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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. HEFLEY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 6, 2003.

I hereby appoint the Honorable JOEL HEFLEY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, Creator of the world and Redeemer of Your people, work in and through each of the Members of this 108th Congress. Help them to be creative in their thinking and persevering in their service, all the while, reconciling differences and difficulties between people. May everything that this Congress undertakes to serve the needs of the American people begin with Your inspiration. May all their work be continued with Your help and reach a happy conclusion under Your guidance.

For You were with us in the beginning. You are with us now, and You will be with us forever and ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. PUTNAM) come forward and lead the House in the Pledge of Allegiance.

Mr. PUTNAM led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 16. Concurrent resolution honoring the life and work of Mr. Fred McFeely Rogers

The message also announced that in accordance with section 1928a–1928d of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Oregon (Mr. SMITH) as Chairman of the Senate Delegation to the North Atlantic Treaty Organization Parliamentary Assembly during the One Hundred Eighth Congress.

The message also announced that pursuant to section 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Alabama (Mr. SESSIONS) as Chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group conference during the One Hundred Eighth Congress.

The message also announced that pursuant to section 2761 of title 22, United States Code, as amended, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, appoints the Senator from Mississippi (Mr. COCHRAN) as Chairman of the Senate Delegation to the British-American Interparliamentary Group conference during the One Hundred Eighth Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minutes at the end of legislative business.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess for approximately 12 minutes, subject to the call of the Chair.

Accordingly (at 10 o'clock and 5 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1015

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HEFLEY) at 10 o'clock and 15 minutes a.m.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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MUSEUM AND LIBRARY SERVICES ACT OF 2003

Mr. HOEKSTRA. Mr. Speaker, pursuant to the order of the House of March 4, 2003, I call up the bill (H.R. 13) to reauthorize the Museum and Library Services Act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 13 is as follows:

H. RES. 13

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 ''Museum and Library Services Act of 2003''.

TITLE I—GENERAL PROVISIONS

SEC. 101. GENERAL DEFINITIONS.

Section 202 of the Museum and Library Services Act (20 U.S.C. 9101) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) DETERMINED TO BE OBSCENE.—The term 'determined to be obscene' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.'';

(2) by striking paragraph (4);

(3) by redesignating paragraph (3) as paragraph (5);

(4) by inserting after paragraph (2) the following:

''(3) FINAL JUDGMENT.—The term 'final judgment' means a judgment that is—

''(A) not reviewed by any other court that has authority to review such judgment; or

''(B) is not reviewable by any other court.

''(4) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''; and

(5) by adding after paragraph (5) (as so redesignated) the following:

''(6) MUSEUM AND LIBRARY SERVICES BOARD.—The term 'Museum and Library Services Board' means the National Museum and Library Services Board established under section 207.

''(7) OBSCENE.—The term 'obscene' means, with respect to a project, that—

''(A) the average person, applying contemporary community standards, would find that such project, when taken as a whole, appeals to the prurient interest;

''(B) such project depicts or describes sexual conduct in a patently offensive way; and

''(C) such project, when taken as a whole, lacks serious literary, artistic, political, or scientific value.''.

SEC. 102. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

Section 203 of the Museum and Library Services Act (20 U.S.C. 9102) is amended—

(1) in subsection (b), by striking the last sentence; and

(2) by adding at the end the following:

''(c) MUSEUM AND LIBRARY SERVICES BOARD.—There shall be a National Museum and Library Services Board within the Institute, as provided under section 207.''.

SEC. 103. DIRECTOR OF THE INSTITUTE.

(a) COORDINATION OF ACTIVITIES.—Section 204(e) of the Museum and Library Services Act (20 U.S.C. 9103(e)) is amended by adding at the end the following: ''Where appropriate, the Director shall ensure that activities under subtitle B are coordinated with activities under section 1251 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6383).''.

(b) REGULATORY AUTHORITY.—Section 204 of such Act (20 U.S.C. 9103) is amended by adding at the end the following:

''(f) REGULATORY AUTHORITY.—The Director may promulgate such rules and regulations as are necessary and appropriate to implement the provisions of this title.

''(g) APPLICATION PROCEDURES.—

''(1) IN GENERAL.—In order to be eligible to receive financial assistance under this title, a person or agency shall submit an application in accordance with procedures established by the Director by regulation.

''(2) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating such applications. Such procedures shall not be subject to any review outside of the Institute. In establishing such procedures, the Director shall ensure that the criteria by which applications are evaluated are consistent with the purposes of this title, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

''(3) TREATMENT OF PROJECTS DETERMINED TO BE OBSCENE.—

''(A) IN GENERAL.—The procedures described in paragraph (2) shall include provisions that clearly specify that obscenity is without literary, artistic, political, or scientific merit, and is not protected speech.

''(B) PROHIBITION.—No financial assistance may be provided under this title with respect to any project that is determined to be obscene.

''(C) TREATMENT OF APPLICATION DISAPPROVAL.—The disapproval of an application by the Director shall not be construed to mean, and shall not be considered as evidence that, the project for which the applicant requested financial assistance is or is not obscene.''.

SEC. 104. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended—

(1) by redesignating section 207 as section 208; and

(2) by inserting after section 206 the following:

''SEC. 207. NATIONAL MUSEUM AND LIBRARY SERVICES BOARD.

''(a) ESTABLISHMENT.—There is established in the Institute a board to be known as the 'National Museum and Library Services Board'.

