ii) by striking subparagraph (D);

(iii) by redesignating subparagraphs (C) and (E) as subparagraphs (B) and (C), respectively; and

(iv) in clause (i) of subparagraph (C) (as redesignated by clause (iii)) by striking ''subparagraph (A), (B), or (D)'' and inserting ''subparagraph (A)''; and

(2) by striking subsection (e).

SEC. 312. PRIVATE PRACTICE.

Section 338D of the Public Health Service Act (42 U.S.C. 254n) is amended by striking subsection (b) and inserting the following:

''(b)(1) The written agreement described in subsection (a) shall—

''(A) provide that, during the period of private practice by an individual pursuant to the agreement, the individual shall comply with the requirements of section 334 that apply to entities; and

''(B) contain such additional provisions as the Secretary may require to carry out the objectives of this section.

''(2) The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to.''.

SEC. 313. BREACH OF SCHOLARSHIP CONTRACT OR LOAN REPAYMENT CONTRACT.

(a) IN GENERAL.—Section 338E of the Public Health Service Act (42 U.S.C. 254o) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking the comma and inserting a semicolon;

(B) in subparagraph (B), by striking the comma and inserting ''; or'';

(C) in subparagraph (C), by striking ''or'' at the end; and

(D) by striking subparagraph (D);

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking ''338F(d)'' and inserting ''338G(d)'';

(ii) by striking ''either'';

(iii) by striking ''338D or'' and inserting ''338D,''; and

(iv) by inserting ''or to complete a required residency as specified in section 338A(f)(1)(B)(iv),'' before ''the United States''; and

(B) by adding at the end the following new paragraph:

''(3) The Secretary may terminate a contract with an individual under section 338A if, not later than 30 days before the end of the school year to which the contract pertains, the individual—

''(A) submits a written request for such termination; and

''(B) repays all amounts paid to, or on behalf of, the individual under section 338A(g).'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''338F(d)'' and inserting ''338G(d)''; and

(ii) by striking subparagraphs (A) through (C) and inserting the following:

''(A) the total of the amounts paid by the United States under section 338B(g) on behalf of the individual for any period of obligated service not served;

''(B) an amount equal to the product of the number of months of obligated service that were not completed by the individual, multiplied by $7,500; and

''(C) the interest on the amounts described in subparagraphs (A) and (B), at the maximum legal prevailing rate, as determined by the Treasurer of the United States, from the date of the breach;

''except that the amount the United States is entitled to recover under this paragraph shall not be less than $31,000.'';

(B) by striking paragraphs (2) and (3) and inserting the following:

''(2) The Secretary may terminate a contract with an individual under section 338B if, not later than 45 days before the end of the fiscal year in which the contract was entered into, the individual—

''(A) submits a written request for such termination; and

''(B) repays all amounts paid on behalf of the individual under section 338B(g).''; and

(C) by redesignating paragraph (4) as paragraph (3);

(4) in subsection (d)(3)(A), by striking ''only if such discharge is granted after the expiration of the five-year period'' and inserting ''only if such discharge is granted after the expiration of the 7-year period''; and

(5) by adding at the end the following new subsection:

''(e) Notwithstanding any other provision of Federal or State law, there shall be no limitation on the period within which suit may be filed, a judgment may be enforced, or an action relating to an offset or garnishment, or other action, may be initiated or taken by the Secretary, the Attorney General, or the head of another Federal agency, as the case may be, for the repayment of the amount due from an individual under this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(4) shall apply to any obligation for which a discharge in bankruptcy has not been granted before the date that is 31 days after the date of enactment of this Act.

SEC. 314. AUTHORIZATION OF APPROPRIATIONS.

Section 338H of the Public Health Service Act (42 U.S.C. 254q) is amended to read as follows:

''SEC. 338H. AUTHORIZATION OF APPROPRIATIONS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this subpart, there are authorized to be appropriated $146,250,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

''(b) SCHOLARSHIPS FOR NEW PARTICIPANTS.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall obligate not less than 10 percent for the purpose of providing contracts for—

''(1) scholarships under this subpart to individuals who have not previously received such scholarships; or

''(2) scholarships or loan repayments under the Loan Repayment Program under section 338B to individuals from disadvantaged backgrounds.

''(c) SCHOLARSHIPS AND LOAN REPAYMENTS.—With respect to certification as a nurse practitioner, nurse midwife, or physician assistant, the Secretary shall, from amounts appropriated under subsection (a) for a fiscal year, obligate not less than a total of 10 percent for contracts for both scholarships under the Scholarship Program under section 338A and loan repayments under the Loan Repayment Program under section 338B to individuals who are entering the first year of a course of study or program described in section 338A(b)(1)(B) that leads to such a certification or individuals who are eligible for the loan repayment program as specified in section 338B(b) for a loan related to such certification.''.

SEC. 315. GRANTS TO STATES FOR LOAN REPAYMENT PROGRAMS.

Section 338I of the Public Health Service Act (42 U.S.C. 254q–1) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) AUTHORITY FOR GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability of primary health care services in health professional shortage areas. The National Advisory Council established under section 337 shall advise the Administrator regarding the program under this section.'';

(2) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) to submit to the Secretary such reports regarding the States loan repayment program, as are determined to be appropriate by the Secretary; and''; and

(3) in subsection (i), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $12,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

SEC. 316. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

Section 338L of the Public Health Service Act (42 U.S.C. 254t) is repealed.

SEC. 317. DEMONSTRATION PROJECT.

Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254l et seq.) is amended by adding at the end the following:

''SEC. 338L. DEMONSTRATION PROJECT.

''(a) PROGRAM AUTHORIZED.—The Secretary shall establish a demonstration project to provide for the participation of individuals who are chiropractic doctors or pharmacists in the Loan Repayment Program described in section 338B.

''(b) PROCEDURE.—An individual that receives assistance under this section with regard to the program described in section 338B shall comply with all rules and requirements described in such section (other than subparagraphs (A) and (B) of section 338B(b)(1)) in order to receive assistance under this section.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—The demonstration project described in this section shall provide for the participation of individuals who shall provide services in rural and urban areas.

''(2) AVAILABILITY OF OTHER HEALTH PROFESSIONALS.—The Secretary may not assign an individual receiving assistance under this section to provide obligated service at a site unless—

''(A) the Secretary has assigned a physician (as defined in section 1861(r) of the Social Security Act) or other health professional licensed to prescribe drugs to provide obligated service at such site under section 338C or 338D; and

''(B) such physician or other health professional will provide obligated service at such site concurrently with the individual receiving assistance under this section.

''(3) RULES OF CONSTRUCTION.—

''(A) SUPERVISION OF INDIVIDUALS.—Nothing in this section shall be construed to require or imply that a physician or other health professional licensed to prescribe drugs must supervise an individual receiving assistance under the demonstration project under this section, with respect to such project.

''(B) LICENSURE OF HEALTH PROFESSIONALS.—Nothing in this section shall be construed to supersede State law regarding licensure of health professionals.

''(d) DESIGNATIONS.—The demonstration project described in this section, and any providers who are selected to participate in such project, shall not be considered by the Secretary in the designation of a health professional shortage area under section 332 during fiscal years 2002 through 2004.

''(e) RULE OF CONSTRUCTION.—This section shall not be construed to require any State to participate in the project described in this section.

''(f) REPORT.—

''(1) IN GENERAL.—The Secretary shall evaluate the participation of individuals in the demonstration projects under this section and prepare and submit a report containing the information described in paragraph (2) to—

''(A) the Committee on Health, Education, Labor, and Pensions of the Senate;

''(B) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;

''(C) the Committee on Energy and Commerce of the House of Representatives; and

''(D) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives.

''(2) CONTENT.—The report described in paragraph (1) shall detail—

''(A) the manner in which the demonstration project described in this section has affected access to primary care services, patient satisfaction, quality of care, and health care services provided for traditionally underserved populations;

''(B) how the participation of chiropractic doctors and pharmacists in the Loan Repayment Program might affect the designation of health professional shortage areas; and

''(C) whether adding chiropractic doctors and pharmacists as permanent members of the National Health Service Corps would be feasible and would enhance the effectiveness of the National Health Service Corps.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, such

sums as may be necessary for fiscal years 2002 through 2004.

''(2) FISCAL YEAR 2005.—If the Secretary determines and certifies to Congress by not later than September 30, 2004, that the number of individuals participating in the demonstration project established under this section is insufficient for purposes of performing the evaluation described in subsection (f)(1), the authorization of appropriations under paragraph (1) shall be extended to include fiscal year 2005.''.

TITLE IV—HEALTHY COMMUNITIES ACCESS PROGRAM

SEC. 401. PURPOSE.

The purpose of this title is to provide assistance to communities and consortia of health care providers and others, to develop or strengthen integrated community health care delivery systems that coordinate health care services for individuals who are uninsured or underinsured and to develop or strengthen activities related to providing coordinated care for individuals with chronic conditions who are uninsured or underinsured, through the—

(1) coordination of services to allow individuals to receive efficient and higher quality care and to gain entry into and receive services from a comprehensive system of care;

(2) development of the infrastructure for a health care delivery system characterized by effective collaboration, information sharing, and clinical and financial coordination among all providers of care in the community; and

(3) provision of new Federal resources that do not supplant funding for existing Federal categorical programs that support entities providing services to low-income populations.

SEC. 402. CREATION OF HEALTHY COMMUNITIES ACCESS PROGRAM.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by inserting after subpart IV the following new subpart:

"Subpart V—Healthy Communities Access Program

"SEC. 340. GRANTS TO STRENGTHEN THE EFFECTIVENESS, EFFICIENCY, AND COORDINATION OF SERVICES FOR THE UNINSURED AND UNDERINSURED.

''(a) IN GENERAL.—The Secretary may award grants to eligible entities to assist in the development of integrated health care delivery systems to serve communities of individuals who are uninsured and individuals who are underinsured—

''(1) to improve the efficiency of, and coordination among, the providers providing services through such systems;

''(2) to assist communities in developing programs targeted toward preventing and managing chronic diseases; and

''(3) to expand and enhance the services provided through such systems.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be an entity that—

''(1) represents a consortium—

''(A) whose principal purpose is to provide a broad range of coordinated health care services for a community defined in the entity's grant application as described in paragraph (2); and

''(B) that includes at least one of each of the following providers that serve the community (unless such provider does not exist within the community, declines or refuses to participate, or places unreasonable conditions on their participation):

''(i) a Federally qualified health center (as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)));

''(ii) a hospital with a low-income utilization rate (as defined in section 1923(b)(3) of the Social Security Act (42 U.S.C. 1396r–4(b)(3)), that is greater than 25 percent;

''(iii) a public health department; and

''(iv) an interested public or private sector health care provider or an organization that has traditionally served the medically uninsured and underserved; and

''(2) submits to the Secretary an application, in such form and manner as the Secretary shall prescribe, that—

''(A) defines a community or geographic area of uninsured and underinsured individuals;

''(B) identifies the providers who will participate in the consortium's program under the grant, and specifies each provider's contribution to the care of uninsured and underinsured individuals in the community, including the volume of care the provider provides to beneficiaries under the medicare, medicaid, and State child health insurance programs and to patients who pay privately for services;

''(C) describes the activities that the applicant and the consortium propose to perform under the grant to further the objectives of this section;

''(D) demonstrates the consortium's ability to build on the current system (as of the date of submission of the application) for serving a community or geographic area of uninsured and underinsured individuals by involving providers who have traditionally provided a significant volume of care for that community;

''(E) demonstrates the consortium's ability to develop coordinated systems of care that either directly provide or ensure the prompt provision of a broad range of high-quality, accessible services, including, as appropriate, primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services in a manner that assures continuity of care in the community or geographic area;

''(F) provides evidence of community involvement in the development, implementation, and direction of the program that the entity proposes to operate;

''(G) demonstrates the consortium's ability to ensure that individuals participating in the program are enrolled in public insurance programs for which the individuals are eligible or know of private insurance programs where available;

''(H) presents a plan for leveraging other sources of revenue, which may include State and local sources and private grant funds, and integrating current and proposed new funding sources in a way to assure long-term sustainability of the program;

''(I) describes a plan for evaluation of the activities carried out under the grant, including measurement of progress toward the goals and objectives of the program and the use of evaluation findings to improve program performance;

''(J) demonstrates fiscal responsibility through the use of appropriate accounting procedures and appropriate management systems;

''(K) demonstrates the consortium's commitment to serve the community without regard to the ability of an individual or family to pay by arranging for or providing free or reduced charge care for the poor; and

''(L) includes such other information as the Secretary may prescribe.

''(c) LIMITATIONS.—

''(1) NUMBER OF AWARDS.—

''(A) IN GENERAL.—For each of fiscal years 2003, 2004, 2005, and 2006, the Secretary may not make more than 35 new awards under subsection (a) (excluding renewals of such awards).

''(B) RULE OF CONSTRUCTION.—This paragraph shall not be construed to affect awards made before fiscal year 2003.

''(2) IN GENERAL.—An eligible entity may not receive a grant under this section (including with respect to any such grant made before fiscal year 2003) for more than 3 consecutive fiscal years, except that such entity may receive such a grant award for not more than 1 additional fiscal year if—

''(A) the eligible entity submits to the Secretary a request for a grant for such an additional fiscal year;

''(B) the Secretary determines that extraordinary circumstances (as defined in paragraph (3)) justify the granting of such request; and

''(C) the Secretary determines that granting such request is necessary to further the objectives described in subsection (a).

''(3) EXTRAORDINARY CIRCUMSTANCES.—

''(A) IN GENERAL.—In paragraph (2), the term 'extraordinary circumstances' means an event (or events) that is outside of the control of the eligible entity that has prevented the eligible entity from fulfilling the objectives described by such entity in the application submitted under subsection (b)(2).

''(B) EXAMPLES.—Extraordinary circumstances include—

''(i) natural disasters or other major disruptions to the security or health of the community or geographic area served by the eligible entity; or

''(ii) a significant economic deterioration in the community or geographic area served by such eligible entity, that directly and adversely affects the entity receiving an award under subsection (a).

''(d) PRIORITIES.—In awarding grants under this section, the Secretary—

''(1) shall accord priority to applicants that demonstrate the extent of unmet need in the community involved for a more coordinated system of care; and

''(2) may accord priority to applicants that best promote the objectives of this section, taking into consideration the extent to which the application involved—

''(A) identifies a community whose geographical area has a high or increasing percentage of individuals who are uninsured;

''(B) demonstrates that the applicant has included in its consortium providers, support systems, and programs that have a tradition of serving uninsured individuals and underinsured individuals in the community;

''(C) shows evidence that the program would expand utilization of preventive and primary care services for uninsured and underinsured individuals and families in the community, including behavioral and mental health services, oral health services, or substance abuse services;

''(D) proposes a program that would improve coordination between health care providers and appropriate social service providers;

''(E) demonstrates collaboration with State and local governments;

''(F) demonstrates that the applicant makes use of non-Federal contributions to the greatest extent possible; or

''(G) demonstrates a likelihood that the proposed program will continue after support under this section ceases.

''(e) USE OF FUNDS.—

''(1) USE BY GRANTEES.—

''(A) IN GENERAL.—Except as provided in paragraphs (2) and (3), a grantee may use amounts provided under this section only for—

''(i) direct expenses associated with achieving the greater integration of a health care delivery system so that the system either directly provides or ensures the provision of a broad range of culturally competent services, as appropriate, including primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services; and

''(ii) direct patient care and service expansions to fill identified or documented gaps within an integrated delivery system.

''(B) SPECIFIC USES.—The following are examples of purposes for which a grantee may use grant funds under this section, when such use meets the conditions stated in subparagraph (A):

''(i) Increases in outreach activities and closing gaps in health care service.

''(ii) Improvements to case management.

''(iii) Improvements to coordination of transportation to health care facilities.

''(iv) Development of provider networks and other innovative models to engage physicians in voluntary efforts to serve the medically underserved within a community.

''(v) Recruitment, training, and compensation of necessary personnel.

''(vi) Acquisition of technology for the purpose of coordinating care.

''(vii) Improvements to provider communication, including implementation of shared information systems or shared clinical systems.

''(viii) Development of common processes for determining eligibility for the programs provided through the system, including creating common identification cards and single sliding scale discounts.

''(ix) Development of specific prevention and disease management tools and processes.

''(x) Translation services.

''(xi) Carrying out other activities that may be appropriate to a community and that would increase access by the uninsured to health care, such as access initiatives for which private entities provide non-Federal contributions to supplement the Federal funds provided through the grants for the initiatives.

''(2) DIRECT PATIENT CARE LIMITATION.—Not more than 15 percent of the funds provided under a grant awarded under this section may be used for providing direct patient care and services.

''(3) RESERVATION OF FUNDS FOR NATIONAL PROGRAM PURPOSES.—The Secretary may use not more than 3 percent of funds appropriated to carry out this section for providing technical assistance to grantees, obtaining assistance of experts and consultants, holding meetings, developing of tools, disseminating of information, evaluation, and carrying out activities that will extend the benefits of programs funded under this section to communities other than the community served by the program funded.

''(f) GRANTEE REQUIREMENTS.—

''(1) EVALUATION OF EFFECTIVENESS.—A grantee under this section shall—

''(A) report to the Secretary annually regarding—

''(i) progress in meeting the goals and measurable objectives set forth in the grant application submitted by the grantee under subsection (b); and

''(ii) the extent to which activities conducted by such grantee have—

''(I) improved the effectiveness, efficiency, and coordination of services for uninsured and underinsured individuals in the communities or geographic areas served by such grantee;

''(II) resulted in the provision of better quality health care for such individuals; and

''(III) resulted in the provision of health care to such individuals at lower cost than would have been possible in the absence of the activities conducted by such grantee; and

''(B) provide for an independent annual financial audit of all records that relate to the disposition of funds received through the grant.

''(2) PROGRESS.—The Secretary may not renew an annual grant under this section for an entity for a fiscal year unless the Secretary is satisfied that the consortium represented by the entity has made reasonable and demonstrable progress in meeting the goals and measurable objectives set forth in the entity's grant application for the preceding fiscal year.