''(b) MEMBERSHIP.—

''(1) NUMBER AND APPOINTMENT.—The Museum and Library Services Board shall be composed of the following:

''(A) The Director.

''(B) The Deputy Director for the Office of Library Services.

''(C) The Deputy Director for the Office of Museum Services.

''(D) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified in the area of library services by virtue of their education, training, or experience.

''(E) 10 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified in the area of museum services by virtue of their education, training, or experience.

''(2) SPECIAL QUALIFICATIONS.—

''(A) LIBRARY MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(D)—

''(i) 5 shall be professional librarians or information specialists, of whom—

''(I) at least 1 shall be knowledgeable about electronic information and technical aspects of library and information services and sciences; and

''(II) and at least 1 other shall be knowledgeable about the library and information service needs of underserved communities; and

''(ii) the remainder shall have special competence in, or knowledge of, the needs for library and information services in the United States.

''(B) MUSEUM MEMBERS.—Of the members of the Museum and Library Services Board appointed under paragraph (1)(E)—

''(i) 5 shall be museum professionals who are or have been affiliated with—

''(I) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

''(II) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, botanical gardens, and museums designed for children; and

''(ii) the remainder shall be individuals recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

''(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum and Library Services Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum and Library Services Board may not include, at any time, more than 3 appointive members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums and libraries.

''(4) VOTING.—The Director, the Deputy Director of the Office of Library Services, and the Deputy Director of the Office of Museum Services shall be nonvoting members of the Museum and Library Services Board.

''(c) TERMS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, each member of the Museum and Library Services Board appointed under subparagraph (D) or (E) of subsection (b)(1) shall serve for a term of 5 years.

''(2) INITIAL BOARD APPOINTMENTS.—

''(A) TREATMENT OF MEMBERS SERVING ON EFFECTIVE DATE.—Notwithstanding subsection (b), each individual who is a member of the National Museum Services Board on the date of the enactment of the Museum and Library Services Act of 2003, may, at the individual's election, complete the balance of the individual's term as a member of the Museum and Library Services Board.

''(B) FIRST APPOINTMENTS.—Notwithstanding subsection (b), any appointive vacancy in the initial membership of the Museum and Library Services Board existing after the application of subparagraph (A), and any vacancy in such membership subsequently created by reason of the expiration of the term of an individual described in subparagraph (A), shall be filled by the appointment of a member described in subsection (b)(1)(D). When the Museum and Library Services Board consists of an equal number of individuals who are specially qualified in the area of library services and individuals who are specially qualified in the area of museum services, this subparagraph shall cease to be effective and the board shall be appointed in accordance with subsection (b).

''(C) AUTHORITY TO ADJUST TERMS.—The terms of the first members appointed to the Museum and Library Service Board shall be adjusted by the President as necessary to ensure that the terms of not more than 4 members expire in the same year. Such adjustments shall be carried out through designation of the adjusted term at the time of appointment.

''(3) VACANCIES.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

''(4) REAPPOINTMENT.—No appointive member of the Museum and Library Services Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

''(5) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, an appointive member of the Museum and Library Services Board shall serve after the expiration of the term of the member until the successor to the member takes office.

''(d) DUTIES AND POWERS.—

''(1) IN GENERAL.—The Museum and Library Services Board shall advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum and library services, including financial assistance awarded under this title.

''(2) NATIONAL AWARDS.—The Museum and Library Services Board shall assist the Director in making awards under section 209.

''(e) CHAIRPERSON.—The Director shall serve as Chairperson of the Museum and Library Services Board.

''(f) MEETINGS.—

''(1) IN GENERAL.—The Museum and Library Services Board shall meet not less than 2 times each year and at the call of the Director.

''(2) VOTE.—All decisions by the Museum and Library Services Board with respect to the exercise of its duties and powers shall be made by a majority vote of the members of the Board who are present and authorized to vote.

''(g) QUORUM.—A majority of the voting members of the Museum and Library Services Board shall constitute a quorum for the conduct of business at official meetings, but a lesser number of members may hold hearings.

''(h) COMPENSATION AND TRAVEL EXPENSES.—

''(1) COMPENSATION.—Each member of the Museum and Library Services Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum annual rate of pay authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum and Library Services Board. Members of the Museum and Libraries Services Board who are full-time officers or employees of the Federal Government may not receive additional pay, allowances, or benefits by reason of their service on the Board.

''(2) TRAVEL EXPENSES.—Each member of the Museum and Library Services Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

''(i) COORDINATION.—The Director, with the advice of the Museum and Library Services Board, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.''.

SEC. 105. AWARDS; ANALYSIS OF IMPACT OF SERVICES.

The Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended by inserting after section 208 (as redesignated by section 104 of this Act) the following:

''SEC. 209. AWARDS.

''The Director, with the advice of the Museum and Library Services Board, may annually award National Awards for Library Service and National Awards for Museum Service to outstanding libraries and outstanding museums, respectively, that have made significant contributions in service to their communities.

''SEC. 210. ANALYSIS OF IMPACT OF MUSEUM AND LIBRARY SERVICES.

''From amounts described in sections 214(c) and 275(b), the Director shall carry out and publish analyses of the impact of museum and library services. Such analyses—

''(1) shall be conducted in ongoing consultation with—

''(A) State library administrative agencies;

''(B) State, regional, and national library and museum organizations; and

''(C) other relevant agencies and organizations;

''(2) shall identify national needs for, and trends of, museum and library services provided with funds made available under subtitles B and C;

''(3) shall report on the impact and effectiveness of programs conducted with funds made available by the Institute in addressing such needs; and

''(4) shall identify, and disseminate information on, the best practices of such programs to the agencies and entities described in paragraph (1).''.