''(g) MAINTENANCE OF EFFORT.—With respect to activities for which a grant under this section is authorized, the Secretary may award such a grant only if the applicant for the grant, and each of the participating providers, agree that the grantee and each such provider will maintain its expenditures of non-Federal funds for such activities at a level that is not less than the level of such expenditures during the fiscal year immediately preceding the fiscal year for which the applicant is applying to receive such grant.

''(h) TECHNICAL ASSISTANCE.—The Secretary may, either directly or by grant or contract, provide any entity that receives a grant under this section with technical and other nonfinancial assistance necessary to meet the requirements of this section.

''(i) EVALUATION OF PROGRAM.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the extent to which projects funded under this section have been successful in improving the effectiveness, efficiency, and coordination of services for uninsured and underinsured individuals in the communities or geographic areas served by such projects, including whether the projects resulted in the provision of better quality health care for such individuals, and whether such care was provided at lower costs, than would have been provided in the absence of such projects.

''(j) DEMONSTRATION AUTHORITY.—The Secretary may make demonstration awards under this section to historically black health professions schools for the purposes of—

''(1) developing patient-based research infrastructure at historically black health professions schools, which have an affiliation, or affiliations, with any of the providers identified in section (b)(1)(B);

''(2) establishment of joint and collaborative programs of medical research and data collection between historically black health professions schools and such providers, whose goal is to improve the health status of medically underserved populations; or

''(3) supporting the research-related costs of patient care, data collection, and academic training resulting from such affiliations.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

''(l) DATE CERTAIN FOR TERMINATION OF PROGRAM.—Funds may not be appropriated to carry out this section after September 30, 2006.''.

SEC. 403. EXPANDING AVAILABILITY OF DENTAL SERVICES.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

"Subpart X—Primary Dental Programs

"SEC. 340F. DESIGNATED DENTAL HEALTH PROFESSIONAL SHORTAGE AREA.

''In this subpart, the term 'designated dental health professional shortage area' means an area, population group, or facility that is designated by the Secretary as a dental health professional shortage area under section 332 or designated by the applicable State as having a dental health professional shortage.

"SEC. 340G. GRANTS FOR INNOVATIVE PROGRAMS.

''(a) GRANT PROGRAM AUTHORIZED.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, is authorized to award grants to States for the purpose of helping States develop and implement innovative programs to address the dental workforce needs of designated dental health professional shortage areas in a manner that is appropriate to the States' individual needs.

''(b) STATE ACTIVITIES.—A State receiving a grant under subsection (a) may use funds received under the grant for—

''(1) loan forgiveness and repayment programs for dentists who—

''(A) agree to practice in designated dental health professional shortage areas;

''(B) are dental school graduates who agree to serve as public health dentists for the Federal, State, or local government; and

''(C) agree to—

''(i) provide services to patients regardless of such patients' ability to pay; and

''(ii) use a sliding payment scale for patients who are unable to pay the total cost of services;

''(2) dental recruitment and retention efforts;

''(3) grants and low-interest or no-interest loans to help dentists who participate in the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to establish or expand practices in designated dental health professional shortage areas by equipping dental offices or sharing in the overhead costs of such practices;

''(4) the establishment or expansion of dental residency programs in coordination with accredited dental training institutions in States without dental schools;

''(5) programs developed in consultation with State and local dental societies to expand or establish oral health services and facilities in designated dental health professional shortage areas, including services and facilities for children with special needs, such as—

''(A) the expansion or establishment of a community-based dental facility, free-standing dental clinic, consolidated health center dental facility, school-linked dental facility, or United States dental school-based facility;

''(B) the establishment of a mobile or portable dental clinic; and

''(C) the establishment or expansion of private dental services to enhance capacity through additional equipment or additional hours of operation;

''(6) placement and support of dental students, dental residents, and advanced dentistry trainees;

''(7) continuing dental education, including distance-based education;

''(8) practice support through teledentistry conducted in accordance with State laws;

''(9) community-based prevention services such as water fluoridation and dental sealant programs;

''(10) coordination with local educational agencies within the State to foster programs that promote children going into oral health or science professions;

''(11) the establishment of faculty recruitment programs at accredited dental training institutions whose mission includes community outreach and service and that have a demonstrated record of serving underserved States;

''(12) the development of a State dental officer position or the augmentation of a State dental office to coordinate oral health and access issues in the State; and

''(13) any other activities determined to be appropriate by the Secretary.

''(c) APPLICATION.—

''(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(2) ASSURANCES.—The application shall include assurances that the State will meet the requirements of subsection (d) and that the State possesses sufficient infrastructure to manage the activities to be funded through the grant and to evaluate and report on the outcomes resulting from such activities.

''(d) MATCHING REQUIREMENT.—The Secretary may not make a grant to a State under this section unless that State agrees that, with respect to the costs to be incurred by the State in carrying out the activities for which the grant was awarded, the State will provide non-Federal contributions in an amount equal to not less than 40 percent of Federal funds provided under the grant. The State may provide the contributions in cash or in kind, fairly evaluated, including plant, equipment, and services and may provide the contributions from State, local, or private sources.

''(e) REPORT.—Not later than 5 years after the date of enactment of the Health Care Safety Net Amendments of 2002, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to dental services in designated dental health professional shortage areas.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for the 5-fiscal year period beginning with fiscal year 2002.''.

SEC. 404. STUDY REGARDING BARRIERS TO PARTICIPATION OF FARMWORKERS IN HEALTH PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct a study of the problems experienced by farmworkers (including their families) under Medicaid and SCHIP. Specifically, the Secretary shall examine the following:

(1) BARRIERS TO ENROLLMENT.—Barriers to their enrollment, including a lack of outreach and outstationed eligibility workers, complicated applications and eligibility determination procedures, and linguistic and cultural barriers.

(2) LACK OF PORTABILITY.—The lack of portability of Medicaid and SCHIP coverage for farmworkers who are determined eligible in one State but who move to other States on a seasonal or other periodic basis.

(3) POSSIBLE SOLUTIONS.—The development of possible solutions to increase enrollment and access to benefits for farmworkers, because, in part, of the problems identified in paragraphs (1) and (2), and the associated costs of each of the possible solution described in subsection (b).

(b) POSSIBLE SOLUTIONS.—Possible solutions to be examined shall include each of the following:

(1) INTERSTATE COMPACTS.—The use of interstate compacts among States that establish portability and reciprocity for eligibility for farmworkers under the Medicaid and SCHIP and potential financial incentives for States to enter into such compacts.

(2) DEMONSTRATION PROJECTS.—The use of multi-state demonstration waiver projects under section 1115 of the Social Security Act (42 U.S.C. 1315) to develop comprehensive migrant coverage demonstration projects.

(3) USE OF CURRENT LAW FLEXIBILITY.—Use of current law Medicaid and SCHIP State plan provisions relating to coverage of residents and out-of-State coverage.

(4) NATIONAL MIGRANT FAMILY COVERAGE.—The development of programs of national migrant family coverage in which States could participate.

(5) PUBLIC-PRIVATE PARTNERSHIPS.—The provision of incentives for development of public-private partnerships to develop private coverage alternatives for farmworkers.

(6) OTHER POSSIBLE SOLUTIONS.—Such other solutions as the Secretary deems appropriate.

(c) CONSULTATIONS.—In conducting the study, the Secretary shall consult with the following:

(1) Farmworkers affected by the lack of portability of coverage under the Medicaid program or the State children's health insurance program (under titles XIX and XXI of the Social Security Act).

(2) Individuals with expertise in providing health care to farmworkers, including designees of national and local organizations representing migrant health centers and other providers.

(3) Resources with expertise in health care financing.

(4) Representatives of foundations and other nonprofit entities that have conducted or supported research on farmworker health care financial issues.

(5) Representatives of Federal agencies which are involved in the provision or financing of health care to farmworkers, including the Health Care Financing Administration and the Health Research and Services Administration.

(6) Representatives of State governments.

(7) Representatives from the farm and agricultural industries.

(8) Designees of labor organizations representing farmworkers.

(d) DEFINITIONS.—For purposes of this section:

(1) FARMWORKER.—The term ''farmworker'' means a migratory agricultural worker or seasonal agricultural worker, as such terms are defined in section 330(g)(3) of the Public Health Service Act (42 U.S.C. 254c(g)(3)), and includes a family member of such a worker.

(2) MEDICAID.—The term ''Medicaid'' means the program under title XIX of the Social Security Act.

(3) SCHIP.—The term ''SCHIP'' means the State children's health insurance program under title XXI of the Social Security Act.

(e) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall transmit a report to the President and the Congress on the study conducted under this section. The report shall contain a detailed statement of findings and conclusions of the study, together with its recommendations for such legislation and administrative actions as the Secretary considers appropriate.

TITLE V—STUDY AND MISCELLANEOUS PROVISIONS

SEC. 501. GUARANTEE STUDY.

The Secretary of Health and Human Services shall conduct a study regarding the ability of the Department of Health and Human Services to provide for solvency for managed care networks involving health centers receiving funding under section 330 of the Public Health Service Act. The Secretary shall prepare and submit a report to the appropriate Committees of Congress regarding such ability not later than 2 years after the date of enactment of the Health Care Safety Net Amendments of 2002.

SEC. 502. GRADUATE MEDICAL EDUCATION.

Section 762(k) of the Public Health Service Act (42 U.S.C. 294o(k)) is amended by striking ''2002'' and inserting ''2003''.

TITLE VI—CONFORMING AMENDMENTS

SEC. 601. CONFORMING AMENDMENTS.

(a) HOMELESS PROGRAMS.—Subsections (g)(1)(G)(ii), (k)(2), and (n)(1)(C) of section 224, and sections 317A(a)(2), 317E(c), 318A(e), 332(a)(2)(C), 340D(c)(5), 799B(6)(B), 1313, and 2652(2) of the Public Health Service Act (42 U.S.C. 233, 247b–1(a)(2), 247b–6(c), 247c–1(e), 254e(a)(2)(C), 256d(c)(5), 295p(6)(B), 300e–12, and 300ff–52(2)) are amended by striking ''340'' and inserting ''330(h)''.

(b) HOMELESS INDIVIDUAL.—Section 534(2) of the Public Health Service Act (42 U.S.C. 290cc–34(2)) is amended by striking ''340(r)'' and inserting ''330(h)(5)''.

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in support of the Senate passage of the Health Care Safety Net Amendment of 2002—a bill that could not have been realized without the strong support received from both sides of the aisle. I want to commend Senator FRIST and Senator GREGG for their unfailing dedication to the goals of this legislation. Senator REED and Senator HARKIN contributed to this bill in important ways by expanding access in underserved areas to pharmacists and chiropractic doctors. I also must express my appreciation to Congressmen BILL TAUZIN, MIKE BILIRAKIS, SHERROD BROWN, and JOHN DINGELL for all their hard work in reaching agreement. Most of all, I would like to recognize the unfaltering efforts of Senator DODD, who as always, was determined to improve the delivery and quality of health care to poor and vulnerable populations.

Thirty years ago, Congress created the health centers program in response to an urgent need. At that time, there were growing numbers of Americans who lived in medically underserved areas and lacked access to basic primary care. And for the past three decades, the health centers program fulfilled the crucial role of a safety net for our nation's most vulnerable and underserved populations.

I am proud of the hard work and dedication of our community health centers. In 2000, health centers provided more than 9.6 million people with cost-effective, high quality, preventive and primary care at more than 3,000 sites across the country. Of those served, 500,000 people were homeless, 600,000 were migrant and seasonal farm workers and 55,000 were residents of public housing. Clearly, this program has been successful in meeting the goals of its creators.

That is why I urge the Senate to approve the Safety Net Amendments of 2002—critical legislation that includes the reauthorization of the community health center program. Today, the need for a robust safety net is more pressing than ever before. The Census Bureau recently reported an increase in the numbers of uninsured to 41.2 million, an astounding 14.6% of the population.

This increase resulted from a drop in the number of people covered by employment-based health insurance. With the economy in its weakened state, the Congress cannot sit idly by as more and more Americans see their access to health care slip from their grasp. Once more, Congress must recognize a responsibility to ensure adequate health care to all Americans and strengthen the programs that have been proven effective in delivering care to the uninsured.

Passage of the Safety Net Amendments is the first step to closing the dangerous gaps in our health care system. Not only does it strengthen the community health center program, it also reauthorizes and improves the National Health Service Corps, a program that enables health care providers to serve in medically underserved areas. The bill enhances the delivery and integration of rural health care services. It encourages the development of innovative telehealth technologies that can connect remote areas with providers. It addresses the serious shortages in dental care in many communities across the country. Finally, it authorizes the Healthy Communities Access Program (HCAP), an existing initiative that has been successful in integrating and improving care to needy populations. This program brings together public and private providers and encourages them to work collectively to enhance the health care of the uninsured. HCAP has spurred the development of creative and effective solutions to health care delivery problems that are models of innovation and collaboration for us all.

In approving, the Safety Net bill, we will not only offer hope to millions of struggling families, but we will provide them with the security that even without health insurance, there is someone they can turn to for help.

Mr. GREGG. Mr. President, I am proud to support the Health Care Safety Net conference agreement passed today. This legislation re-authorizes and strengthens several programs that provide critical services to the uninsured and medically underserved. With the recent announcement by the U.S. Census Bureau that there are now 41.5 million uninsured Americans, this legislation comes at a crucial time. The safety net legislation will ensure that

millions of Americans who are uninsured or who lack adequate health insurance coverage will at least have access to preventive and basic primary health care services in their communities.

The legislation reauthorizes the community health centers program, which provides needed health care services, including outpatient dental, diagnostic, treatment, preventive, and primary care—in under-served rural and inner-city areas. These services are provided through community health centers, migrants health centers, farmworkers, health centers for the homeless, health centers for residents of public housing, and healthy schools programs. It also re-authorizes the National Health Service Crops, a program that trains and places health professionals in areas where there are shortages of qualified professionals. Finally, the legislation establishes the Healthy Communities Access Program, which will help coordinate community services for the uninsured.

I believe this legislation represents what can be achieved when good policy and bipartisanship overcome politics. A priority for President Bush, this legislation is an important piece of his agenda to ensure that all Americans have access to health care services. As a next step, I look forward to working with the President, and my colleagues in the Senate and House, to ensure that all Americans have access to affordable health insurance.

Mr. REID. Mr. President, I ask unanimous consent that the Senate concur in the House amendment to the bill, and that the motion to reconsider be laid on the table.

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

PROVIDING FOR HEALTH BENEFITS COVERAGE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 710, S. 2527.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2527) to provide for health benefits coverage under chapter 89, title 5, United States Code, for individuals enrolled in a plan administered by the Overseas Private Investment Corporation, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (S. 2527) was read the third time and passed, as follows:

S. 2527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUATION OF HEALTH BENEFITS COVERAGE FOR INDIVIDUALS ENROLLED IN A PLAN ADMINISTERED BY THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of the administration of chapter 89 of title 5, United States Code, any period of enrollment under a health benefits plan administered by the Overseas Private Investment Corporation before the effective date of this Act shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) CONTINUED COVERAGE.—

(1) IN GENERAL.—Any individual who, on June 30, 2002, is covered by a health benefits plan administered by the Overseas Private Investment Corporation may enroll in an approved health benefits plan described under section 8903 or 8903a of title 5, United States Code—

(A) either as an individual or for self and family, if such individual is an employee, annuitant, or former spouse as defined under section 8901 of such title; and

(B) for coverage effective on and after June 30, 2002.

(2) INDIVIDUALS CURRENTLY UNDER CONTINUED COVERAGE.—An individual who, on June 30, 2002, is entitled to continued coverage under a health benefits plan administered by the Overseas Private Investment Corporation—

(A) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Overseas Private Investment Corporation; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a of such title for coverage effective on and after June 30, 2002.

(3) UNMARRIED DEPENDENT CHILDREN.—An individual who, on June 30, 2002, is covered as an unmarried dependent child under a health benefits plan administered by the Overseas Private Investment Corporation and who is not a member of family as defined under section 8901(5) of title 5, United States Code—

(A) shall be deemed to be entitled to continued coverage under section 8905a of such title as though the individual had, on June 30, 2002, ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of such title; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a for continued coverage effective on and after June 30, 2002.

(c) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—

(1) IN GENERAL.—The Overseas Private Investment Corporation shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Overseas Private Investment Corporation, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section.

(2) AVAILABILITY OF FUNDS.—The amounts transferred under paragraph (1) shall be held in the Fund and used by the Office in addition to amounts available under section 8906(g)(1) of title 5, United States Code.

(d) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

LYME AND INFECTIOUS DISEASE INFORMATION AND FAIRNESS IN TREATMENT (LIFT) ACT

Mr. REID. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. 969, and the Senate proceed to its consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 969) to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. DODD. Mr. President, it is with great pleasure that I rise today to signal the passage of important legislation designed to combat the devastating illness of Lyme disease. The objective of this bipartisan consensus legislation is simple—to put us on the path toward eradicating Lyme disease—a disease still unfamiliar to some Americans, but one that is all too familiar to those of us from Connecticut and the Northeast.

The impact that Lyme disease can have on its victims is tremendous. The disease first achieved prominence in the 1980s in the state of Connecticut and got its name from the town of Lyme, CT. Today, Connecticut residents have the dubious distinction of being 10 times more likely to contract Lyme disease than the rest of the nation. However, Mr. President, the incidence of Lyme disease nationwide is on the rise. In fact, cases of Lyme disease have been reported by 49 states and the District of Columbia. Since 1982, the number of Lyme disease cases reported to health officials numbers more than 145,000. However, reports indicate that the actual incidence of the disease may be many times greater than current figures suggest.

Health problems experienced by those infected with Lyme disease can include facial paralysis, joint swelling, loss of coordination, irregular heartbeat, liver malfunction, depression, and memory loss. Because Lyme disease frequently mimics other conditions, patients often must visit multiple doctors before a proper diagnosis is made. This can result in prolonged pain and suffering, unnecessary tests, costly and futile treatments, and devastating emotional consequences for victims of Lyme disease and their families.

The legislation that we pass today is a continuation of earlier efforts to stem the growth of Lyme disease and

other tick-borne disorders. Through an amendment that I offered to the FY 1999 Department of Defense appropriations bill, an additional $3 million was directed toward the DoD's Lyme disease research efforts. This signaled an important first step in the fight to increase our understanding of this disease, but clearly more remains to be done. The legislation we pass today further continues these efforts.