TITLE II—LIBRARY SERVICES AND TECHNOLOGY

SEC. 201. PURPOSE.

Section 212 of the Library Services and Technology Act (20 U.S.C. 9121) is amended by striking paragraphs (2) through (5) and inserting the following:

''(2) to promote improvement in library services in all types of libraries in order to better serve the people of the United States;

''(3) to facilitate access to resources in all types of libraries for the purpose of cultivating an educated and informed citizenry; and

''(4) to encourage resource sharing among all types of libraries for the purpose of achieving economical and efficient delivery of library services to the public.''.

SEC. 202. DEFINITIONS.

Section 213 of the Library Services and Technology Act (20 U.S.C. 9122) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 214 of the Library Services and Technology Act (20 U.S.C. 9123) is amended—

(1) by amending subsection (a) to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $210,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.''; and

(2) in subsection (c), by striking ''3 percent'' and inserting ''3.5 percent''.

SEC. 204. RESERVATIONS AND ALLOTMENTS.

Section 221(b)(3) of the Library Services and Technology Act (20 U.S.C. 9131(b)(3)) is amended to read as follows:

''(3) MINIMUM ALLOTMENTS.—

''(A) IN GENERAL.—For purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(B) RATABLE REDUCTIONS.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the requirement of subparagraph (A), each of the minimum allotments under such subparagraph shall be reduced ratably.

''(C) EXCEPTION.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003—

''(I) the minimum allotment for each State otherwise receiving a minimum allotment of $340,000 under subparagraph (A) shall be increased to $680,000; and

''(II) the minimum allotment for each State otherwise receiving a minimum allotment of $40,000 under subparagraph (A) shall be increased to $60,000.

''(ii) INSUFFICIENT FUNDS TO AWARD ALTERNATIVE MINIMUM.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003 yet is insufficient to fully satisfy the requirement of clause (i), such excess amount shall first be allotted among the States described in clause (i)(I) so as to increase equally the minimum allotment for each such State above $340,000. After the requirement of clause (i)(I) is fully satisfied for any fiscal year, any remainder of such excess amount shall be allotted among the States described in clause (i)(II) so as to increase equally the minimum allotment for each such State above $40,000.

''(D) SPECIAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

''(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(iii) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.''.

SEC. 205. STATE PLANS.

Section 224 of the Library Services and Technology Act (20 U.S.C. 9134) is amended—

(1) in subsection (a)(1), by striking ''not later than April 1, 1997.'' and inserting ''once every 5 years, as determined by the Director.''; and

(2) in subsection (f)—

(A) by striking ''this Act'' each place such term appears and inserting ''this subtitle'';

(B) in paragraph (1), by striking ''1934,'' and all that follows through ''Act, may'' and inserting ''1934 (47 U.S.C. 254(h)(6)) may''; and

(C) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by striking ''section:'' and inserting ''subsection:''; and

(ii) in subparagraph (D), by striking ''given'' and inserting ''applicable to''.

SEC. 206. GRANTS TO STATES.

Section 231 of the Library Services and Technology Act (20 U.S.C. 9141) is amended—

(1) in subsection (a), by striking paragraphs (1) and (2) and inserting the following:

''(1) expanding services for learning and access to information and educational resources in a variety of formats, in all types of libraries, for individuals of all ages;

''(2) developing library services that provide all users access to information through local, State, regional, national, and international electronic networks;

''(3) providing electronic and other linkages among and between all types of libraries;

''(4) developing public and private partnerships with other agencies and community-based organizations;

''(5) targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills; and

''(6) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.''; and

(2) in subsection (b), by striking ''between the two purposes described in paragraphs (1) and (2) of such subsection,'' and inserting ''among such purposes,''.

SEC. 207. NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.

Section 262(a)(1) of the Library Services and Technology Act (20 U.S.C. 9162(a)(1)) is amended by striking ''education and training'' and inserting ''education, recruitment, and training''.

TITLE III—MUSEUM SERVICES

SEC. 301. PURPOSE.

Section 271 of the Museum and Library Services Act (20 U.S.C. 9171) is amended to read as follows:

''SEC. 271. PURPOSE.

''It is the purpose of this subtitle—

''(1) to encourage and support museums in carrying out their public service role of connecting the whole of society to the cultural, artistic, historical, natural, and scientific understandings that constitute our heritage;

''(2) to encourage and support museums in carrying out their educational role, as core providers of learning and in conjunction with schools, families, and communities;

''(3) to encourage leadership, innovation, and applications of the most current technologies and practices to enhance museum services;

''(4) to assist, encourage, and support museums in carrying out their stewardship responsibilities to achieve the highest standards in conservation and care of the cultural, historic, natural, and scientific heritage of the United States to benefit future generations;

''(5) to assist, encourage, and support museums in achieving the highest standards of management and service to the public, and to ease the financial burden borne by museums as a result of their increasing use by the public; and

''(6) to support resource sharing and partnerships among museums, libraries, schools, and other community organizations.''.

SEC. 302. DEFINITIONS.

Section 272(1) of the Museum and Library Services Act (20 U.S.C. 9172(1)) is amended by adding at the end the following: ''Such term includes aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.''.

SEC. 303. MUSEUM SERVICES ACTIVITIES.

Section 273 of the Museum and Library Services Act (20 U.S.C. 9173) is amended to read as follows:

''SEC. 273. MUSEUM SERVICES ACTIVITIES.