Central to this legislation, is the creation of a federal advisory committee on Lyme disease and other tick-borne disorders. This advisory committee will bring together members of the scientific community, health care providers, and, most important, those most personally touched by this devastating disease, Lyme patients and their families themselves. It is my hope that the important work of this, the first federal advisory committee on Lyme disease, will lay out a concise and workable federal blueprint for combating this debilitating illness.

Additionally, this legislation will establish clear goals for federal action designed to conquer Lyme disease and other tick-borne disorders. In laying out these goals, the legislation offers a framework for the federal government that includes research, treatment, and prevention efforts designed to stop the growth of Lyme disease and other tick-borne disorders.

The legislation passed by the United States Senate today also authorizes $10 million for federal activities related to the prevention and effective treatment of Lyme disease and other tick-borne disorders. This critically important funding will also provide needed research funding for vector-borne diseases, such as Lyme disease.

I wish to thank my colleague from Pennsylvania, Senator RICK SANTORUM, the legislation's chief Republican cosponsor, for his steadfast support of this initiative. It is due to his support, the support of my colleagues on the Senate HELP Committee, and the support of the Lyme disease community that we are here today on the verge of significantly strengthening the federal commitment to eradicating Lyme disease. I pledge to continue to work with my colleagues to ensure vigorous and effective oversight of the legislation's implementation in order to ensure that our intent is fully realized.

I think I can speak for all of my colleagues when I say that we look forward to the day when Lyme disease no longer causes so many to suffer. This legislation offers an important and critical step toward that laudable goal.

Mr. REID. Mr. President, Senator DODD has a substitute amendment at the desk, and I ask unanimous consent for its consideration; that the amendment be agreed to, and the motion to reconsider be laid upon the table; that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the matter be printed in the RECORD, with no intervening action or debate.

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

The amendment (No. 4894) was agreed to, as follows:

(Purpose: To provide for a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Lyme disease is a common but frequently misunderstood illness that, if not caught early and treated properly, can cause serious health problems.

(2) Lyme disease is a bacterial infection that is transmitted by a tick bite. Early signs of infection may include a rash and flu-like symptoms such as fever, muscle aches, headaches, and fatigue.

(3) Although Lyme disease can be treated with antibiotics if caught early, the disease often goes undetected because it mimics other illnesses or may be misdiagnosed. Untreated, Lyme disease can lead to severe heart, neurological, eye, and joint problems because the bacteria can affect many different organs and organ systems.

(4) If an individual with Lyme disease does not receive treatment, such individual can develop severe heart, neurological, eye, and joint problems.

(5) Although Lyme disease accounts for 90 percent of all vector-borne infections in the United States, the ticks that spread Lyme disease also spread other disorders, such as ehrlichiosis, babesiosis, and other strains of Borrelia. All of these diseases in 1 patient makes diagnosis and treatment more difficult.

(6) Although tick-borne disease cases have been reported in 49 States and the District of Columbia, about 90 percent of the 15,000 cases have been reported in the following 10 States: Connecticut, Pennsylvania, New York, New Jersey, Rhode Island, Maryland, Massachusetts, Minnesota, Delaware, and Wisconsin. Studies have shown that the actual number of tick-borne disease cases are approximately 10 times the amount reported due to poor surveillance of the disease.

(7) Persistence of symptomatology in many patients without reliable testing makes treatment of patients more difficult.

SEC. 2. ESTABLISHMENT OF A TICK-BORNE DISORDERS ADVISORY COMMITTEE.

(a) ESTABLISHMENT OF COMMITTEE.—Not later than 180 days after the date of enactment of this Act, there shall be established an advisory committee to be known as the Tick-Borne Disorders Advisory Committee (referred to in this Act as the ''Committee'') organized in the Office of the Secretary.

(b) DUTIES.—The Committee shall advise the Secretary and Assistant Secretary of Health regarding how to—

(1) assure interagency coordination and communication and minimize overlap regarding efforts to address tick-borne disorders;

(2) identify opportunities to coordinate efforts with other Federal agencies and private organizations addressing tick-borne disorders; and

(3) develop informed responses to constituency groups regarding the Department of Health and Human Services' efforts and progress.

(c) MEMBERSHIP.—

(1) APPOINTED MEMBERS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall appoint voting members to the Committee from among the following member groups:

(i) Scientific community members.

(ii) Representatives of tick-borne disorder voluntary organizations.

(iii) Health care providers.

(iv) Patient representatives who are individuals who have been diagnosed with tick-borne illnesses or who have had an immediate family member diagnosed with such illness.

(v) Representatives of State and local health departments and national organizations who represent State and local health professionals.

(B) REQUIREMENT.—The Secretary shall ensure that an equal number of individuals are appointed to the Committee from each of the member groups described in clauses (i) through (v) of subparagraph (A).

(2) EX OFFICIO MEMBERS.—The Committee shall have nonvoting ex officio members determined appropriate by the Secretary.

(d) CO-CHAIRPERSONS.—The Assistant Secretary of Health shall serve as the co-chairperson of the Committee with a public co-chairperson chosen by the members described under subsection (c). The public co-chairperson shall serve a 2-year term and retain all voting rights.

(e) TERM OF APPOINTMENT.—All members shall be appointed to serve on the Committee for 4 year terms.

(f) VACANCY.—If there is a vacancy on the Committee, such position shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of that term. Members may serve after the expiration of their terms until their successors have taken office.

(g) MEETINGS.—The Committee shall hold public meetings, except as otherwise determined by the Secretary, giving notice to the public of such, and meet at least twice a year with additional meetings subject to the call of the co-chairpersons. Agenda items can be added at the request of the Committee members, as well as the co-chairpersons. Meetings shall be conducted, and records of the proceedings kept as required by applicable laws and Departmental regulations.

(h) REPORTS.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out under this Act.

(2) CONTENT.—Such reports shall describe—

(A) progress in the development of accurate diagnostic tools that are more useful in the clinical setting; and

(B) the promotion of public awareness and physician education initiatives to improve the knowledge of health care providers and the public regarding clinical and surveillance practices for Lyme disease and other tick-borne disorders.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act, $250,000 for each of fiscal years 2003 and 2004. Amounts appropriated under this subsection shall be used for the expenses and per diem costs incurred by the Committee under this section in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), except that no voting member of the Committee shall be a permanent salaried employee.

SEC. 3. AUTHORIZATION FOR RESEARCH FUNDING.

There are authorized to be appropriated $10,000,000 for each of fiscal years 2003 through 2007 to provide for research and educational activities concerning Lyme disease and other tick-borne disorders, and to carry out efforts to prevent Lyme disease and other tick-borne disorders.

SEC. 4. GOALS.

It is the sense of the Senate that, in carrying out this Act, the Secretary of Health

and Human Services (referred to in this section as the ''Secretary''), acting as appropriate in consultation with the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Committee, and other agencies, should consider carrying out the following:

(1) FIVE-YEAR PLAN.—It is the sense of the Senate that the Secretary should consider the establishment of a plan that, for the five fiscal years following the date of the enactment of this Act, provides for the activities to be carried out during such fiscal years toward achieving the goals under paragraphs (2) through (4). The plan should, as appropriate to such goals, provide for the coordination of programs and activities regarding Lyme disease and other tick-borne disorders that are conducted or supported by the Federal Government.

(2) FIRST GOAL: DIAGNOSTIC TEST.—The goal described in this paragraph is to develop a diagnostic test for Lyme disease and other tick-borne disorders for use in clinical testing.

(3) SECOND GOAL: SURVEILLANCE AND REPORTING OF LYME DISEASE AND OTHER TICK-BORNE DISORDERS.—The goal described in this paragraph is to accurately determine the prevalence of Lyme disease and other tick-borne disorders in the United States.

(4) THIRD GOAL: PREVENTION OF LYME DISEASE AND OTHER TICK-BORNE DISORDERS.—The goal described in this paragraph is to develop the capabilities at the Department of Health and Human Services to design and implement improved strategies for the prevention and control of Lyme disease and other tick-borne diseases. Such diseases may include Masters' disease, ehrlichiosis, babesiosis, other bacterial, viral and rickettsial diseases such as tularemia, tick-borne encephalitis, Rocky Mountain Spotted Fever, and bartonella, respectively.

The bill (S. 969), as amended, was read the third time and passed.

AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 4013.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4013) to amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. KENNEDY. Mr. President, I commend the Senate today for its bipartisan action in approving the Rare Diseases Act of 2002 and the Rare Diseases Orphan Product Development Act of 2002. These two measures will enhance the prospects for developing effective care, treatments and cures for literally thousands of rare diseases and disorders.

Congress has a longstanding commitment to provide this support. In 1983, we passed the Orphan Drug Act to improve the development of treatments for rare diseases and disorders. These diseases affect small patient populations, typically smaller than 200,000 individuals in the United States. They include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette syndrome, and muscular dystrophy.

The Rare Diseases Act and the Rare Diseases Orphan Product Development Act build upon the enormous success of the original Orphan Drug Act, which encouraged the development of over 220 treatments for rare diseases and disorders.

The Rare Diseases Act of 2002 provides a statutory authorization for the existing Office of Rare Diseases at the National Institutes of Health and authorizes regional centers of excellence for research and training with respect to rare diseases. This proposal originated with the NIH, in recommendations of a Special Emphasis Panel convened to examine the state of rare disease research. The Panel itself was convened in response to a request of the Senate Appropriations Committee in 1996, and it is appropriate that we are today introducing legislation which represents the fruition of a long, deliberative process involving both Congress and the NIH.

The Rare Diseases Orphan Product Development Act increases funding for the Food and Drug Administration's Orphan Product Research Grant program, which provides vital support for clinical research on new treatments for rare diseases and disorders. This funding will encourage many more commercial sponsors to investigate and develop vital new medicines.

Although each rare disease may not affect many patients, 25 million Americans today suffer from the 6,000 known rare diseases and disorders, including more than 600,000 in Massachusetts. Anyone who has a family member or friend who suffers from a rare disease or disorder knows the importance of developing new treatments and helping patients to obtain these potential cures. Today's passage of these two bills will provide the resources necessary to continue to develop new treatments and even cures for millions of Americans.

I would also add that these bills are intended to build upon previous congressional efforts to expand research and development for all rare diseases and disorders. Senator HATCH and I introduced the Rare Diseases Act, upon which these bills are based, to expand and enhance existing initiatives underway at the various institutes of NIH with respect to different rare diseases, including but not limited to muscular dystrophy, Huntington's disease, and ALS (Lou Gehrig's disease). I believe the NIH will act upon these new bills in the appropriate spirit, by building upon current activities and investments on rare diseases and disorders.

I commend the National Organization for Rare Diseases for its tireless and continuing leadership on these basic issues. I also commend Senator HATCH for his leadership on this issue in the Senate, and I commend Congressmen WAXMAN, SHIMKUS, and FOLEY for their leadership in the House of Representatives. I know that all of us look forward to the implementation of these important measures we are approving today.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 4013) was read the third time and passed.

AMENDING THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of H.R. 4014.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4014) to amend the Federal Food, Drug, and Cosmetic Act with respect to the development of products for rare diseases.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 4014) was read the third time and passed.

TO ESTABLISH WILDERNESS AREAS, PROMOTE CONSERVATION, IMPROVE PUBLIC LAND, AND PROVIDE FOR HIGH QUALITY DEVELOPMENT IN CLARK COUNTY, NEVADA

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5200.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5200) to establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, today I rise to comment on the Clark County Conservation of Public Lands and Natural Resources Act of 2002, which is important to southern Nevada and a priority for the Nevada delegation. This broad-based compromise legislation is also important for America. The many provisions in this legislation reflect the many challenges faced by southern Nevada. I would like to highlight some of

the ways in which the Clark County Conservation PLAN will enhance the quality of life and economic opportunities for Nevadans at the same time we protect southern Nevada's environment for the benefit of future generations.

When Congress passed the Southern Nevada Public Lands Management Act in 1998, we made the decision that it was in the public interest to transition away from federal-private land exchanges and competitively auction those parcels of land deemed by the BLM as suitable for disposal. This decision has proven quite effective and fair and represents the future of land privatization in Nevada and the West. However, at the time the law was enacted, Congress did contemplate that a limited number of ongoing land exchanges should be completed because of their benefit to the public. The Red Rock Canyon-Howard Hughes exchange is one such exchange. This land exchange has been contemplated for a number of years and enjoys unusually broad support ranging from the County to the environmental community. The time when this exchange should have reached completion through the administrative process has long since passed and a legislative resolution is now in order.

Nevada has nearly 100 wilderness study areas on federal land across the state, which remain de facto wilderness until Congress acts. These areas, which are primarily owned by the Bureau of Land Management, are managed to protect wilderness character of the lands under current law. Those of us who wrote this bill hold different views regarding wilderness. But in developing the wilderness component of this bill, Senator ENSIGN, Congressman GIBBONS and I made good faith compromises that protect all interested parties as we designated 18 wilderness totaling about 450,000 acres and released 220,000 acres from wilderness study area status. We believe that this solid compromise represents a critical step toward addressing the outstanding wilderness issues in the state of Nevada.

The Clark County Conservation PLAN Act modifies the Southern Nevada Public Lands Management Act and expands the so-called Las Vegas valley disposal boundary. This expansion will make an additional 23,000 acres of BLM land available for auction and development.

One of the most important infrastructure issues facing southern Nevada is siting a new international airport. The County's preferred site is in a dry lake bed between Jean and Primm, Nevada south of the Las Vegas Valley in the Interstate 15 transportation corridor near the California border. Congress made federal land at that site available for use as an airport, pending environmental reviews. The Clark County Conservation PLAN complements that law in two important ways. First, our bill conveys federal land adjacent to the proposed airport to the Clark County Airport Authority so that it can promote compatible development within the area impacted by the noise of the airport. Second, our bill directs the Bureau of Land Management to reserve a right-of-way for non-exclusive utility and transportation corridors between the Las Vegas valley and the proposed airport. However, both of these provisions are contingent upon a positive record of decision on the environmental impact statement for the planned Ivanpah Airport.

One of the most precious areas in southern Nevada is a humble canyon near Henderson. It is an area graced with hundreds of petroglyphs. This canyon is in desperate need of protection because it is within a short walk of the Las Vegas valley. Similar resources elsewhere in the desert Southwest have been destroyed by urban encroachment.

The Clark County Conservation PLAN designates the Sloan petroglyphs site and the area that comprises most of its watershed as the North McCullough Mountains Wilderness. This wilderness combined with about 32,000 acres of open space comprises the proposed Sloan Canyon National Conservation Area. The NCA and wilderness will provide critical protection for the Sloan petroglyphs, preserve open space near Henderson's rapidly growing neighborhoods and together represent a legacy of cultural and natural resource conservation our grandchildren will value dearly.

The sheer number of public lands bill requests Senator ENSIGN and I receive is daunting. If we introduced separate legislation to address each legitimate issue that constituents bring to our attention, we would create an awkward patchwork of new federal laws. The Clark County Conservation PLAN provides a comprehensive vision and framework for conservation and development in southern Nevada that balances competing interests.

The final title of our bill includes a select few of the many important public interest land conveyances. For example, we include two land grants to further the higher education mission of Nevada's university system.

Our bill conveys a small active shooting range to the Las Vegas Metropolitan Police Department for training purposes. We grant a modest parcel of land to the City of Las Vegas for the development of affordable housing. These small but important actions will help our communities, law enforcement, and educational system better serve southern Nevada.

I would like to address some concerns regarding provisions in the House version of the Clark County Conservation PLAN raised by a number of Nevadans some of which may be shared by the Chairman of the Senate Energy and Natural Resources Committee, Senator BINGAMAN. The title in question involves a Bureau of Reclamation title transfer and confusion over whether this provision would be subject to existing laws and how the final maps will be drawn. I want to emphasize to my colleagues that this legislation transferring right, title and interest in the Humboldt Project specifically contemplates in section 808 that the Secretary of the Interior will comply with the National Environmental Policy Act, the Endangered Species Act, and all other applicable laws, such as the National Historic Preservation Act, prior to any conveyance of title. In passing this legislation, Congress intends that a thorough environmental analysis of the transfer be undertaken prior to transfer so that decision-makers are fully informed of any environmental impacts associated with the transfer. In fact, section 804(e) addresses the issue of the costs associated with complying with NEPA, again underscoring Congress's anticipation that a thorough NEPA review will be undertaken. In addition, it is our intent that an analysis of any species listed as endangered or threatened under the Endangered Species Act take place prior to the transfer. Congress recognizes that these environmental reviews are necessary prior to conveyance to ensure that any appropriate conditions to mitigate impacts of the transfer can be implemented. I think the language of the bill is straightforward but appreciate the concerns that have been raised in this regard and hope that my statement clarifies this point.

In addition, section 803(a) references a map dated July 3, 2002, which depicts the lands and features of the Humboldt project. Subsection (b) of section 803 directs the Secretary to submit a map of the Humboldt Project Conveyance as soon as practicable after the date of enactment of the legislation. In case of a conflict between the map referred to in subsection (a) and the map submitted by the Secretary under subsection (b), the map referred to in subsection (b) is to control. This provision is included to allow only for clarifying clerical and technical modifications to the map. We anticipate that any discrepancy between the maps referred to in subsections (a) and (b) will be minimal.

Senator ENSIGN and I are proud of the progress we have made and believe that this bill could serve as a model for bipartisan cooperation and constructive compromise. We are grateful for the work done in the House of Representatives by Congressman GIBBONS and Congresswoman BERKLEY to convince their colleagues of the importance of this bill which led to a unanimous favorable vote on October 16.

I also appreciate the assistance we received from Senator BINGAMAN and Senator WYDEN, as chairmen of the full and subcommittees with jurisdiction over this bill, they played critical roles in improving the bill. In addition Senate Energy and Natural Resources Committee staff worked very hard, particularly over the past month to perfect this legislation. The long hours and expertise of these professionals, including David Brooks, Kira Finkler, Patty Beneke, Bob Simon, Shelley Brown, Sam Fowler, Dick Bouts, and Jim Bierne and House staff including Robert Uithoven, Rick Healy, Jim Zoia, Tim Stewart, Rob Howarth, Lisa Pittman, Lisa Daley and Dayne Barron, made passage of this bill possible but more importantly made our bill better. Often overlooked in the development of a bill such as this one is the

work done by federal employees who work for the public land management agencies. In the development of this bill, however, such oversight would be inexcusable because Bob Abbey, Mark Morse, Laurie Sedlmayr, Donn Siebert, Robert Taylor, Demetrius Purdie-Williams and Jeremy Noble, Bill Dickinson, Dick Birger, and many others provided valuable insights and assistance without which this bill would not have been possible. John Lopez of Senator ENSIGN's staff and my staff met with hundreds of Nevadans to ensure that this bill is a Nevada bill that is good for America. Among these individuals, Clint Bentley, John Wallin, Jeremy Garncarz, Blake Monk, John and Hermi Hiatt, Larry Johnson, Roger Scholl, Elise McAllister, Terry Crawforth, John Moran, Jr., Kevin Mack, Chuck Musser, Jane Feldman, Doug Hunt, Pam Wilcox, Kelly Jensen, Cal Baird, George Reyling, Toni Worley, Mike Carey, as well as representatives of the many municipalities in Clark County played particularly important roles. Countless others provided constructive suggestions and support that led to this point.

Mr. President, I ask unanimous consent 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?

Without objection, it is so ordered.

The bill (H.R. 5200) was read the third time and passed.

AUTHORIZING THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY TO WORK WITH MAJOR MANUFACTURING INDUSTRIES

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 736, H.R. 2733.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2733) to authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 2733) was read the third time and passed.

AMENDING THE HIGHER EDUCATION ACT OF 1965

Mr. REID. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. 1998 and the Senate proceed to its consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1998) to amend the Higher Education Act of 1965 with respect to the qualification of foreign schools.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, Senators ENSIGN, ALLARD, and ALLEN have a substitute amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to and the motion to reconsider be laid upon the table; the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4895) was agreed to, as follows:

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. FOREIGN SCHOOL ELIGIBILITY.

(a) IN GENERAL.—Section 102(a)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)(2)(A)) is amended to read as follows:

''(A) IN GENERAL.—For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 101 (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 101(a)(4)). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of title IV unless—

''(i) in the case of a graduate medical school located outside the United States—

''(I)(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of title IV; and

''(bb) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of title IV; or

''(II) the institution has a clinical training program that was approved by a State as of January 1, 1992; or

''(ii) in the case of a veterinary school located outside the United States that does not meet the requirements of section 101(a)(4), the institution's students complete their clinical training at an approved veterinary school located in the United States.''.

(b) EFFECTIVE DATE.—This Act and the amendments made by this Act shall be effective as if enacted on October 1, 1998.

The bill (S. 1998), as amended, was read the third time and passed.

DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO CORRECT THE ENROLLMENT OF THE BILL H.R. 2215

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 503.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 503) directing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 2215.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 503) was agreed to.

TO AMEND THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 688, H.R. 3656.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3656) to amend the International Organizations Immunities Act to provide for the applicability of that Act to the European Central Bank.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time, passed, the motion to reconsider be laid on the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The bill (H.R. 3656) was read the third time and passed.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate proceed to consideration of the following bills en bloc: S. 963, S. 1366, S. 453, S. 1950, S. 1468, S. 209, and H.R. 2245; further, I ask unanimous consent that the bills be

read three times, passed en bloc, the motions to reconsider be laid on the table en bloc, and any statements relating to these matters be printed in the RECORD.

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

RELIEF OF ANA ESPARZA AND MARIA MUNOZ

The bill (S. 963) for the relief of Ana Esparza and Maria Munoz was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR ANA ESPARZA AND MARIA MUNOZ.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Ana Esparza and Maria Munoz shall be eligible for issuance of immigrant visas or for adjustment of status to that of aliens lawfully admitted for permanent residence upon filing an application for issuance of immigrant visas under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Ana Esparza or Maria Munoz enters the United States before the filing deadline specified in subsection (c), the alien shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of immigrant visas or the application for adjustment of status are filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of immigrant visas or permanent residence to Ana Esparza and Maria Munoz, the Secretary of State shall instruct the proper officer to reduce by the appropriate number, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

SEC. 2. ELIGIBILITY OF ANA ESPARZA FOR PUBLIC BENEFITS.

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1601 et seq.) shall not apply for purposes of determining the eligibility of Ana Esparza or Maria Munoz for any Federal public benefit (as defined in section 401(c) (8 U.S.C. 1611(c)), including a specified Federal program defined in section 402(a)(3) of that Act (8 U.S.C. 1612(a)(3)), a designated Federal program defined in section 402(b)(3) of that Act (8 U.S.C. 1612(a)(3)), or a State or local public benefit, as defined in section 411(c) of that Act (8 U.S.C. 1621(c)).

RELIEF OF LINDITA IDRIZI HEATH

The bill (S. 1366) for the relief of Lindita Idrizi Heath was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR LINDITA IDRIZI HEATH.

(a) IN GENERAL.—Notwithstanding section 101(b)(1) and subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Lindita Idrizi Heath shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of that Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Lindita Idrizi Heath enters the United States before the filing deadline specified in subsection (c), Lindita Idrizi Heath shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Lindita Idrizi Heath, the Secretary of State shall instruct the proper officer to reduce by one, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Lindita Idrizi Heath under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Lindita Idrizi Heath under section 202(e) of that Act.

SEC. 2. ELIGIBILITY FOR CITIZENSHIP.

For purposes of section 320 of the Immigration and Nationality Act (8 U.S.C. 1431; relating to the automatic acquisition of citizenship by certain children born outside the United States), Lindita Idrizi Heath shall be considered to have satisfied the requirements applicable to adopted children under section 101(b)(1) of that Act (8 U.S.C. 1101(b)(1)).

SEC. 3. LIMITATION.

No natural parent, brother, or sister, if any, of Lindita Idrizi Heath shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

RELIEF OF DENES AND GYORGYI FULOP

The bill (S. 453) for the relief of Denes and Gyorgyi Fulop was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR DENES AND GYORGYI FULOP.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Denes and Gyorgyi Fulop shall be eligible for issuance of immigrant visas or for adjustment of status to that of aliens lawfully admitted for permanent residence upon filing an application for issuance of immigrant visas under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Denes Fulop or Gyorgyi Fulop enters the United States before the filing deadline specified in subsection (c), the alien shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of immigrant visas or the application for adjustment of status are filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of immigrant visas or permanent residence to Denes and Gyorgyi Fulop, the Secretary of State shall instruct the proper officer to reduce by the appropriate number, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

RELIEF OF RICHI JAMES LESLEY

The bill (S. 1950) for the relief of Richi James Lesley was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR RICHI JAMES LESLEY.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Richi James Lesley shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Richi James Lesley enters the United States before the filing deadline specified in subsection (c), he shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status are filed with appropriate fees within 2 years after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Richi James Lesley, the Secretary of State shall instruct the proper officer to reduce by one, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas

that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

(e) EFFECTIVE DATE OF IMMIGRANT STATUS.—Upon the granting of the status of an alien lawfully admitted for permanent residence to Richi James Lesley under this Act, the Attorney General shall make a record of lawful admission for permanent residence in the case of Richi James Lesley as of the date of the alien's arrival in the United States.

RELIEF OF SUNG JUN OH

The bill (S. 209) for the relief of Sung Jun Oh was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Sung Jun Oh shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of any necessary visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Sung Jun Oh, as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by one number during the current fiscal year the total number of immigrant visas available to natives of the country of the alien's birth under section 202(e) of the Immigration and Nationality Act (8 U.S.C. 1152(e)).

RELIEF OF ANISH GOVEAS FOTI

The bill (H.R. 2245) for the relief of Anisha Goveas Foti was considered, ordered to a third reading, read the third time, and passed.

NATIONAL CHILD PROTECTION IMPROVEMENT ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 386, S. 1868.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1868) to establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1868

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 ''National Child Protection Improvement Act''.

[SEC. 2. ESTABLISHMENT OF A NATIONAL CENTER ON VOLUNTEER AND PROVIDER SCREENING.

[The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following:

[''TITLE VI—NATIONAL CENTER ON VOLUNTEER AND PROVIDER SCREENING

[''SEC. 601. SHORT TITLE.

[''This title may be cited as the 'National Child Protection Improvement Act'.

[''SEC. 602. FINDINGS.

[''Congress finds the following:

[''(1) More than 87,000,000 children are involved each year in activities provided by child and youth organizations which depend heavily on volunteers to deliver their services.

[''(2) Millions more adults, both the elderly and individuals with disabilities, are served by public and private voluntary organizations.

[''(3) The vast majority of activities provided to children, the elderly, and individuals with disabilities by public and private nonprofit agencies and organizations result in the delivery of much needed services in safe environments that could not be provided without the assistance of virtually millions of volunteers, but abuses do occur.

[''(4) Estimates of the incidence of child sexual abuse in child care settings, foster care homes, and schools, range from 1 to 7 percent.

[''(5) Abuse traumatizes the victims and shakes public trust in care providers and organizations serving vulnerable populations.

[''(6) Congress has acted to address concerns about this type of abuse through the National Child Protection Act of 1993 and the Violent Crime Control Act of 1994 to set forth a framework for screening through criminal record checks of care providers, including volunteers who work with children, the elderly, and individuals with disabilities. Unfortunately, problems regarding the safety of these vulnerable groups still remain.

[''(7) While State screening is sometimes adequate to conduct volunteer background checks, more extensive national criminal history checks using fingerprints or other means of positive identification are often advisable, as a prospective volunteer or nonvolunteer provider may have lived in more than one State.

[''(8) The high cost of fingerprint background checks is unaffordable for organizations that use a large number of volunteers and, if passed on to volunteers, often discourages their participation.

[''(9) The current system of retrieving national criminal background information on volunteers through an authorized agency of the State is cumbersome and often requires months before vital results are returned.

[''(10) In order to protect children, volunteer agencies must currently depend on a convoluted, disconnected, and sometimes duplicative series of checks that leave children at risk.

[''(11) A national volunteer and provider screening center is needed to protect vulnerable groups by providing effective, efficient national criminal history background checks of volunteer providers at no-cost, and at minimal-cost for employed care providers.

[''SEC. 603. DEFINITIONS.

[''In this Act—

[''(1) the term 'qualified entity' means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services designated by the National Task Force;

[''(2) the term 'volunteer provider' means a person who volunteers or seeks to volunteer with a qualified entity;

[''(3) the term 'provider' means a person who is employed by or volunteers or who seeks to be employed by or volunteer with a qualified entity, who owns or operates a qualified entity, or who has or may have unsupervised access to a child to whom the qualified entity provides care;

[''(4) the term 'national criminal background check system' means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

[''(5) the term 'child' means a person who is under the age of 18;

[''(6) the term 'individuals with disabilities' has the same meaning as that provided in section 5(7) of the National Child Protection Act of 1993;

[''(7) the term 'State' has the same meaning as that provided in section 5(11) of the National Child Protection Act of 1993; and

''(8) the term 'care' means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

[''SEC. 604. ESTABLISHMENT OF A NATIONAL CENTER FOR VOLUNTEER AND PROVIDER SCREENING.

[''(a) IN GENERAL.—The Attorney General, by agreement with a national nonprofit organization or by designating an agency within the Department of Justice, shall—

[''(1) establish a national center for volunteer and provider screening designed—

[''(A) to serve as a point of contact for qualified entities to request a nationwide background check for the purpose of determining whether a volunteer provider or provider has been arrested for or convicted of a crime that renders the provider unfit to have responsibilities for the safety and well-being of children, the elderly, or individuals with disabilities;

[''(B) to promptly access and review Federal and State criminal history records and registries through the national criminal history background check system—

[''(i) at no cost to a qualified entity for checks on volunteer providers; and

[''(ii) at minimal cost to qualified entities for checks on non-volunteer providers;

with cost for screening non-volunteer providers will be determined by the National Task Force;

[''(C) to provide the determination of the criminal background check to the qualified entity requesting a nationwide background check after not more than 15 business days after the request;

[''(D) to serve as a national resource center and clearinghouse to provide State and local governments, public and private nonprofit agencies and individuals with information regarding volunteer screening; and

[''(2) establish a National Volunteer Screening Task Force (referred to in this title as the 'Task Force') to be chaired by the Attorney General which shall—

[''(A) include—

[''(i) 2 members each of—

[''(I) the Federal Bureau of Investigation;

[''(II) the Department of Justice;

[''(III) the Department of Health and Human Services;

[''(IV) representatives of State Law Enforcement organizations;

[''(V) national organizations representing private nonprofit qualified entities using volunteers to serve the elderly; and

[''(VI) national organizations representing private nonprofit qualified entities using volunteers to serve individuals with disabilities; and

[''(ii) 4 members of national organizations representing private nonprofit qualified entities using volunteers to serve children;

to be appointed by the Attorney General; and

[''(B) oversee the work of the Center and report at least annually to the President and Congress with regard to the work of the Center and the progress of the States in complying with the provisions of the National Child Protection Act of 1993.

[''SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

[''(a) IN GENERAL.—To carry out the provisions of this title, there are authorized to be appropriated $80,000,000 for fiscal year 2003 and $25,000,000 for each of the fiscal years 2004, 2005, 2006, and 2007, sufficient to provide no-cost background checks of volunteers working with children, the elderly, and individuals with disabilities.

[''(b) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.''.

[SEC. 3. STRENGTHENING AND ENFORCING THE NATIONAL CHILD PROTECTION ACT OF 1993.

[Section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119 et seq.) is amended to read as follows:

[''SEC. 3. NATIONAL BACKGROUND CHECKS.

[''(a) IN GENERAL.—Requests for national background checks under this section shall be submitted to the National Center for Volunteer Screening which shall conduct a search using the Integrated Automated Fingerprint Identification System, or other criminal record checks using reliable means of positive identification subject to the following conditions:

[''(1) A qualified entity requesting a national criminal history background check under this section shall forward to the National Center the provider's fingerprints or other identifying information, and shall obtain a statement completed and signed by the provider that—

[''(A) sets out the provider or volunteer's name, address, date of birth appearing on a valid identification document as defined in section 1028 of title 18, United States Code, and a photocopy of the valid identifying document;

[''(B) states whether the provider or volunteer has a criminal record, and, if so, sets out the particulars of such record;

[''(C) notifies the provider or volunteer that the National Center for Volunteer Screening may perform a criminal history background check and that the provider's signature to the statement constitutes an acknowledgement that such a check may be conducted;

[''(D) notifies the provider or volunteer that prior to and after the completion of the background check, the qualified entity may choose to deny the provider access to children or elderly or persons with disabilities; and

[''(E) notifies the provider or volunteer of his right to correct an erroneous record held by the FBI or the National Center.

[''(2) Statements obtained pursuant to paragraph (1) and forwarded to the National Center shall be retained by the qualified entity or the National Center for at least 2 years.

[''(3) Each provider or volunteer who is the subject of a criminal history background check under this section is entitled to contact the National Center to initiate procedures to—

[''(A) obtain a copy of their criminal history record report; and

[''(B) challenge the accuracy and completeness of the criminal history record information in the report.

[''(4) The National Center receiving a criminal history record information that lacks disposition information shall, to the extent possible, contact State and local recordkeeping systems to obtain complete information.

[''(5) The National Center shall make a determination whether the criminal history record information received in response to the national background check indicates that the provider has a criminal history record that renders the provider unfit to provide care to children, the elderly, or individuals with disabilities based upon criteria established by the National Task Force on Volunteer Screening, and will convey that determination to the qualified entity.

[''(b) GUIDANCE BY THE NATIONAL TASK FORCE.—The National Task Force, chaired by the Attorney General shall—

[''(1) encourage the use, to the maximum extent possible, of the best technology available in conducting criminal background checks; and

[''(2) provide guidelines concerning standards to guide the National Center in making fitness determinations concerning care providers based upon criminal history record information.

[''(c) LIMITATIONS OF LIABILITY.—

[''(1) IN GENERAL.—A qualified entity shall not be liable in an action for damages solely for failure to request a criminal history background check on a provider, nor shall a State or political subdivision thereof nor any agency, officer or employee thereof, be liable in an action for damages for the failure of a qualified entity (other than itself) to take action adverse to a provider who was the subject of a criminal background check.

[''(2) RELIANCE.—The National Center or a qualified entity that reasonably relies on criminal history record information received in response to a background check pursuant to this section shall not be liable in an action for damages based upon the inaccuracy or incompleteness of the information.

[''(d) FEES.—In the case of a background check pursuant to a State requirement adopted after December 20, 1993, conducted through the National Center using the fingerprints or other identifying information of a person who volunteers with a qualified entity shall be free of charge. This subsection shall not affect the authority of the FBI, the National Center, or the States to collect reasonable fees for conducting criminal history background checks of providers who are employed as or apply for positions as paid employees.''.

[SEC. 4. ESTABLISHMENT OF A MODEL PROGRAM IN EACH STATE TO STRENGTHEN CRIMINAL DATA REPOSITORIES AND FINGERPRINT TECHNOLOGY.

[(a) ESTABLISHMENT.—A model program shall be established in each State and the District of Columbia for the purpose of improving fingerprinting technology which shall grant to each State $50,000 to either—

[(1) purchase Live-Scan fingerprint technology and a State-vehicle to make such technology mobile and these mobile units shall be used to travel within the State to assist in the processing of fingerprint background checks; or

[(2) purchase electric fingerprint imaging machines for use throughout the State to send fingerprint images to the National Center to conduct background checks.

[(b) ADDITIONAL FUNDS.—In addition to funds provided in subsection (a), $50,000 shall be provided to each State and the District of Columbia to hire personnel to—

[(1) provide information and training to each county law enforcement agency within the State regarding all National Child Protection Act requirements for input of criminal and disposition data into the national criminal history background check system; and

[(2) provide an annual summary to the National Task Force of the State's progress in complying with the criminal data entry provisions of the National Child Protection Act of 1993 which shall include information about the input of criminal data, child abuse crime information, domestic violence arrests and stay-away orders of protection.