''(a) IN GENERAL.—The Director, subject to the policy advice of the Museum and Library Services Board, may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance to museums and other entities as the Director considers appropriate, to pay for the Federal share of the cost—

''(1) to support museums in providing learning and access to collections, information, and educational resources in a variety of formats (including exhibitions, programs, publications, and websites) for individuals of all ages;

''(2) to support museums in building learning partnerships with the Nation's schools and developing museum resources and programs in support of State and local school curricula;

''(3) to support museums in assessing, conserving, researching, maintaining, and exhibiting their collections, and in providing educational programs to the public through the use of their collections;

''(4) to stimulate greater collaboration among museums, libraries, schools, and other community organizations in order to share resources and strengthen communities;

''(5) to encourage the use of new technologies and broadcast media to enhance access to museum collections, programs, and services;

''(6) to support museums in providing services to people of diverse geographic, cultural, and socioeconomic backgrounds and to individuals with disabilities;

''(7) to support museums in developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and State institutions;

''(8) to support professional development and technical assistance programs to enhance museum operations at all levels, in order to ensure the highest standards in all aspects of museum operations;

''(9) to support museums in research, program evaluation, and the collection and dissemination of information to museum professionals and the public; and

''(10) to encourage, support, and disseminate model programs of museum and library collaboration.

''(b) FEDERAL SHARE.—

''(1) 50 PERCENT.—Except as provided in paragraph (2), the Federal share described in subsection (a) shall be not more than 50 percent.

''(2) GREATER THAN 50 PERCENT.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to enter into arrangements under subsection (a) for which the Federal share may be greater than 50 percent.

''(3) OPERATIONAL EXPENSES.—No funds for operational expenses may be provided under this section to any entity that is not a museum.

''(c) REVIEW AND EVALUATION.—

''(1) IN GENERAL.—The Director shall establish procedures for reviewing and evaluating arrangements described in subsection (a) entered into under this subtitle.

''(2) APPLICATIONS FOR TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—The Director may use up to 10 percent of the funds appropriated to carry out this subtitle for technical assistance awards.

''(B) INDIVIDUAL MUSEUMS.—Individual museums may receive not more than 3 technical assistance awards under subparagraph (A), but subsequent awards for technical assistance shall be subject to review outside the Institute.

''(d) SERVICES FOR NATIVE AMERICANS.—From amounts appropriated under section 275, the Director shall reserve 1.75 percent to award grants to, or enter into contracts or cooperative agreements with, Indian tribes and organizations that primarily serve and represent Native Hawaiians (as defined in section 7207 of the Native Hawaiian Education Act (20 U.S.C. 7517)), to enable such tribes and organizations to carry out the activities described in subsection (a).''.

SEC. 304. REPEALS.

Sections 274 and 275 of the Museum and Library Services Act (20 U.S.C. 9174 and 9175) are repealed.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

Section 276 of the Museum and Library Services Act (20 U.S.C. 9176)—

(1) is redesignated as section 275 of such Act; and

(2) is amended, in subsection (a), by striking ''$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.'' and inserting ''$35,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.''.

SEC. 306. SHORT TITLE.

Subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended—

(1) by redesignating sections 271 through 273 as sections 272 through 274, respectively; and

(2) by inserting after the subtitle heading the following:

''SEC. 271. SHORT TITLE.

''This subtitle may be cited as the 'Museum Services Act'.''.

TITLE IV—TECHNICAL CORRECTIONS; REPEALS; EFFECTIVE DATE

SEC. 401. TECHNICAL CORRECTIONS.

(a) TITLE HEADING.—The title heading for the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

''TITLE II—MUSEUM AND LIBRARY SERVICES''.

(b) SUBTITLE A HEADING.—The subtitle heading for subtitle A of the Museum and Library Services Act (20 U.S.C. 9101 et seq.) is amended to read as follows:

''Subtitle A—General Provisions''.

(c) SUBTITLE B HEADING.—The subtitle heading for subtitle B of the Museum and Library Services Act (20 U.S.C. 9121 et seq.) is amended to read as follows:

''Subtitle B—Library Services and Technology''.

(d) SUBTITLE C HEADING.—The subtitle heading for subtitle C of the Museum and Library Services Act (20 U.S.C. 9171 et seq.) is amended to read as follows:

''Subtitle C—Museum Services''.

(e) CONTRIBUTIONS.—Section 208 of the Museum and Library Services Act (20 U.S.C. 9106) (as redesignated by section 104 of this

Act) is amended by striking ''property of services'' and inserting ''property or services''.

(f) STATE PLAN CONTENTS.—Section 224(b)(5) of the Library Services and Technology Act (20 U.S.C. 9134(b)(5)) is amended by striking ''and'' at the end.

(g) NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.—Section 262(b)(1) of the Library Services and Technology Act (20 U.S.C. 9162(b)(1)) is amended by striking ''cooperative agreements, with,'' and inserting ''cooperative agreements with,''.

SEC. 402. REPEALS.

(a) NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE ACT.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(b) MUSEUM AND LIBRARY SERVICES ACT OF 1996.—Sections 704 through 707 of the Museum and Library Services Act of 1996 (20 U.S.C. 9102 note, 9103 note, and 9105 note) are repealed.

SEC. 403. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act, except that the amendments made by sections 203, 204, and 305 shall take effect on October 1, 2003.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, March 4, 2003, the gentleman from Michigan (Mr. HOEKSTRA) and the gentleman from Texas (Mr. HINOJOSA) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. HOEKSTRA).

GENERAL LEAVE

Mr. HOEKSTRA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 13.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOEKSTRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House will consider H.R. 13, the Museum and Library Services Act of 2003, which authorizes Federal assistance to museums and libraries through fiscal year 2009.

H.R. 13 maintains the modest, but essential, Federal support for museums and libraries across the country. It authorizes funds for the one Federal agency, the Institute of Museum and Library Services, devoted exclusively to museums and libraries, and encourages model cooperation between museums and libraries.

Last Congress, the Committee on Education and the Workforce reported a bipartisan authorization bill that had 94 cosponsors. It was supported by the administration and was endorsed by the American Library Association, the chief officers of State library agencies, and the American Association of Museums.

To complete our work from last Congress, I introduced H.R. 13, the Museum and Library Services Act of 2003. H.R. 13 has 126 cosponsors, makes several modifications to current law to streamline and strengthen museum and library services, and will help build on the bipartisan progress made by the committee during the 107th Congress.

Generally, this legislation authorizes the Federal Library and Museum program under the Institute of Museum and Library Services. More specifically, H.R. 13 requires the director of the Institute of Museum and Library Services to establish procedural standards for making grants available to museums and libraries which will prohibit projects that are determined to be obscene from receiving funding, ensures that library activities are coordinated with activities under the No Child Left Behind Act of 2001, consolidates Museum and Library Advisory Board activities under a single statute, authorizes the director of the Institute of Museum and Library Services to present national awards for library service and national awards for museum service, and ensures that administrative funds are also used to conduct annual analyses of the impact of museum and library services in order to evaluate and identify needs and trends of services provided under IMLS-funded programs.

I believe there is broad support for this reauthorization legislation, because museums and libraries are a vital part of our society. Attendance at America's museums is now at more than 865 million visits per year, and today's 21st century library is not merely a provider of books. Instead, the typical library coordinates a complete and comprehensive approach to community development and services.

The Library Services and Technology subtitle is the only Federal program solely devoted to supporting libraries. This legislation assists libraries in providing crucial services to the communities they serve. Throughout our Nation, libraries are at the forefront of reading and family literacy programs; and importantly, libraries serve as essential links to the business community, assisting with job creation and training programs, and assisting with business development initiatives as well. They are also critical for many people with disabilities, providing them with specialized materials and resources that are obtainable in a single location.

For older Americans, libraries provide a place to interact with others, use the Internet, and receive services. For those persons of limited resources or who live in remote areas, libraries provide access to books and reference materials, computers and the Internet, and community-based social services that are often available nowhere else.

The Museum and Library Services Act also supports museums in their educational role and assists museums in modernizing their methods and facilities so they are better able to conserve the cultural, historical, and scientific heritage of the United States.

Museums play an important role in its education of people of all ages. Specifically, most American museums provide K through 12 educational programming, with most using local and State curriculum standards to shape their programs. Additionally, museums increasingly partner with libraries to offer joint educational opportunities for adults, as well as children.

The Museum and Library Services Act of 2003 makes commonsense reforms to authorize museum and library activities, includes provisions important to Members on both sides of the aisle, and reauthorizes a program that should be supported by this Congress.

I would like to thank all those who participated in this process, including the ranking Democrat on the committee, the gentleman from California (Mr. GEORGE MILLER), the Institute of Museum and Library Services, the American Library Association, the chief officers of State library agencies and the American Association of Museums. They deserve a great deal of the credit for this bipartisan bill before us today.

I look forward to moving this legislation through the House and working with the Senate to complete an authorization bill that President Bush will support, so that we can ensure that our Nation's museums and libraries are getting the best assistance we are able to provide from the Federal level.

I would also like to thank the staff that has worked on this bill.

I look forward to working with the gentleman from Texas (Mr. HINOJOSA) on other legislation that will come through the subcommittee. We really did not work on this, we took a lot of what we did in the last Congress on this bill, but I really appreciate starting off in such a positive way on this bill, and also on the Child Abuse Prevention and Treatment Act that the House will consider sometime in the next couple of weeks.

I think it is a great start for this subcommittee. I look forward to working with my colleague on other legislation that will come before the subcommittee and am sure we will have the same kind of bipartisan effort on that legislation, especially the Corporation for National Community Service which our subcommittee will consider this year. I think this is a great start.

Mr. Speaker, I reserve the balance of my time.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation that means so much to our Nation; and I, too, want to thank the gentleman from Ohio (Chairman BOEHNER); our ranking member, the gentleman from California (Mr. GEORGE MILLER); and my good friend and colleague, the gentleman from Michigan (Chairman HOEKSTRA), the chairman of the subcommittee, for their work in bringing this bill to the floor today.

We have experienced an economic downturn over the past 2 years; and as

a result, the continuing vitality of our museums is in question. Many have had to close their doors to the public, staff has been laid off, budgets for curriculum materials has been reduced, and the general public wonders about our national priorities.

With our present economy, we have fewer contributions from corporations in support of vital library and museum functions. I support the reauthorization of the Museum and Library Services Act because all of us realize the vital importance of these institutions for our national fabric.

The bill provides modest, but essential, support for museums of all sizes to help them continue their operations, ensure equity of access, and foster culture and education for all our people.

In addition to operating expenses, the act elevates the role of these institutes of lifelong learning. Libraries are essential to parents and community organizations as they look for innovative ways to educate our children, our youth, and adults. The business community also has a big interest in excellent libraries, since the knowledge base for job creation, training programs and business development is a significant portion of library holdings.