[(c) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—To carry out the provisions of this section, there are authorized to be appropriated a total of $5,100,000 for fiscal year 2003 and such sums as may be necessary for each of the fiscal years 2004, 2005, 2006, and 2007, sufficient to improve fingerprint technology units and hire data entry improvement personnel in each of the 50 States and the District of Columbia.

[(2) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Child Protection Improvement Act''.

SEC. 2. ESTABLISHMENT OF A NATIONAL CENTER ON VOLUNTEER AND PROVIDER SCREENING.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following:

''TITLE VI—NATIONAL CENTER ON VOLUNTEER AND PROVIDER SCREENING

''SEC. 601. SHORT TITLE.

''This title may be cited as the 'National Child Protection Improvement Act'.

''SEC. 602. FINDINGS.

''Congress finds the following:

''(1) More than 87,000,000 children are involved each year in activities provided by child and youth organizations which depend heavily on volunteers to deliver their services.

''(2) Millions more adults, both the elderly and individuals with disabilities, are served by public and private voluntary organizations.

''(3) The vast majority of activities provided to children, the elderly, and individuals with disabilities by public and private nonprofit agencies and organizations result in the delivery of much needed services in safe environments that could not be provided without the assistance of virtually millions of volunteers, but abuses do occur.

''(4) Estimates of the incidence of child sexual abuse in child care settings, foster care homes, and schools, range from 1 to 7 percent.

''(5) Abuse traumatizes the victims and shakes public trust in care providers and organizations serving vulnerable populations.

''(6) Congress has acted to address concerns about this type of abuse through the National Child Protection Act of 1993 and the Violent Crime Control Act of 1994 to set forth a framework for screening through criminal record checks of care providers, including volunteers who work with children, the elderly, and individuals with disabilities. Unfortunately, problems regarding the safety of these vulnerable groups still remain.

''(7) While State screening is sometimes adequate to conduct volunteer background checks, more extensive national criminal history checks using fingerprints are often advisable, as a prospective volunteer or nonvolunteer provider may have lived in more than one State.

''(8) The high cost of fingerprint background checks is unaffordable for organizations that use a large number of volunteers and, if passed on to volunteers, often discourages their participation.

''(9) A national volunteer and provider screening center is needed to protect vulnerable groups by providing effective, efficient national criminal history background checks of volunteer providers at no-cost, and at minimal-cost for employed care providers.

"SEC. 603. DEFINITIONS.

''In this Act—

''(1) the term 'qualified entity' means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services designated by the National Task Force;

''(2) the term 'volunteer provider' means a person who volunteers or seeks to volunteer with a qualified entity;

''(3) the term 'provider' means a person who is employed by or volunteers or who seeks to be employed by or volunteer with a qualified entity, who owns or operates a qualified entity, or who has or may have unsupervised access to a child to whom the qualified entity provides care;

''(4) the term 'national criminal background check system' means the criminal history record system maintained by the States and the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

''(5) the term 'child' means a person who is under the age of 18;

''(6) the term 'individuals with disabilities' has the same meaning as that provided in section 5(7) of the National Child Protection Act of 1993;

''(7) the term 'State' has the same meaning as that provided in section 5(11) of the National Child Protection Act of 1993; and

''(8) the term 'care' means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

"SEC. 604. ESTABLISHMENT OF A NATIONAL CENTER FOR VOLUNTEER AND PROVIDER SCREENING.

''(a) IN GENERAL.—The Attorney General shall—

''(1) establish a national center for volunteer and provider screening which shall—

''(A) serve as a point of contact for qualified entities to request a nationwide background check for the purpose of determining whether a volunteer provider or provider has been arrested for or convicted of a crime that renders the provider unfit to have responsibilities for the safety and well-being of children, the elderly, or individuals with disabilities;

''(B) promptly access and review Federal and State criminal history records and registries through the national criminal history background check system—

''(i) at no cost to a qualified entity for checks on volunteer providers; and

''(ii) at minimal cost to qualified entities for checks on nonvolunteer providers, to be determined by the National Task Force, although fees for checks on nonvolunteer providers should not be less than the actual cost, including disposition location, not to exceed $18;

''(C) provide the determination of the criminal background check to the qualified entity requesting a nationwide background check after not more than 15 business days after the request;

''(D) serve as a national resource center and clearinghouse to provide State and local governments, public and private nonprofit agencies and individuals with information regarding volunteer screening; and

''(E) establish and publicize a toll-free telephone number for qualified entities to call to determine which governmental agency processes background check requests in their jurisdiction; and

''(2) establish a National Volunteer Screening Task Force (referred to in this title as the 'Task Force') to be a committee of the Compact Council to be chaired by a member determined by the Task Force which shall—

''(A) include—

''(i) 1 member of the Federal Bureau of Investigation;

''(ii) 1 member of the Department of Justice;

''(iii) 1 member of the Department of Health and Human Services;

''(iv) 2 representatives of State identification bureaus;

''(v) 2 members of national organizations representing private nonprofit qualified entities using volunteers to serve the elderly;

''(vi) 2 members of national organizations representing private nonprofit qualified entities using volunteers to serve individuals with disabilities;

''(vii) 4 members of national organizations representing private nonprofit qualified entities using volunteers to serve children; and

''(viii) 1 member of national organizations representing local law enforcement agencies;

to be appointed by the Attorney General; and

''(B) oversee the work of the Center and report at least annually to the President and Congress with regard to the work of the Center and the progress of the States in complying with the provisions of the National Child Protection Act of 1993.

"SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—To carry out the provisions of this title, there are authorized to be appropriated $80,000,000 for fiscal year 2003 and $25,000,000 for each of the fiscal years 2004, 2005, 2006, and 2007, sufficient to provide no-cost background checks of volunteers working with children, the elderly, and individuals with disabilities.

''(b) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.''.

SEC. 3. CERTIFICATION REVIEW BY THE NATIONAL CENTER.

The National Child Protection Act of 1993 (42 U.S.C. 5119 et seq.) is amended—

(1) by redesignating sections 3 through 5 as sections 4 through 6, respectively; and

(2) by adding after section 2 the following:

"SEC. 3. CERTIFICATION REVIEW BY THE NATIONAL CENTER.

''(a) IN GENERAL.—Six months after the date of enactment of this section, the National Center shall issue a certification review that—

''(1) measures the extent of State participation in the national background check procedures governed by the National Child Protection Act and the Volunteers for Children Act; and

''(2) designates States either as participating or not participating for certain purposes in these procedures.

''(b) QUALIFIED ENTITIES.—A qualified entity doing business in a State and for purposes designated as not participating by the National Center may request nationwide background checks directly from the National Center.

''(c) UPDATING AND REVIEW.—

''(1) UPDATING.—The certification review required by this section shall be updated and issued annually.

''(2) REVIEW.—A State that has been designated as not participating for certain purposes may apply to the National Center, for purposes of a subsequent certification review, to be designated as participating for those purposes based on new State law, practices, or procedures.

''(d) DEFINITIONS.—In this section:

''(1) NOT PARTICIPATING.—The term 'not participating' means a State where—

''(A) requests for nationwide background checks are routinely not returned to the qualified entity within 15 business days;

''(B) authorized agencies charge more than $18 for State background checks;

''(C) authorized agencies have not been designated to receive nationwide background checks from qualified entities; or

''(D) qualified entities have not been designated to submit background check requests to authorized agencies.

''(2) ROUTINELY.—The term 'routinely' means instances where 15 percent or more of nationwide background check requests are not returned within 15 business days.''.

SEC. 4. STRENGTHENING AND ENFORCING THE NATIONAL CHILD PROTECTION ACT OF 1993.

Section 4 of the National Child Protection Act of 1993 (42 U.S.C. 5119a), as redesignated by section 3 of this Act, is amended to read as follows:

"SEC. 3. NATIONAL BACKGROUND CHECKS.

''(a) IN GENERAL.—Requests for national background checks under this section shall be submitted to the National Center for Volunteer Screening which shall conduct a search using the Integrated Automated Fingerprint Identification System, or other criminal record checks using reliable means of positive identification subject to the following conditions:

''(1) A qualified entity requesting a national criminal history background check under this section shall forward to the National Center the provider's fingerprints and other identifying information, and shall obtain a statement completed and signed by the provider that—

''(A) sets out the provider or volunteer's name, address, date of birth appearing on a valid identification document as defined in section 1028 of title 18, United States Code, and a photocopy of the valid identifying document;

''(B) states whether the provider or volunteer has a criminal record, and, if so, sets out the particulars of such record;

''(C) notifies the provider or volunteer that the National Center for Volunteer screening may perform a criminal history background check and that the provider's signature to the statement constitutes an acknowledgement that such a check may be conducted;

''(D) notifies the provider or volunteer that prior to and after the completion of the background check, the qualified entity may choose to deny the provider access to children or elderly or persons with disabilities; and

''(E) notifies the provider or volunteer of his right to correct an erroneous record held by the FBI or the National Center.

''(2) Statements obtained pursuant to paragraph (1) and forwarded to the National Center shall be retained by the qualified entity or the National Center for at least 2 years.

''(3) Each provider or volunteer who is the subject of a criminal history background check under this section is entitled to contact the National Center to obtain a copy of the criminal history record report for the sole purpose of challenging the accuracy and completeness of the report.

''(4) The National Center receiving a criminal history record information that lacks disposition information shall, to the extent possible, contact State and local recordkeeping systems to obtain complete information. The National Center shall forward this complete information to the FBI.

''(5) The National Center shall make a determination whether the criminal history record information received in response to the national background check indicates that the provider has a criminal history record that renders the provider unfit to provide care to children, the elderly, or individuals with disabilities based upon criteria established by the National Task Force on Volunteer Screening, and will convey that determination to the qualified entity.

''(b) GUIDANCE BY THE NATIONAL TASK FORCE.—The National Task Force, chaired by the Attorney General shall—

''(1) encourage the use, to the maximum extent possible, of the best technology available in conducting criminal background checks; and

''(2) provide guidelines concerning standards to guide the National Center in making fitness determinations concerning care providers based upon criminal history record information.

''(c) LIMITATIONS OF LIABILITY.—

''(1) IN GENERAL.—A qualified entity shall not be liable in an action for damages solely for failure to request a criminal history background check on a provider, nor shall a State or political subdivision thereof nor any agency, officer or employee thereof, be liable in an action for damages for the failure of a qualified entity

(other than itself) to take action adverse or favorable to a provider who was the subject of a criminal background check.

''(2) RELIANCE.—The National Center or a qualified entity that reasonably relies on criminal history record information received in response to a background check pursuant to this section shall not be liable in an action for damages based upon the accuracy, inaccuracy, completeness, or incompleteness of the information.

''(d) FEES.—

''(1) PARTICIPATING JURISDICTION.—In a State designated as a participating jurisdiction pursuant to the certification review conducted by the National Center under section 3, the National Center shall not collect a fee for conducting nationwide criminal history background checks on—

''(A) a person who volunteers with a qualified entity; or

''(B) a person who is employed by a qualified entity that provides care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

''(2) VOLUNTEERS.—In the case of a background check pursuant to a State requirement adopted after December 20, 1993, conducted through the National Center using the fingerprints or other identifying information of a person who volunteers with a qualified entity shall be free of charge. This paragraph shall not affect the authority of the FBI, the National Center, or the States to collect reasonable fees for conducting criminal history background checks of providers who are employed as or apply for positions as paid employees.''.

SEC. 5. ESTABLISHMENT OF A MODEL PROGRAM IN EACH STATE TO STRENGTHEN CRIMINAL DATA REPOSITORIES AND FINGERPRINT TECHNOLOGY.

(a) ESTABLISHMENT.—The Attorney General shall establish a model program in each State and the District of Columbia for the purpose of improving fingerprinting technology which shall grant to each State $50,000 to either—

(1) purchase Live-Scan fingerprint technology and a State-vehicle to make such technology mobile and these mobile units shall be used to travel within the State to assist in the processing of fingerprint background checks; or

(2) purchase electric fingerprint imaging machines for use throughout the State to send fingerprint images to the National Center to conduct background checks.

(b) ADDITIONAL FUNDS.—In addition to funds provided in subsection (a), $50,000 shall be provided to each State and the District of Columbia to hire personnel to—

(1) provide information and training to each county law enforcement agency within the State regarding all National Child Protection Act requirements for input of criminal and disposition data into the national criminal history background check system; and

(2) provide an annual summary to the National Task Force of the State's progress in complying with the criminal data entry provisions of the National Child Protection Act of 1993 which shall include information about the input of criminal data, child abuse crime information, domestic violence arrests and stay-away orders of protection.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—To carry out the provisions of this section, there are authorized to be appropriated a total of $5,100,000 for fiscal year 2003 and such sums as may be necessary for each of the fiscal years 2004, 2005, 2006, and 2007, sufficient to improve fingerprint technology units and hire data entry improvement personnel in each of the 50 States and the District of Columbia.

(2) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

SEC. 6. AMENDMENT TO NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT.

Section 215 of the National Criminal History Access and Child Protection Act is amended by—

(1) striking subsection (b) and inserting the following:

''(b) DIRECT ACCESS TO CERTAIN RECORDS NOT AFFECTED.—Nothing in the Compact shall affect any direct terminal access to the III System provided prior to the effective date of the Compact under the following:

''(1) Section 9101 of title 5, United States Code.

''(2) The Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536).

''(3) The Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendments made by that Act.

''(4) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

''(5) The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.).

''(6) Any direct terminal access to Federal criminal history records authorized by law.''; and

(2) in subsection (c) by inserting after the period at the end thereof the following: ''Criminal history records disseminated by the FBI pursuant to such Act by means of the III System shall be subject to the Compact.''.

SEC. 7. FUNDING FOR COMPACT COUNCIL.

There are authorized to be appropriated to the Federal Bureau of Investigation, to support the activities of the National Crime Prevention and Privacy Compact Council—

(1) $1,000,000 for fiscal year 2003; and

(2) such sums as may be necessary for fiscal years 2004, 2005, 2006, and 2007.

Mr. THURMOND. Mr. President, I rise today to express my strong support for S. 1868, the National Child Protection and Volunteers for Children Improvement Act of 2002. This bill will help protect children, seniors, and the disabled by making criminal background checks more accessible to care-providing and mentoring organizations. I am pleased that the Senate has approved this important piece of legislation.

In May of this year, S. 1868 was favorably reported by the Judiciary Committee. Since that time, Senator BIDEN and I have worked to refine this bill. I want to thank him for his tireless efforts to improve this legislation. We have produced a bill that will greatly improve the background check process, thereby reducing the possibility that dangerous individuals will interact with children and other vulnerable people.

S. 1868 is critically necessary because of the serious problems that plague the current scheme for conducting background checks. The current system is governed primarily by the National Child Protection Act of 1993, NCPA, and the Volunteers for Children Act, VCA. These Acts were designed to encourage states to develop background check procedures for volunteers and employees who interact with children. In addition, the Violent Crime Control and Law Enforcement Act of 1994 expanded the reach of the NCPA to the elderly and those with disabilities.

While these Acts were significant milestones, we have learned that the process must be improved. First of all, many states are returning background checks after significant time has passed. In 1998, the FBI's Criminal Justice Information Services, CJIS, Division performed a study on the amount of time it took states to process fingerprint checks. The results were troublesome. On average, it took states an average of 117.6 days to perform a state check and forward the fingerprint to the FBI for a national check. This time lag is obviously a problem for organizations that rely heavily on volunteers.

Additionally, some states charge very high prices for background checks. Organizations that have a large number of volunteers are often forced to spend a lot of money on these checks. In addition to discouraging volunteerism, the high costs dissuade organizations from performing background checks on their volunteers and employees.

S. 1868 helps to solve these problems by making background checks under the NCPA more readily available. As amended, S. 1868 permits the states to retain their crucial role in performing background checks, but also provides a role for the Federal government. If a state complies with the NCPA, returns background checks in a timely fashion, and charges no more than $18, the state will remain the sole government entity that can perform a background check in that jurisdiction. However, it a states does not develop a qualifying program within a year of enactment, care-providing and mentoring organizations in that state will have the option of requesting background checks directly from the Federal government.

This bill would create an office within the Department of Justice that would receive requests for background checks. The results of background checks would then be returned to the entities, enabling them to make informed decisions. The office would also be required to develop model standards to guide entities in making fitness determinations.

I would like to point out that some states may have established qualified state programs in some areas but not in other areas. This legislation does nothing to prevent the Attorney General from designating a state as having a qualified program for some NCPA purposes, but not for others. Therefore, if background checks are performed adequately for those who work with the elderly, but not for those who work in other areas, the Attorney General would have the authority to designate a qualified state program for the particular purpose of working with the elderly.

Senator BIDEN and I have developed a good bill. We have streamlined this legislation and removed many of the provisions objected to by the Department of Justice. We have developed a background check scheme that will preserve the role of the states in the background check process. We have also provided organizations with the ability to ask the Federal government for a

background check if the state fails to develop an adequate system.

This bill is important for the well-being of our children and is a proper use of Federal resources. The Congress should use all reasonable means to ensure that criminals do not have access to children, seniors, and the disabled. I am proud to support this legislation, and I am pleased that the Senate has approved these significant protections for the most vulnerable in our society.

Mr. REID. Mr. President, Senators BIDEN and THURMOND have an amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to, the motion to reconsider be laid upon the table; the committee reported substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time, passed, the motion to reconsider be laid on the table; and that any statements relating thereto be printed in the RECORD with no intervening action or debate, and that the title amendment be agreed to.

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

The amendment (No. 4896) was agreed to.

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

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

The title amendment was agreed to.

The bill (S. 1868), as amended, was read the third time and passed.

ACCOUNTABILITY OF TAX DOLLARS ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4685.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4685) to amend title 31, United States Code, to expand the types of Federal agencies that are required to prepare audited financial statements.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent the bill be read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD.

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

The bill (H.R. 4685) was read the third time and passed.

EXPRESSING SUPPORT FOR A DAY OF TRIBUTE TO ALL FIREFIGHTERS AND THE FALLEN FIREFIGHTERS FOUNDATION

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate proceed to the immediate consideration of S. Con. Res. 142.

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

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 142) expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and that any statements relating to this matter be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 142) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 142

Whereas for over 350 years the Nation's firefighters have dedicated their lives to the safety of their fellow Americans;

Whereas throughout the Nation's history many firefighters have fallen in the line of duty, leaving behind family members and friends who have grieved their untimely losses;

Whereas these individuals served with pride and honor as volunteer and career firefighters;

Whereas until 1980 there was not a tribute to honor these heroes for their acts of valor or a support system to help the families of these heroes rebuild their lives;

Whereas in 1992 Congress created the National Fallen Firefighters Foundation to lead a nationwide effort to remember the Nation's fallen firefighters through a variety of activities;

Whereas each year the National Fallen Firefighters Foundation hosts an annual memorial service to honor the memory of all firefighters who die in the line of duty and to bring support and counseling to their families;

Whereas in 2002 the memorial service will take place on October 5 and 6;

Whereas 445 fallen firefighters, including firefighters from nearly every State, will be honored in 2002; and

Whereas many of the family members of these firefighters are expected to attend the memorial service: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizes the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

HONORING AND COMMENDING THE LAO VETERANS OF AMERICA

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to the consideration of H. Con. Res 406.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 406) honoring and commending the Lao Veterans of America, Laotian and Hmong veterans of the Vietnam War, and their families, for their historic contributions to the United States.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD, including the statement of Senator WELLSTONE.

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

The concurrent resolution (H. Con. Res. 406) was agreed to.

The preamble was agreed to.

Mr. WELLSTONE. Mr. President, I want to take a moment to thank my colleagues for passing H. Con. Res. 406. This resolution commemorates the tremendous sacrifice made by so many Lao-Hmong during the Vietnam War.

As a Senator from Minnesota, I am proud to represent one of the largest Hmong populations in America. My experience as a Senator has become so much greater as a result of coming to know the noble history and rich culture of the Hmong people in Minnesota. I am in awe of their sacrifice for the American people.

Hmong soldiers died at ten times the rate of American soldiers in the Vietnam War. Yet, because America's war effort in Laos was covert, the sacrifices and service of the Hmong and Lao veterans is still largely untold. The legislation we passed today is a tribute to the Hmong people's sacrifice for our country. It is a small but meaningful step in honoring and fulfilling our debt to the Hmong and Lao veterans and their families.

This resolution also commends the leadership of the Lao Veterans of America for its work in passing several pieces of legislation I introduced with Congressman Vento that would expedite citizenship for Hmong veterans and their wives. In addition, they led the fight to erect a monument in Arlington National Cemetery in honor of the Hmong who died in the Vietnam War. The Lao Veterans of America, including Cherzong Vang, in Minnesota, and Colonel Vang Yee Vang, Executive Director of the organization, has worked tirelessly to educate Congress and the public about the history and contributions of the Hmong people in our county. This resolution is a fitting response to this important work.

Again, I thank my colleagues for passing this excellent and overdue legislation.

DESIGNATING OCTOBER 10, 2002, AS ''PUT THE BRAKES ON FATALITIES DAY''

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration os S. Res. 266 and the Senate

proceed to its immediate consideration.

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

The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 266) designating October 10, 2002, as ''Put the Brakes on Fatalities Day.''

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 en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 266) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 266

Whereas traffic fatalities needlessly claim the lives of more than 40,000 Americans each year;

Whereas traffic crashes are the leading cause of death in the United States for people ages 6 to 28 years;

Whereas 63 percent of those killed in traffic crashes are not wearing safety belts;

Whereas roadside hazards, substandard road conditions, and obsolete roadway designs contribute to more than 15,000 highway deaths annually—nearly ⅓ of all fatal crashes;

Whereas more than 3,000,000 people are injured in traffic crashes in the United States each year;

Whereas there are more than 6,000,000 nonfatal traffic crashes in the United States each year;

Whereas deaths and injuries on highways in the United States cost society more than $230,000,000,000 annually;

Whereas approximately 4,900 pedestrians and 750 bicyclists are killed annually in traffic related crashes;

Whereas safer driving behaviors through the use of seat belts, not drinking and driving, and obeying traffic laws need to be encouraged;

Whereas use of simple, cost-effective roadway safety improvements such as all weather signing and marking, traffic signals, skid resistant pavements, and removal of roadside hazards would greatly reduce crashes;

Whereas continued development of ever-safer vehicles, protective equipment, and roadways would reduce traffic-related fatalities and injuries; and

Whereas cooperation between Federal, State, and local governments, private companies, and associations is essential to increasing highway safety: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 10, 2002, as ''Put the Brakes on Fatalities Day''; and

(2) requests that the President issue a proclamation urging the people of the United States and interested groups to encourage safe driving and other roadway use.

DESIGNATING THE MONTH OF OCTOBER, 2002, AS ''CHILDREN'S INTERNET SAFETY MONTH''

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 338 following the discharge from the Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 338) designating the month of October, 2002, as ''Children's Internet Safety Month.''

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 en bloc, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

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

The resolution (S. Res. 338) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 338

Whereas the Internet is one of the most effective tools available for purposes of education and research and gives children the means to make friends and freely communicate with peers and family anywhere in the world;

Whereas the new era of instant communication holds great promise for achieving better understanding of the world and providing the opportunity for creative inquiry;

Whereas it is vital to the well-being of children that the Internet offer an open and responsible environment to explore;

Whereas access to objectionable material, such as violent, obscene, or sexually explicit adult material may be received by a minor in unsolicited form;

Whereas there is a growing concern in all levels of society to protect children from objectionable material; and

Whereas the Internet is a positive educational tool and should be seen in such a manner rather than as a vehicle for entities to make objectionable materials available to children: Now, therefore, be it

Resolved, That the Senate—

(1) designates October, 2002, as ''Children's Internet Safety Month'' and supports its official status on the Nation's promotional calendar; and

(2) supports parents and guardians in promoting the creative development of children by encouraging the use of the Internet in a safe, positive manner.

RECOGNIZING THE ELLIS ISLAND MEDAL OF HONOR

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 334 and that the Senate now proceed to its consideration.

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

The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 334) recognizing the Ellis Island Medal of Honor.

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 en bloc, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

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

The resolution (S. Res. 334) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 334

Whereas the Ellis Island Medal of Honor, established by the National Ethnic Coalition of Organizations in 1986, pays tribute to individuals of various ethnic origins who have distinguished themselves through their contributions to the United States;

Whereas the Ellis Island Medal of Honor has been awarded on a bipartisan basis to 6 Presidents and numerous Representatives and Senators;

Whereas the National Ethnic Coalition of Organizations is the largest organization of its kind in the United States, representing more than 5,000,000 family members and serving as an umbrella group for more than 250 organizations that span the spectrum of ethnic heritage, culture, and religion;

Whereas the mandate of the National Ethnic Coalition of Organizations is to preserve ethnic diversity, promote equality and tolerance, combat injustice, and bring about harmony and unity among all peoples;

Whereas the Ellis Island Medal of Honor is named for the gateway through which more than 12,000,000 immigrants passed in their quest for freedom of speech, freedom of religion, and economic opportunity;

Whereas the Ellis Island Medal of Honor celebrates the richness and diversity of American life by honoring not only individuals, but the pluralism and democracy that have enabled the Nation's ethnic groups to maintain their identities while becoming integral parts of the American way of life;

Whereas during the 15-year history of the Ellis Island Medal of Honor, more than 1,500 individuals from scores of different ethnic groups have received the Medal, and more than 5,000 individuals are nominated each year for the Medal; and

Whereas at the 2002 Ellis Island Medal of Honor ceremony in New York City, individuals from different ethnic groups will be honored for their contributions to the rescue and recovery efforts of September 11, 2001, the war against terrorism, and the enhancement of the Nation's homeland security: Now, therefore, be it

Resolved, That the Senate recognizes the Ellis Island Medal of Honor for acknowledging individuals who live exemplary lives as Americans while preserving the values of their particular ethnic heritage.

RECOGNIZING THE SIGNIFICANCE OF BREAD IN AMERICAN HISTORY

Mr. REID. Mr. President, I ask unanimous consent that the Senate immediately proceed to S. Con. Res. 148 following the discharge of the Judiciary Committee.

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

The clerk will state the concurrent resolution by title.

A concurrent resolution (S. Con. Res. 148) recognizing the significance of bread in American history, culture, and daily diet.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be land upon the table, and that any statements related thereto be printed in the RECORD.

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

The resolution (S. Con. Res. 148) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 148

Whereas bread is a gift of friendship in the United States;

Whereas bread is used as a symbol of unity for families and friends;

Whereas the expression ''breaking bread together'' means sharing friendship, peace, and goodwill, and the actual breaking of bread together can help restore a sense of normalcy and encourage a sense of community;

Whereas bread, the staff of life, not only nourishes the body but symbolizes nourishment for the human spirit;

Whereas bread is used in many cultures to commemorate milestones such as births, weddings, and deaths;

Whereas bread is the most consumed of grain foods, is recognized by the Department of Agriculture as part of the most important food group, and plays a vital role in American diets;

Whereas Americans consume an average of 60 pounds of bread annually;

Whereas bread has been a staple of American diets for hundreds of years;

Whereas Americans are demonstrating a new interest in artisan and home-style types of breads, increasingly found in cafes, bakeries, restaurants, and homes across the country;

Whereas bread sustained the Pilgrims during their long ocean voyage to America and was used to celebrate their first harvest in the American wilderness; and

Whereas bread remains an important part of the family meal when Americans celebrate Thanksgiving, and the designation of November 2002 as National Bread Month would recognize the significance of bread in American history, culture, and daily diet: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President should issue a proclamation—

(1) designating November 2002 as National Bread Month in recognition of the significance of bread in American history, culture, and daily diet; and

(2) calling on the people of the United States to observe such month with appropriate programs and activities.

CONDEMNING THE POSTING ON THE INTERNET OF VIDEO AND PICTURES OF THE MURDER OF DANIEL PEARL

Mr. REID. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of S. Res. 351.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 351) condemning the posting on the Internet of video and pictures of the murder of Daniel Pearl and calling on such video and pictures to be removed immediately.

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 en bloc, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

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

The resolution (S. Res. 351) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 351

Whereas Daniel Pearl, a reporter for the Wall Street Journal, was murdered by terrorists following his abduction in Pakistan on January 23, 2002;

Whereas video of Mr. Pearl's gruesome murder has been posted on web sites;

Whereas this video was made by terrorists for anti-American propaganda purposes, in an attempt to recruit new terrorists and to spread a message of hate;

Whereas posting this video on web sites undermines efforts to fight terrorism throughout the world by glorifying such heinous acts;

Whereas posting this video on web sites could invite more abductions and more murders of innocent civilians by anti-American terrorists because of the attention these heinous acts might gain from such posting; and

Whereas posting this video on the Internet shows a complete and utter disrespect for Mr. Pearl's life and legacy and a complete and utter disregard for the respect of his family: Now, therefore, be it

Resolved, That the Senate—

(1) calls on all terrorist-produced murder video and pictures to be removed from all web sites immediately; and

(2) encourages all web-site operators to refrain from placing any terrorist-produced murder videos and pictures on the Internet.

AMENDING SECTION 527 OF THE INTERNAL REVENUE CODE OF 1986

Mr. REID. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 5596.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5596) to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LIEBERMAN. Mr. President, I am very pleased that the Senate today is passing H.R. 5596, a compromise bill aimed at improving disclosure by Section 527 political organizations and relieving certain 527 organizations from arguably duplicative filing requirements. I want to thank my colleague, Senator HUTCHISON, as well as our colleagues in the House, for working steadfastly with us to draft this bill in a manner that achieves its purpose, but does not open any loopholes in the original section 527 reform law.

In June 2000, Congress passed the first significant campaign finance reform measure in a quarter of a century. The so-called Section 527 reform bill dealt with a truly troubling development, one whereby organizations that received tax-exempt status by telling the IRS that they exist to influence elections denied the very same thing to the FEC.As a result, these self-proclaimed election organizations engaged in election activity without complying with any aspect of the election laws, influencing our elections without the American public having any idea who—or what—was behind them.

The 527 reform law enacted in 200 put a stop to that, by requiring organizations claiming tax-exempt status under Section 527 of the Internal Revenue Code to do three things: (1) give notice of their intent to claim that status; (2) disclose information about their large contributors and their big expenditures; and (3) file annual informational returns along the lines of those filed by virtually all other tax-exempt organizations.

During the approximately two years that the 527 reform law has been in effect, that law has blasted sunshine onto the previously shadowy operations of a multitude of election-related organizations. Through the filings Section 527 now mandates, the American public has learned a great deal about who is financing many of these organizations and how these organizations are spending their money. As outlined in report issued earlier this year by the group Public Citizen, the 527 reform law brought us the knowledge that 25 of the largest 527s raised over $67 million between July 2000 and December 2001, and that they spent it on a plethora of campaign activities—most significantly those pre-election issue ads that we all know so well and that are often indistinguishable from candidate ads. We've also learned from these IRS filings the specifics about who was trying to influence particular elections and where their money came from. Were it not for the 527 disclosure law, we probably wouldn't have any of this information, and we probably would have had a lot more shadowy groups operating in the election system—ones that slithered away on their own because they didn't want to face the disinfectant of sunshine.

These filings will become all the more important come this November, when the Bipartisan Campaign Reform Act—the McCain-Feingold bill—goes into effect. As we all know, at least some of the soft money donors who will no longer be able to give to political parties will be looking for other ways to influence our elections. Donations to 527 groups will probably top many of their lists, because these are the only tax-exempt groups that can do as much election work as they want without jeopardizing their tax status. With the

potential for all this new money coming in, it is critical that we have a healthy 527 disclosure regime in place.

Although the 2000 law has been a tremendous boon in the fight for clean and open elections, the 527 disclosure regime does have some problems. Public interest groups that use the disclosure reports tell us that those reports lack important information needed to understand 527s' activities, and, more importantly, that the reports are hard to access and analyze. A new report by the nonpartisan Campaign Finance Institute's blue ribbon Task Force on Disclosure, for example, concludes that ''there is a serious lack of meaningful web disclosure'' by the IRS of 527 group activities, and calls upon Congress to mandate a fully searchable database and electronic filing. Put simply, the public needs more information to be reported and it needs the IRS to provide better access to it.

Just as importantly, concerns have been raised about the law's impact on State and local political organizations that already fully disclose to the public all of the activities covered by the 527 reform law. When we first enacted the 527 reform law, we made clear that we believed that 527 organizations, as a condition of receiving the federal benefit of tax exemption, owed the public disclosure of certain information about themselves and their activities. A number of State and local political organization have now convinced us that they already disclose that information on the State level, thereby already serving the law's purpose, and that there is no reason to require them to report the same information again to the IRS.

The bill we are considering today seeks to comprehensively address all these problems. First, it makes important and necessary improvements to the reporting and disclosure requirements, to enable the public to have better access to more information. For example, organizations will have to provide more information about the contributions they receive and the expenditures they make—providing the dates of both them, as well as the purpose of their expenditures. The added requirement to state the purpose of an expenditure will be particularly helpful in allowing the public to see whose money is supporting particular candidates. I hope that in implementing this provision, the IRS makes clear that organizations should state the purposes of expenditures with specificity, including whether particular expenditures are in support of, or opposition to, particular candidates, as well as the name and office sought by any such candidates. The bill we are considering today also requires 527s to provide updated information on themselves if there is any material change in the basic identifying information they filed with the IRS. This important change will make sure that the public can at all times locate these groups and know who is running them.

At the same time, as we are improving the nature of the filings, we are also mandating better disclosure of them. From here forward, all 527 filing reports on their contributors and expenditures will have to do so electronically, and the IRS will have to make those reports searchable on, and downloadable from, the Internet. This will vastly improve the public's access to information about, and understanding of, 527 organizations and their activities.

The second major feature of this bill is its elimination of arguably duplicative reporting requirements. In particular, it grants relief from the 527 reform law to a number of organizations that focus on State and local elections and that are regulated by State disclosure laws.

First, the bill fully exempts from its mandates State and local candidate and party committees. Under the reform law, these committees must notify the IRS of their intent to claim Section 527 status, and they have to file annual information returns if they have over $25,000 in gross receipts. They do not, however, have to file contribution and expenditure reports. Since the reform law went into effect, we have become convinced that the burden imposed on these committees by the two relevant disclosure mandates outweigh the public purpose served by requiring them to comply with these mandates.

By exempting them from the contribution and expenditures reporting requirements that lie at the heart of the Section 527 law's disclosure regime, the original reform law recognized that State and local candidate and party committees do not generally pose the threats the 527 law intended to address. In contract to other political committees, there is never any doubt as to who is running these committees or whose agenda they aim to promote. Just as importantly, State laws regulate and require disclosure from all of these committees.

Different considerations apply to the case of so-called State and local PACs. The bill grants more limited relief to a carefully defined set of these groups. In granting this relief, we have walked a very fine line. On one hand, we want to recognize the fact that every State requires disclosure from political committees involved in that State's elections and that many State and local PACs covered by the 527 reform law therefore are already disclosing the information the 527 law seeks. On the other hand, we still believe that there is a strong public interest in knowing how the federal tax-exemption under Section 527 is being used by these organizations, and we most decidedly do not want to exempt from the law's disclosure requirements any State or local PAC that does not otherwise publicly disclose all of its activities.

To exempt a State or local PAC merely it claims that it is involved only in State elections and files information about some of its activities with a State agency would risk creating a massive loophole that could undermine the 527 reform law. That is because just as prior to the passage of the 527 reform law, some 527 groups were claiming that they were trying to influence elections for the purposes of the tax code, but not for the purposes of the election laws, a broad exemption for State or local PACs could lead some groups to claim that they are influencing State elections for the purposes of Section 527 but not for the purposes of the State disclosure laws.

So, we have reached the following compromise. First, we are not exempting any of these organizations from the Section 527(i) requirement to notify the IRS of the intention to claim Section 527 status. Unlike candidate and party committees, it is not always clear to the public who is behind these groups or what their purposes are, making the information filed in these notices important sources of otherwise unavailable information. Moreover, because we are not completely exempting these groups from the law's other disclosure requirements, the notice requirement will be critical in helping the IRS and outside groups monitor compliance with the law's other mandates. In light of that, we believe the minimal effort required to file the 527(i) notice is worth the tremendous value of giving the public some basic information about these groups.