In the past 5 years, libraries and museums have received hundreds of millions of dollars under this act to address a wide range of needs, including assessment of museum operations, conservation projects, staff training, technology upgrades, electronic linkages, resource sharing, and outreach programs.

I know that my own State of Texas has benefited from this act, and there is a project in Weslaco in my congressional district which is doing very good work with the resources provided by the Federal Government.

As the need for lifelong learning becomes even greater in the coming decades, this act will become increasingly vital. We have before us a good example of Federal, State, and local partnerships that deserves our continuing support.

I applaud the leadership for bringing this bill to the floor and urge all of my colleagues to support H.R. 13.

I also want to say that I look forward to working with our subcommittee chairman, the gentleman from Michigan (Mr. HOEKSTRA), because there are many things on the Committee on Education and the Workforce that we need to address. I hope we can work together in calling hearings so that we can get the input from the community nationwide as our States are facing big deficits in their respective governments and legislatures. I know that access to higher education at the community colleges and universities is going to be a serious problem because of the cuts that they have to make.

Mr. Speaker, I look forward to looking at that, and many other issues that are going to be very important to us here in our Nation's capital.

Mr. Speaker, I reserve the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BURNS), a new member of the subcommittee.

Mr. BURNS. Mr. Speaker, I rise in support of H.R. 13, the Museum and Library Services Act of 2003.

Museums and libraries are a fundamental part of our society. They remain an integral component of our education system. As has been noted, attendance at American museums continues to grow, and today's library offers critical community services for all of our citizens.

Charlotte Rogers, the director of the Jefferson County Library System in the Twelfth Congressional District of Georgia, has contacted me in support of this bill because the people of Jefferson County, the people of the State of Georgia and the people of the twelfth district benefit from the services provided by these excellent institutions.

With over a dozen higher-educational institutions in the twelfth district, this bill will ensure continued support for a key component of a balanced education.

H.R. 13 provides the essential Federal support for museums and libraries across this country. As a new member of the Committee on Education and the Workforce, I was pleased to support this bill during its consideration. I look forward to voting for the passage of this bill, and I urge my colleagues to join me in that effort.

□ 1030

Mr. HINOJOSA. Mr. Speaker, I yield 5 minutes to the outstanding gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to thank and congratulate my colleagues who worked on this legislation. I also thank my colleagues in general for appreciating the role of libraries and museums.

I also would like to issue a new, repeated challenge to the Members of Congress to take a hard look at libraries and see that we have certainly shortchanged them or overlooked their importance as an institution that gives us the greatest bang for the buck. Our cost-benefits ratio with libraries is probably greater than any institution that we fund anywhere.

Mr. HOEKSTRA. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, excuse me for interrupting, but before the gentleman continues with his remarks, I think it would be appropriate that the House recognizes that the gentleman from New York (Mr. OWENS) is well-versed in this area, I believe being the only librarian, professional librarian, as a Member of the House of Representatives.

I would like to congratulate the gentleman and make that reference before the gentleman continues his remarks. I thank the gentleman for being down here.

Mr. OWENS. Mr. Speaker, I thank the gentleman very much. Now that my objectivity has been established, I would like to say that we have been slow to recognize it, but I hope that this bill will help to concretize in our minds the value of libraries and museums to work together.

I happen to live across the street from one of the greatest museums in America, the Brooklyn Museum of Art. I also live one block away from one of the greatest public libraries, the Central Library of the Brooklyn Public Library, where I worked for 8 years as a librarian. I got a master's degree from the Atlanta University School of Library Science, and was a librarian for 8 years before I went into another line of work that led to politics.

But in the history of Federal funding of libraries, everything we have done for libraries, of all the years there has been some kind of Federal assistance it would not equal the price of one aircraft carrier. I think that is unfortunate, because we do get a great deal of cost-benefits ratio, a good cost-benefit ratio from libraries.

I am particularly interested in the library service as the technology section of this bill. That section recognizes that libraries are moving with the mainstream in terms of digitalized and computerized learning, and that it is probably in the forefront. Long before other institutions were utilizing computers, we had a cataloging system that came out of Ohio where we could catalog any book in the Nation and put it through a computer system, and that one cataloging process could serve all the libraries throughout the Nation.

Cooperation among libraries of various kinds has gone on for a long, long time. One of the reasons libraries were able to deliver so much with so little is that they have always had those networks where they cooperate among libraries in a given system, among libraries across State borders, among local libraries and the Library of Congress. They are models of cooperation and collaboration.

We should also realize that in times of recession when we have difficult economic times, the libraries are used more than ever. This is a pattern that started certainly in the Great Depression. It has not changed.

I understand from my colleagues now in library service positions, especially public libraries, the use of libraries has gone up as the recession has set in. People go for very practical purposes: They are looking for books that will deal with changes in their occupations, or for various reasons; it is not recreational reading they go for when times are hard. So we should bear that in mind also, that it is an instrument by which people are able to change their own lives.

We also have had demonstrated over and over again, despite the fact that people who make budget decisions at

the local level often cut libraries first, that surveys in several cities and localities have established the fact that if the public is given the choice, would you pay more taxes for a particular service, libraries are right at the top in terms of individuals are willing to pay more taxes in order to keep their libraries open and keep their libraries operating at a quality level. That has been proven again and again. So in our reluctance to fund libraries, we are running counter to the perception of the public in terms of an institution where we get our money's worth.

Museums, of course, now serve so many different kinds of purposes. When we say ''museum,'' we are not necessarily talking about an art museum. There are museums of all kinds. I have three grandchildren, and my oldest grandson is 5 years old. He has dinosaur books, but when he went to a library and saw an exhibit, he came back and wanted to be a paleontologist. That big word certainly had meaning for him.

I hope that in the future we would be more generous and would be willing to authorize higher sums for these institutions that have proven their worth over and over again.

Mr. HOEKSTRA. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I rise today in support of H.R. 13.

The SPEAKER pro tempore (Mr. HEFLEY). The gentlewoman will suspend.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(b) of rule I, the Chair declares the House in emergency recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 35 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1105

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CALVERT) at 11 o'clock and 5 minutes a.m.

MUSEUM AND LIBRARY SERVICES ACT OF 2003

The SPEAKER pro tempore. When the recess was declared, the House was considering H.R. 13 and 43½ minutes of debate remained.

The gentleman from Michigan (Mr. HOEKSTRA) has 22½ minutes remaining and the gentleman from Texas (Mr. HINOJOSA) has 21 minutes remaining.

Prior to the recess, the gentleman from Michigan had yielded two minutes to the gentlewoman from New York (Mrs. KELLY), and the gentlewoman from New York had 2 minutes remaining.

The Chair recognizes the gentlewoman from New York.

Mrs. KELLY. Mr. Speaker, I rise today in support of H.R. 13, the sole Federal agency devoted exclusively to museums and libraries which partners with schools to educate America's young.

Museums and libraries have traditionally served us as lifelong centers of learning creating centralized locations for the dissemination of information that provides equal access for Americans of all ages.

As the availability of information increases through the use of computer technologies, it is only logical that museums and libraries expand their services in order to fully maximize their mission as reference centers, as well as to fill the public's need to acquire the necessary skills to utilize such technology and reap the benefits of this expansion of cultural and historical knowledge.

The money in this bill will be used to bring projects and resources that would not otherwise be available in our communities to our local libraries and to this Nation's fine museums.

In my district, libraries provide paid mentors that help kids and families with homework in the library, especially they try to include parents whose first language is not English. In addition to the establishment of the centers, the grant has provided for the addition of several important learning resources to participating libraries' collections.

The authorization of the MLSA is an important step to helping students and other museums and library patrons find the resources and materials that they need to successfully come together and share information about history and culture.

Passing this legislation will ensure that libraries and museums across the country continue to provide accessible, safe, dynamic places of learning for all Americans.

I urge my colleagues to join me in supporting this legislation.

Mr. HINOJOSA. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman from Texas (Mr. HINOJOSA) for his leadership on something that is so important to America, and that is, the Museum and Library Services Act.

As my colleague has pointed out, this bill authorizes $245 million in Federal assistance for museums and libraries in the coming fiscal year and additional funds all the way through the end of this decade.

A civilized society, Mr. Speaker, must include cultural enrichment, and it is one of the responsibilities of our government to support that aspect of our civilization. We get what we pay for. Thanks to our museums and libraries, our citizens become well-rounded individuals, and our children are encouraged to become the best that they can be.

Let me highlight for a few minutes, Mr. Speaker, a few of the success stories that come out from the Library Services and Technology Act, which is a part of the Museum and Library Services Act, in my home State of California.

The Infopeople project provides training and computers for local libraries, assuring public access to the Internet in 530 of our State's 765 public libraries.

The University of California in San Diego is assisting over 100 libraries and cultural institutions to recover from natural and man-made disasters.

The County of Los Angeles Public Library is training college students to assist with the library's Summer Reading Program for Children, providing work experience for students while helping open the door to reading for over 30,000 of our children.

The Family Literacy Program provides programs and books for infants and children.

The Oceanside Public Library in San Diego County provides health information from a mobile vehicle funded through this Act.

From my own congressional district, in the city of National City, one of the poorest cities in California, but blessed with a great city librarian, Anne Campbell, this city has funded a large community computer center in the National City Public Library. Over 50,000 residents each year have access to electronic information, software programs, Internet and training. Residents are working on job resumes, e-mailing a loved one aboard a Navy ship, running a business, preparing reports for school and 1,000 other uses that we know that the Internet can provide.

Currently, a grant from this Act provides Web page design training for high school students, with real life experiences designing Web sites for local businesses and nonprofit organizations. From the first class, already two students have been hired permanently to continue to update these Web sites. So the digital divide of which we hear a lot has been narrowed in National City because of the LSTA.

We can go on for a long time about the stories. These are just a few, but they would not be possible without our investment in our Nation's libraries.

I urge support of this legislation, and I thank the gentleman for yielding.

Mr. HOEKSTRA. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I want to thank the gentleman and my friend from Michigan for granting me the time to rise and speak in strong support of H.R. 13, the Museum and Library Services Act of 2003.

Mr. Speaker, America has a moral obligation to support its museums and libraries, and throughout our Nation, libraries are at the forefront of our reading, education and family literacy programs. Museums are the centerpiece of our history and civilization, and together, our museums and libraries form the core of democracy in America.

This year, Mr. Speaker, more than 865 million people will visit a museum in America. Millions of students will take out their first book and millions of families will gather for community literacy and learning programs.

All of us remember our very first library card. All of us remember our very first library experience, that first book and that first story which always means so much in our lives, and the role of libraries in American society is and will continue to be critical to our future.