Second, we are granting an exemption from the Section 527(j) contribution and expenditure reporting requirements to some of these organizations, but only if they can meet certain strict requirements. The group's so-called exempt function activity must focus exclusively on State or local elections; a group that engages in even the smallest amount of activity related to a federal election will not be entitled to this exemption. The group also must file with a State agency information on every contribution and expenditure it would otherwise be required to disclose to the IRS. This requirement ensures that Congress' conditioning of tax exemption on complete and full disclosure is not compromised.

In addition, these State filings must be pursuant to a State law that requires these groups to file the State reports; this requirement seeks to prevent organizations from hiding truly federal activity by voluntarily reporting to a State where reports may not be as readily accessible as are federal reports. Moreover, no group will be able to take advantage of this exemption if the State reports its files are not publically available both from the State agency with which the report is filed and from the group itself. Finally, this exemption also is not available to any organization in which a candidate for federal office or someone who holds elected federal office plays a role—whether through helping to run the organization, soliciting money for the organization or deciding how the organization spends its money. I should note here that the use of the word ''solicit''

in this case is meant broadly; if a federal candidate or office holder suggests that money be given to a committee or directs it there in anyway, then federal disclosure is mandated.

In short, this bill exempts from Section 527(j)'s contribution and expenditure reporting obligations only those groups that truly and legitimately engage in exclusively State and local activity and only when they already report to their State on all of the information the 527 law seeks. This latter condition is important not just because it precludes the hiding of federal activity, but also because we believe that even those groups involved in exclusively State and local elections should face some disclosure requirement if they are to take the federal benefit of tax exemption under Section 527.

Finally, the bill makes a small change to these State and local groups' obligation to file an annual information return when they do not have taxable income. Under the current law, they must file such returns when they have $25,000 in annual receipts; the bill increases that trigger to $100,000. Like all other 527 organizations, though, they still will have to file such returns if they have taxable income.

To help walk my colleagues through this bill, I am attaching at the end of my statement a section-by-section of the bill and ask unanimous consent that it be printed in the RECORD after my statement.

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

(See exhibit 1.)

Mr. LIEBERMAN. Again, let me thank Senator HUTCHISON in particular for her efforts on this bill. I believe we have worked out a good compromise, one that grants relief where it is warranted, but does not in any way threaten to open up a loophole in the law. I thank her for that, and I yield the floor.

EXHIBIT 1

SECTION-BY-SECTION

Section 1 exempts State and local candidate and party committees from the requirement to notify the IRS of their Section 527 status (Form 8871) and makes that exemption retroactive to the date of the 2000 law's enactment.

Section 2 exempts qualified State or local PACs from the requirement to file reports with the IRS detailing their contributions and expenditures (Form 8872). It defines a qualified State or local political organization as one which: (a) focuses solely on State or local elections; (b) reports and discloses information about all of its sizable contributions and expenditures under State law; and (c) does not have a federal candidate or elective office holder playing any material role in the organization or raising money for it. The provision makes clear that an otherwise qualified exempt State or local PAC does not lose its exemption simply because there are certain variations between State and federal law with respect to reporting of contributor and expenditure information.

Sections 3(a)–(b) repeal certain changes the 2000 law made to the requirements governing the filing of tax returns (Form 1120) by political organizations. Although political organizations are exempt from taxation on most of their income (such as contributions), certain income may be subject to federal tax. Prior to the 2000 law, only Section 527 groups with taxable income had to file the Form 1120. The 2000 law required most 527s to file the form, whether or not they had taxable income. Section 3(a) restores the pre-2000 law and puts 527s on a similar footing to other tax-exempt organizations with respect to the 1120 Form by requiring filing of the form only if the organization has taxable income. Section 3(b) restores the pre-2000 law by making clear that the tax returns of 527s with taxable income are confidential.

Section 3(c) exempts a number of organizations from the requirement to file the Form 990 annual information return. Exempt groups will now include State or local candidate and party committees, associations of State or local officials and groups filing with the FEC. The section also provides that qualified State and local PACs must file the 990 only if they have at least $100,000 in annual gross receipts (other non-exempt groups must file the 990 if they have at least $25,000 in annual gross receipts). Finally, the section directs the Treasury Secretary to adapt the 990 form, which was not developed for political organizations, to seek information relevant to the activities of Section 527 organizations.

Section 4 directs the Treasury Department to work with the FEC to publicize the 527 law's reporting requirements.

Section 5 authorizes the Treasury Secretary to waive amounts imposed for failing to file 8871 notices or 8872 reports if he concludes that the failure to file was due to reasonable cause and not willful neglect.

Sections 6(a), (b) and (d) modify existing law regarding noncompliance. Section 6(a) provides that organizations that fail to notify the IRS of their intent to claim Section 527 status will have all of their so-called exempt-function income subject to taxation, regardless of whether that income was segregated for use for an exempt function. Section 6(b) provides that the procedures used for collecting amounts imposed for failing to comply with the 8872 contributor/expenditure reporting requirement are akin to those used to collect penalties from tax-exempt organizations that fail to file the form 990 (this section affects the process of collection, not the amount collected). Section 6(d) makes clear that the tax code's existing criminal fraud penalties for anyone who willfully furnishes information to the IRS he knows is false or fraudulent also applies to 8871 and 8872 filings.

Sections 6(c), (e), (f) and (g) make changes to certain disclosure requirements. Section 6(c) streamlines the 8871 notice requirement by eliminating the need to file the notice in writing; only electronic reporting of the notice will remain. Section 6(c)(1) adds the date and purpose of expenditures and the date of contributions as required information on the Form 8872. Section 6(e)(2) mandates electronic filing of the 8872 contributor/expenditure reports, and Section 6(e)(3) requires that the IRS make information in those reports available to and searchable by the public on the Internet and downloadable to personal computers. Section 6(f) amends the 8871 notice to require filers to note whether they intend to claim an exemption from the 8872 contribution/expenditure reporting requirement or the form 990 annual return requirement. Finally, Section 6(g) requires organizations to file amended 8871 notices within 30 days of any material change of the information on the previous 8871.

Section 7 provides that forms already filed and made public by the IRS under current law will remain public after this bill becomes law. This provision is needed because many of the bill's exemptions are retroactive, and without Section 7, the IRS could be found in violation of taxpayer confidentiality rules for posting filings that were public under the original law but will no longer be public after this bill's enactment.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

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

The bill (H.R. 5596) was read the third time and passed.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 352, submitted earlier today by Senators DASCHLE and LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 352) to authorize representation by the Senate Legal Counsel in the case of Judicial Watch, Inc., v. William J. Clinton, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, this resolution concerns a civil action commenced in the U.S. District Court for the District of Columbia against several current and former Members of the Senate and House of Representatives. The plaintiff, Judicial Watch, Inc., is a legal watchdog group that has pursued numerous civil suits against the Government and its agencies and officials. In this case, Judicial Watch has sued former President Clinton and several current and former Members of the Senate and the House of Representatives, alleging that those officials conspired to pressure the Internal Revenue Service to initiate and continue an audit of Judicial Watch in retaliation for its activities.

The plaintiff in this case has named the current and former Senators as defendants in this suit based solely on the fact that these Senators sent routine transmittal letters to the IRS forwarding constituent correspondence inquiring why Judicial Watch was entitled to the benefits of tax-exempt status. Merely because of those routine buck letters, Judicial Watch alleges that those Senators entered into an unlawful conspiracy to pressure the IRS to continue to audit it in violation of its constitutional rights.

This resolution authorizes the Senate Legal Counsel to represent the Senate defendants in this action.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements in relation thereto be printed in the RECORD.

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

The resolution (S. Res. 352) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 352

Whereas, in the case of Judicial Watch, Inc. v. William J. Clinton, et al, No. 1:02-cv-01633 (EGS), pending in the United States District Court for the District of Columbia, the plaintiff has named as defendants current and former Senators, along with former President William J. Clinton and several Members of the House of Representatives;

Whereas, pursuant to sections 703(a) and 794(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Graham, former Senator Bryan, former Senator Robb, and any other Senator who may be named as a defendant in the case of Judicial Watch, Inc. v. William J. Clinton, et al., and who requests representation by the Senate Legal Counsel.

AUTHORIZING TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 353.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 353) to authorize testimony, document production, and legal representation in United States v. John Murtari.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, a Federal information in the Northern District of New York has been filed against an individual on four counts of refusing to follow lawful orders, obstructing a corridor, and trespass inside a Federal office building in Syracuse, NY. The charges arise from the refusal of the defendant to vacate the premises outside the office of Senator CLINTON, despite being directed to do so by Federal Protective Service personnel charged with maintaining security in the Federal building.

The U.S. Attorney has requested testimony at trial by an employee on the staff of Senator CLINTON who had contact with the defendant.

This resolution would authorize the Senate employee to testify and produce documents in this case with representation by the Senate Legal Counsel.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements in relation thereto, be printed in the RECORD.

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

The resolution (S. Res. 353) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 353

Whereas, in the case of United States v. John Murtari, Crim. Act. No. 02–CR–369, pending in the United States District Court for the Northern District of New York, testimony has been requested from Cathy Calhoun, an employee in the office of Senator Hillary Rodham Clinton;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such actions as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That Cathy Calhoun, and any other employee of the Senate from whom testimony or document production is required, are authorized to testify and produce documents in the case of United States v. John Murtari, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent employees of the Senate in connection with the testimony and document production authorized in section one of this resolution.

THANKING THE PRESIDING OFFICER AND STAFF

Mr. REID. Mr. President, we have, I am sure, a few other items to do before we close until later next month. I just want to say, first of all, the Presiding Officer is so available and I appreciate that very much. We all do. As I am sure everyone in this Chamber knows, it is difficult late at night to find people willing to preside, and the Senator from Minnesota, Mr. DAYTON, is always so courteous and willing to preside. I told him personally what an excellent job he does. Presiding is more than just being here. The Presiding Officer has to be firm and consistent, as he is.

Also, Mr. President, it took a lot to get to where we are tonight. I read through these items very quickly, but people work for days, weeks, and months on some of this legislation. As I read the titles, some may not seem too significant, but they are important, and we were able to pass them tonight.

Also, it is hard to describe to the viewing public how hard the staff works, without the attention we get, to get us to where we are. The staff certainly deserves more attention than they get. Anything that happens in the Senate, we take the credit, but we should give them some recognition. We would not be where we are without them.

To do all this takes a lot of people: the Official Reporters, those who are experts on different legislation. Senators' staff have been waiting here for days, it seems, but it has only been hours, to see what happened to legislation on this final day before a somewhat long break. In addition we have the Parliamentarians, the legislative and Journal clerks, and all the various staff. The staff who are here tonight—Senators are going to go home at 10:25 p.m.—will be here for hours working on the RECORD, and other issues. We have the pages who are juniors in high school, but they are here with us doing what we ask them to do.

This is really a team effort. To all the security people, and the others, I express my personal appreciation for everything everybody does to allow us to get our work done.

The PRESIDING OFFICER. The Chair fully concurs.

ORDERS THROUGH NOVEMBER 12, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. on the following days for pro forma sessions only, unless the majority leader, or his designee, with the concurrence of the Republican leader, is seeking recognition; that upon completion of each session, the Senate adjourn until the next listed date:

October 21, October 24, October 28, October 31, November 4, November 7, and November 8. This is all in compliance with the United States Constitution. Further, that if the majority leader, or his designee, seeks recognition, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that following the adjournment on November 8, the Senate reconvene on November 12 at 1 p.m.; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that there be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. REID. Mr. President, again, thank you very much.

ADJOURNMENT UNTIL MONDAY, OCTOBER 21, 2002

Mr. REID. Mr. President, if the Chair has no further business, and I have nothing more, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:25 p.m., adjourned until Monday, October 21, 2002, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 17, 2002:

NATIONAL SCIENCE FOUNDATION

STEVEN C. BEERING, OF INDIANA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE

FOUNDATION, FOR THE REMAINDER OF THE TERM EXPIRING MAY 10, 2004, VICE CHANG-LIN TIEN, RESIGNED.

BARRY C. BARISH, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008, VICE EAMON M. KELLY, TERM EXPIRED.

RAY M. BOWEN, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008, VICE VERA C. RUBIN, TERM EXPIRED.

DELORES M. ETTER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008, VICE JOHN A. ARMSTRONG, TERM EXPIRED.

KENNETH M. FORD, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008, VICE M. R. C. GREENWOOD, TERM EXPIRED.

DANIEL E. HASTINGS, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008, VICE BOB H. SUZUKI, TERM EXPIRED.

DOUGLAS D. RANDALL, OF MISSOURI, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008, VICE RICHARD A. TAPIA, TERM EXPIRED.

JO ANNE VASQUEZ, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2008, VICE MARY K. GAILLARD, TERM EXPIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S. C., SECTION 211:

To be lieutenant

DANA B. REID, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DOUGLAS A ASH, 0000
SALVATORE BRILLANTE, 0000
TIMOTHY M BUTLER, 0000
JEANNE CASSIDY, 0000
DANIEL R CROCE, 0000
SIDNEY J DUCK III, 0000
WAYNE C DUMAS, 0000
KENDEL D FEILEN, 0000
DOREEN D FULLER, 0000
ROBERT W GRABB, 0000
WILLIAM C HANSEN, 0000
MAUREEN B HARKINS, 0000
STEPHEN N JACKSON, 0000
MARK A JONES, 0000
JOHN W LONG, 0000
JOHN J MADEIRA, 0000
DAVID A MAES, 0000
DAVID G O'BRIEN, 0000
DAVID W. SPRINGER, 0000
WARREN E. SOLODUK, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID G. SMITH, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5589:

To be lieutenant

RODNEY D ABBOTT, 0000
GLENN W ADAMS III, 0000
DARYL G ADAMSON, 0000
JEFFREY D ADKINS, 0000
STEVE R AHRENDTS, 0000
KEVIN J ALFORD, 0000
RICHARD T ALLEN, 0000
MICHAEL S ANDERSON, 0000
JOHN A APPICELLI, 0000
EMMANUEL C ARCELONA, 0000
GREGORY W ARCHULET, 0000
CHARLES E ARDINGER JR., 0000
RONNIE E ARGILLANDER, 0000
PETER AZZOPARDI, 0000
DOUGLAS E BAILLIE, 0000
DOUGLAS E BAKER, 0000
ROBERT C BAKER, 0000
TONY C BAKER, 0000
DAVID L BALDWIN, 0000
MICHAEL E BALL, 0000
JOSELITO T BALUYOT, 0000
JERRY L BARTEE, 0000
JOHN O BEACH, 0000
MICHAEL J BEAL, 0000
DOUGLAS S BEAN, 0000
MATTHEW P BEARE, 0000
KEVIN R BECK, 0000
RAFAEL BELLIARD, 0000
KENNETH T BELLOMY, 0000
RONALD M BENTON, 0000
GARRY BERNIER, 0000
RALPH E BETTS, 0000
MICHAEL W BICKFORD, 0000
KENNETH E BLAIR, 0000
CHRISTOPHER P BOBB, 0000
DAVID J BOISSELLE, 0000
GERALD BONNETTE, 0000
KEVIN BONSER, 0000
SCOTT R BONSER, 0000
MICHAEL L BORNSTEIN, 0000
MICHAEL O BOYD, 0000
SHAUN J BOYD, 0000
SHEILA R BOYDWILLIAMS, 0000
RONALD J BRABANT, 0000
JAMES S BRADY, 0000
CHARLES H BRAGG, 0000
JAIME F BRAMMER, 0000
ROBERT T BRANDT, 0000
JOHN M BRAY, 0000
JOHN H BREDENKAMP III, 0000
CHRIS A BRICE, 0000
STEPHENS BROUSSARD, 0000
HENRY R BROWN, 0000
JORDAN D BROWN, 0000
RANDY E BROWN, 0000
ROBERT L BROWN II, 0000
RUSSELL D BROWN, 0000
THOMAS J BROWN, 0000
DUSTIN M BRUMAGIN, 0000
DAVID A BRYANT, 0000
JOHN D BURGOYNE III, 0000
SHARON A CANNON, 0000
JOHN M CARMICHAEL, 0000
MARTIN CARO, 0000
DAVID E CARROLL, 0000
GEORGE F CHAMPION JR., 0000
MARK A CHANCEY, 0000
JOEY A CHESNEY, 0000
KEVIN P CHILDRE, 0000
KEVIN G CHIRAS, 0000
FRANCINI R CLEMMONS, 0000
JIMMY W CLINTON, 0000
BRADLEY E COFFMAN, 0000
BRUCE C COLKITT, 0000
GLEN S COLLINS, 0000
KENNETH C COLLINS II, 0000
MARVIN D COLLINS, 0000
JOSE A COLON, 0000
MICHAEL G CONNER, 0000
BRENDA J CONWAY, 0000
CATHERINE A COWELL, 0000
WILLIAM L CRABTREE, 0000
RANDOLPH S CREEL, 0000
PETER CRESCENTI, 0000
DONALD F CRUMPACKER, 0000
JOSE JR CRUZ, 0000
TONI Y CRYTZER, 0000
MICHAEL T CURRY, 0000
GUS R CUYLER JR., 0000
KAREN R DALLAS, 0000
JAMES S DANCER, 0000
BILLY M DANIELS, 0000
DOUGLAS L DANIELS, 0000
CLINTON D DAVIS, 0000
DENNIS M DAVIS, 0000
DZUNG P DAVIS, 0000
FREDERICK V DEHNER, 0000
PAUL A DISE, 0000
JAMES E DODSON, 0000
WILLIAM R JR DONNELL, 0000
LAWRENCE D DOWLING, 0000
DAVID G DOZIER, 0000
MICHAEL D DUENSING, 0000
DUANE E DUNIVAN, 0000
JOHN J DUNNE, 0000
ARTHUR M DUVALL, 0000
JAMES C DYER, 0000
WILLIAM E EDENBECK, 0000
TOMMY L EDGEWORTH, 0000
DAVID R EGGLESTON, 0000
STEVEN D ELIAS, 0000
PAUL S ELLIS, 0000
DANIEL W ELSASS, 0000
DENISE EVANS, 0000
DENNIS EVANS, 0000
ANTHONY FACCHINELLO, 0000
CHRISTOPHER P FAKO, 0000
FERNANDO FALERI, 0000
ALAN D FEENSTRA, 0000
RANDALL I FEHER, 0000
STEVEN T FILES, 0000
JOHN E FISHER, 0000
MICHAEL J FLESHMAN, 0000
JOHN J FORD, 0000
VINCENT A FORTSON, 0000
MICHAEL E FOWLER, 0000
ARSENIO S FRANCISCO, 0000
DAVID P FREDRICKSON, 0000
FRANK P FUHRMEISTER, 0000
ARTHUR C FULLER, 0000
JOHN J GALLAGHER JR., 0000
KEVIN P GALLAGHER, 0000
GENE D GALLAHER, 0000
GREGORY G GALYO, 0000
BOBBY F GASKIN, 0000
CHRISTOPHER GASKIN, 0000
FRANCIS J GAULT, 0000
JEFFREY K GHINTER, 0000
DONALD W GIBSON, 0000
KARL G GILES, 0000
JAMES A GILLEN, 0000
GERALD W GLADDERS, 0000
DAVID A GLOVER, 0000
JOSELITO O GONZALES, 0000
TRACY A GONZO, 0000
DEBORA L GOWANS, 0000
GREGORY S GRAVELLE, 0000
HUENELL GRAY III, 0000
TOD M GREVER, 0000
CANDACE L GRIFFIN, 0000
CORY M GROOM, 0000
RICHARD R GROVE JR., 0000
GARY G GUNLOCK, 0000
PHILLIP A GUTIERREZ, 0000
REBECCA L HAGEMANN, 0000
ROGER A HAHN, 0000
JAMES D HAIR, 0000
AUBREY K HAMLETT, 0000
LARRY S HAND, 0000
EDMUND J HANDLEY, 0000
RAYMOND K HANNA, 0000
WILLIAM P HARRAH, 0000
DAVID A HARRIS, 0000
DONALD W HARTSELL JR., 0000
THOMAS F HAYDEN, 0000
CHRISTOPHER K HAYNIE, 0000
JAMES J HEAVEY, 0000
CALVIN G HENDRIX, 0000
CARL L HENRY JR., 0000
OLIVER R HERION, 0000
JAMES B HICKS, 0000
MICHAEL F HILLIS, 0000
CHRISTOPHER S HILTS, 0000
JAMES E HOCH, 0000
ELIZABETH A HODIL, 0000
DAVID G HOFFMAN, 0000
KENNETH L HOLLAND, 0000
DOUGLAS E HOUSER, 0000
MARLIN O HOUSER, 0000
ROGER L HUDSON JR., 0000
PAUL G HUGHES, 0000
RODNEY E HUNT, 0000
TIMOTHY S HUNT, 0000
JEFFERY A HURLEY, 0000
RONALD E IRWIN, 0000
BOBBY C JACKSON, 0000
LINDA D JACKSON, 0000
CANDICE L JAMES, 0000
EDWARD G JASO, 0000
DEREK S JENSEN, 0000
EDWARD L JENSEN, 0000
CHARLES E JOHNSON, 0000
MICHAEL L JOHNSON, 0000
RICHARD A JOHNSON, 0000
TERENCE K JOHNSON, 0000
CHARLES O JONES, 0000
ORAL A JORDAN, 0000
MICHAEL A KACZMAREK, 0000
MARK D KAES, 0000
SANFORD L KALLAL, 0000
MARK H KAUTZMANN, 0000
WARREN A KEITH, 0000
EDDY E KELLEY, 0000
RODNEY L KELLEY, 0000
ALAN D KENEIPP, 0000
MARK J KERN, 0000
CARRIE L KIMBLE, 0000
JOHN C KLACKBURN, 0000
JOSEPH KLAPISZEWSKI, 0000
LISA M KLAPROTH, 0000
TODD C KNOP, 0000
ROBERT J KRIGELMAN, 0000
PATRICK E LANCASTER, 0000
RANDY D LANGLITZ, 0000
LURA L LARSEN, 0000
DENNIS M LATOUR, 0000
WILLIAM J LAURENT, 0000
STEVEN P LEARO, 0000
CHRISTOPHER LEDLOW, 0000
EDWARD M LEE, 0000
RANDALL G LEE, 0000
RICKY W LEE JR., 0000
RICARDO L LEGASPI, 0000
ROBERT P LEOPOLD, 0000
JEFFREY LETSINGER, 0000
ONZIE L LEVEL JR., 0000
BENJAMIN N LEWIS, 0000
DAVID N LEWIS, 0000
RONALD C LEWIS, 0000
ALICE Y LIBURD, 0000
TAMI M LINDQUIST, 0000
DAVID D LITTLE, 0000
DAVID W LIVINGSTON, 0000
JEFFREY L LLOYDJONES, 0000
LARRY L LOBIS, 0000
RALPH L LOFTON, 0000
JOHN E LOHR, 0000
THOMAS J LONGINO, 0000
ROBERT J LOPEZ, 0000
RICHARD F LOVE III, 0000
DOUGLAS H LOYD, 0000
CLARENCE C LUCKA, 0000
PATRICK H LUETH, 0000
TIMOTHY S MACIOLEK, 0000
ALAN G MACNEIL, 0000
LAURA L MALLORY, 0000
ANCEL S MANALILI, 0000
DENNIS S MARION, 0000
LUIS R MARROQUIN, 0000
RONALD G MARTEL, 0000
WANDA D MARTIN, 0000
DREW W MARTINEZ, 0000
ANTHONY J MATA, 0000
DON E MCCONAGHY, 0000
JAMES W MCDONNER, 0000
JOHN C MCELHANNON, 0000
GREGORY L MCGILL, 0000
PATRICK J MCGOVERN, 0000
BRADLEY H MCGUIRE, 0000
TODD A MCINTYRE, 0000
NANCY G MCKEOWN, 0000
DANIEL F MCKIM, 0000
JEFFREY T MCMILLAN, 0000
GERALD W MCNALLY, 0000
TIMOTHY J MEAD, 0000
RAFAELDIONIS MEDINA, 0000
RONALD J MEHRWERTH, 0000
LEO C MELODY, 0000
ROBERT E MERRILL, 0000

JACK D MILLER, 0000
MICHAEL S MILLS, 0000
ROCCO F MINGIONE JR., 0000
OLIVER C MINIMO, 0000
DENNIS MOJICA, 0000
MICHAEL A MORAND, 0000
KEVIN A MORGAN, 0000
DONALD K MORRIS II, 0000
ANDRE R MOSER, 0000
RODNEY H MOSS, 0000
DENIS E MURPHY, 0000
STEPHEN J NADOLNY, 0000
JOHN D NAYLOR, 0000
STELLA B NEALY, 0000
JAMES B NELSON, 0000
JOHN W NELSON, 0000
MICHAEL S NIELSEN, 0000
SCOTT A NOE, 0000
BRIAN S NORRIS, 0000
RODNEY J NORTON, 0000
BRIAN A NOVAK, 0000
MARK A NOWALK, 0000
JOSEPH N OBI, 0000
ANTONIO M OCAMPO JR., 0000
MICHAEL S OLDHAM, 0000
JOHN A OMAN, 0000
JEFFREY D ORBERSON, 0000
MICHAEL R OTTO, 0000
THEODORE G PACLEB, 0000
RAYMOND A PARHAM, 0000
RAYMOND F PARIS, 0000
GREG M PASSONS, 0000
DAVID C PAYNE, 0000
JOHN P PEARSON, 0000
DONALD E PECK II, 0000
ANTHONY M PECORARO, 0000
JEFFREY S PEHL, 0000
TIMOTHY A PELNARSCH, 0000
RICK C PEREZ, 0000
BRADLEY J PETERSEN, 0000
DAVID R PFAFF, 0000
ALFRED F PIERSON, 0000
ROBERT G PINSKI, 0000
LLOYD R PLANTY, 0000
PAUL H PLATTSMIER, 0000
ERIC S POARCH, 0000
BARRY A POLK, 0000
GEORGE A PORTER, 0000
ROBERT L PROSSER, 0000
REX N PUENTESPINA, 0000
DAVID T PURKISS, 0000
RONALD G RANCOURT, 0000
MARC W RATKUS, 0000
BILLY W RAYFORD, 0000
RORY S REAGAN, 0000
SHAWN J REAMS, 0000
LEWIS C REAVES, 0000
JAMES C REEVES, 0000
STEVEN T REITH, 0000
JOHN M REYNOLDS, 0000
TERRY L RHODES, 0000
MICHAEL P RILEY, 0000
RAYMOND R ROACH JR., 0000
DARREN V ROBERSON, 0000
DAVID P ROBERTS JR., 0000
JAMES M ROBINSON, 0000
TIMOTHY L ROCKWELL, 0000
DEAN R RODRIGUEZ, 0000
NANCY J ROHE, 0000
LAURA J ROLLINS, 0000
VICTOR H ROMANO, 0000
CHRISTOPHER G ROSS, 0000
PHILIP T ROUIN, 0000
RANDY R ROY, 0000
WILLIAM M RUSHING, 0000
JAMES A RUSHTON, 0000
STEVEN E RYAN, 0000
KENNETH A SABOL, 0000
LEANDER J SACKEY, 0000
CRAIG R SADRACK, 0000
DAVID W SALAK, 0000
BERNARD B SALAZAR, 0000
MOSE J SAM, 0000
KENNETH B SANCHEZ, 0000
DAVID T SANDERLIN, 0000
STEPHEN H SANDERS, 0000
ROBERT P SAUNDERS JR., 0000
JOHN L SCALES, 0000
MICHAEL S SCHINE, 0000
NICHOL M SCHINE, 0000
RONALD A SCHNEIDER, 0000
THOMAS R SCHROCK, 0000
JACKIE A SCHWEITZER, 0000
MATTHEW M SCOTT, 0000
MICHAEL K SEATON, 0000
LAWRENCE A SECHTMAN, 0000
ROBIN C SHAFFER, 0000
MARTIN D SHARPE, 0000
SCOTT E SHEA, 0000
STEVEN B SHERRILL, 0000
MICHAEL T SHERROD, 0000
RICKY L SHILO, 0000
JEFFREY R SHIPMAN, 0000
GARY K SMITH, 0000
JUAN A SMITH, 0000
WAYNE D SMITH, 0000
STEVEN L SOLES, 0000
JEFFREY S SOTINGCO, 0000
TIMOTHY C SPENCE, 0000
ANTHONY W STACY, 0000
VINCENT T STANLEY, 0000
RICHARD H STEFFES, 0000
JEFFREY C STELZIG, 0000
JOSEPH R STEPRO, 0000
PHILIP R STGELAIS, 0000
PAUL A STOLZMAN, 0000
MARK A STONE, 0000
FREDDIE D STRAIN, 0000
JAMES E SUCKART, 0000
TODD M SULLIVAN, 0000
ROBIN L SUNTHEIMER, 0000
PATRICK H SUTTON, 0000
JEFFREY S SWAIN, 0000
MICHAEL B TA, 0000
HORACIO G TAN, 0000
QUINTIN G TAN, 0000
REYNALDO T TANAP, 0000
GEORGE N TAYLOR III, 0000
KENNETH C TEASLEY, 0000
STEVEN C TERREAULT, 0000
KIMBALL B TERRES, 0000
ANTHONY E THARPE, 0000
JOHN W THIERS, 0000
CHARLES THOMAS JR., 0000
MICHAEL L THOMPSON, 0000
ROBERT E THOMPSON, 0000
JAMES C THORNTON, 0000
EUGENE TILLERY, 0000
MARK K TILLEY, 0000
ANTONIO C TING, 0000
JAMES M TIVNAN, 0000
STEPHEN TOBIAS, 0000
JOSE L TORRES, 0000
TIMOTHY W TOW, 0000
KEITH A TUKES, 0000
JOHNNY L TURNER, 0000
EDWARD TWIGG III, 0000
LAWRENCE W UPCHURCH, 0000
JOEL A VARGAS, 0000
JOSEPH A VARONE, 0000
GREGORY A VERLINDE, 0000
CINDY A VILLAVASO, 0000
ALEC C VILLEGAS, 0000
TIMOTHY VONDERHARR, 0000
SCOTT H WADE, 0000
WILBERT M WAFFORD, 0000
DAVID L WALKER, 0000
ERIC V WALKER, 0000
JAMES F WALSH, 0000
MATTHEW W WALSH, 0000
STEVEN T WALTNER, 0000
DAVID G WATSON, 0000
DIANA D WEAVER, 0000
JAMY L WEAVER, 0000
TODD A WEAVER, 0000
RICHARD C WEBER, 0000
PETER H WEIR, 0000
THOMAS M WEISHAR, 0000
SHALALIA I WESLEY, 0000
SELVIN A WHITE, 0000
WILLIAM H WHITE, 0000
DWAINE C WHITHAM, 0000
EDWARD E WILBUR II, 0000
WILLIAM J WILBURN, 0000
CHRISTOPHER G WILLIAMS, 0000
KEENAN L WILLIAMS, 0000
JAMES M WINFREY, 0000
FRANKLIN C WOLFF, 0000
VINCENT J WOOD, 0000
MARK H WOODS, 0000
EARL A WOOTEN, 0000
KEVIN D WRENTMORE, 0000
WILLIAM C XTAMEY, 0000
ALEJANDRO D YANZA, 0000
MICHAEL D YELANJIAN, 0000
ERNEST J YELDER JR., 0000
KEVIN A YOUNG, 0000
JOSEPH L YOUNT, 0000
RONALD W ZITZMAN, 0000
BERNERD C ZWAHLEN, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate October 17, 2002:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARK B. MCCLELLAN, OF THE DISTRICT OF COLUMBIA, TO BE COMMISSIONER OF FOOD AND DRUGS, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

CENTRAL INTELLIGENCE

SCOTT W. MULLER, OF MARYLAND, TO BE GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. GLEN W. MOORHEAD III

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. FREDERICK F. ROGGERO

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., SECTION 601:

To be general

LT. GEN. BURWELL B. BELL III

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., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT W. WAGNER

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., SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD A. HACK

THE FOLLOWING ARMY NATIONAL GUARD OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL GEORGE A. BUSKIRK, JR.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DAVID C. HARRIS

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES T. CONWAY

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. LOWELL E. JACOBY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DAVID L. BREWER III

AIR FORCE NOMINATION OF JAMES M. KNAUF.
AIR FORCE NOMINATION OF GARY P. ENDERSBY.
AIR FORCE NOMINATION OF MARK A. JEFFRIES.
AIR FORCE NOMINATION OF JOHN P. REGAN.
AIR FORCE NOMINATION OF JOHN S. MCFADDEN.
AIR FORCE NOMINATION OF LARRY B. LARGENT.
AIR FORCE NOMINATION OF FRANK W. PALMISANO.

AIR FORCE NOMINATIONS BEGINNING DAVID S. BRENTON AND ENDING BRENDA K. ROBERTS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 1, 2002.

AIR FORCE NOMINATIONS BEGINNING CYNTHIA A. JONES AND ENDING JEFFREY F. JONES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 1, 2002.

AIR FORCE NOMINATION OF MARIO G. CORREIA.
AIR FORCE NOMINATION OF MICHAEL L. MARTIN.

AIR FORCE NOMINATIONS BEGINNING XIAO LI REN AND ENDING JEFFREY H.* SEDGEWICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 1, 2002.

AIR FORCE NOMINATIONS BEGINNING THOMAS A.* AUGUSTINE III AND ENDING CHARLES E.* PYKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 1, 2002.

AIR FORCE NOMINATIONS BEGINNING ERRISH NASSER G. ABU AND ENDING ERNEST J. ZERINGUE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 4, 2002.

AIR FORCE NOMINATIONS BEGINNING DANA H. BORN AND ENDING JAMES L. COOK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 8, 2002.

ARMY NOMINATION OF SCOTT T. WILLIAMS.
ARMY NOMINATION OF ERIK A. DAHL.
ARMY NOMINATION OF JAMES R. KIMMELMAN.
ARMY NOMINATION OF JOHN E. JOHNSTON.

ARMY NOMINATIONS BEGINNING JANET L. BARGEWELL AND ENDING MITCHELL E. TOLMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 8, 2002.

ARMY NOMINATIONS BEGINNING LELAND W. DOCHTERMAN AND ENDING DOUGLAS R. WINTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 8, 2002.

ARMY NOMINATIONS BEGINNING GLENN E. BALLARD AND ENDING MARION J. YESTER, WHICH NOMINATIONS

WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 8, 2002.

ARMY NOMINATION OF ROBERT D. BOIDOCK.

ARMY NOMINATION OF DERMOT M. COTTER.

ARMY NOMINATION OF CONNIE R. KALK.

ARMY NOMINATION OF MICHAEL J. HOILIEN.

ARMY NOMINATION OF ROMEO NG.

ARMY NOMINATIONS BEGINNING JUDY A ABBOTT AND ENDING DENNIS C ZACHARY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 2002.

ARMY NOMINATIONS BEGINNING JOSE ALAMOCARRASQUILLO AND ENDING MATTHEW L ZIZMOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 2002.

ARMY NOMINATIONS BEGINNING ARTHUR L ARNOLD, JR. AND ENDING MARK S VAJCOVEC, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 2002.

ARMY NOMINATIONS BEGINNING ADRINE S ADAMS AND ENDING MARYELLEN YACKA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 2002.

FOREIGN SERVICE NOMINATIONS BEGINNING DEBORAH C. RHEA AND ENDING ASHLEY J. TELLIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 21, 2002.

FOREIGN SERVICE NOMINATIONS BEGINNING DEAN B. WOODEN AND ENDING CLAUDIA L. YELLIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 21, 2002.

NAVY NOMINATION OF RALPH M. GAMBONE.

NAVY NOMINATION OF THOMAS E. PARSHA.

WITHDRAWAL

Executive message transmitted by the President to the Senate on October 17, 2002, withdrawing from further Senate consideration the following nomination:

PETER MARZIO, OF TEXAS, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2006, VICE RUTH Y. TAMURA, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 4, 2002.