I remember my hometown library, and I especially remember with great fondness and respect and admiration for her impact on my life my own hometown librarian, Martha Gould, who now serves on the National Commission on Libraries and Information Science. Not only has Martha Gould provided technical and institutional knowledge held by libraries in strengthening America's homeland defense, she stands as a stalwart supporter of our library system and works diligently to ensure that our libraries keep up with the 21st century technology and maintain their core function of providing all Americans with the means and capabilities of preserving and protecting democracy.

I urge all my colleagues to support H.R. 13 for our Nation, and for the future generations of America.

Mr. HINOJOSA. Mr. Speaker, I yield back the balance of my time.

Mr. HOEKSTRA. Mr. Speaker, I have no further requests for time. I thank my colleague for helping us move this bill and encourage all of our colleagues to vote in support of this reauthorization.

Ms. MILLENDER-McDONALD. Mr. Speaker, I stand before you today to offer my support of H.R. 13, the Museum and Library Services Act of 2003 authorizing our federal library and museum programs under the Institute of Museum and Library Services. As a former educator and life-long supporter of the arts, I fervently believe we must reauthorize the Museum and Library Services Act, and do much more to promote libraries and literacy, and to help art in all of its forms to continue to flourish.

We must do all we can to encourage the growth of such institutions, which help to enlighten us regarding our rich and diverse cultural heritage.

We have a strong tradition of providing our citizens with world-class library services and museums. Under H.R. 13, library services nationwide will be enhanced in order to better meet the needs of all Americans by: extending access to information for citizens in all types of libraries and thus increase citizens' knowledge, and assisting libraries in more effectively sharing resources to promote the streamlined delivery of services.

In my District, the County of Los Angeles Public Library offers CHIPS, a consumer health information program located in the City of Carson. This invaluable service offers my constituents information and referrals, responds to reference questions and circulates health materials to the community. Through CHIPS, constituents in my District can become better informed about the quality of their health by gaining up-to-date medical information. The State of California also offers through our libraries:

Working with Kids@Your Library, an internship program for undergraduate students tutoring children in the Summer Reading Program;

Live Homework Help, a program offering students grades 5–12 online access to tutors, or 20 minutes of one-on-one tutoring now available through the Long Beach Public Library; and

Grapes of Wrath Program in the Long Beach Public Library to promoting reading and discussion of John Steinbeck's Pulitzer-prize winning book.

Under H.R. 13, the Library Services and Technology section of the Act will provide almost $250 million in special funding to libraries and museums nationwide. In the past, my District received approximately $410,000 to fund vitally needed programs for libraries and museums, and continued funding is required in order for ongoing community needs to be met.

By providing additional grants to states, we can offer citizens:

Greater access to utilizing information electronically;

Facilitate electronic and other linkages between all kinds of libraries;

Create public and private partnerships with external community-based groups and other agencies;

Direct library services to people of distinct cultural, geographic and socioeconomic backgrounds, as well as to persons with disabilities, and those with limited literacy skills; and

Tailor library and information services to people experiencing difficulty using libraries, including children from low-income families, and individuals living in underserved urban and rural areas.

Under H.R. 13, our museums will be better able to continue their tradition of public service by integrating all of society to the natural, cultural, historic, artistic and scientific aspects of our heritage. In my District, I am a proud advocate of the Museum of Latin American Art in the City of Long Beach, which is distinguished as the only museum in the western United States to only feature contemporary Latin American art.

By passing H.R. 13, we will help our museums by: promoting the educational roles played by museums; and extending the exchange of resources and promoting partnerships among schools, libraries, museums, and other community groups.

Because we live in an era when life-long and distance learning are essential to increasing citizens' access to education and vocational opportunities, it is critical that we provide our libraries with the maximum support necessary for them to carry out their missions. At the same time, we must assist our museums so that they may keep raising our awareness and enrich our communities through art.

Mr. BEREUTER. Mr. Speaker, as a cosponsor of the resolution, this Member wishes to add his strong support for the Museums and Library Services Act (H.R. 13), as museums and libraries certainly are a vital part of our society.

This Member would like to commend the distinguished gentleman from Ohio (Mr. BOEHNER), the Chairman of the House Committee on Education and the Workforce, and the distinguished gentleman from California (Mr. MILLER), the ranking member of the House Committee on Education and the Workforce for bringing this important resolution to the House floor today. This Member would also like to commend the distinguished gentleman from Michigan (Mr. HOEKSTRA), chairman of the Subcommittee on Select Education, for sponsoring H.R. 13.

Attendance at American museums is now at more than 865 million visits per year. Today's 21st Century library is not just a provider of books, as the typical American library coordinates a complete and comprehensive approach to community development and services.

The Museum and Library Services Act of 2003 authorizes Federal assistance to museums and libraries through fiscal year 2009. The legislation maintains the modest but essential Federal support for museums and libraries across the country; authorizes funds for the one Federal agency—the Institute of Museum and Library Services—devoted exclusively to museums and libraries, which are natural partners with our nation's schools; and encourages model cooperation between museums and libraries.

Mr. Speaker, in closing, this Member urges his colleagues to support H.R. 13.

Mr. BOEHNER. Mr. Speaker, this year more than 865 million people will visit a museum in America and millions will use their local library for books and other community services. Libraries and museums play a vital role in educating our children and promoting communities.

Throughout our Nation, libraries are at the forefront of reading and family literacy programs. Libraries are critical to many people with disabilities, providing them with specialized materials and resources that are obtainable in a single accessible location. For those persons of limited financial resources or who live in remote areas, libraries provide access to books and reference materials, computer services, and other community-based services.

Museums across the country work with local schools to provide K–12 educational programming. They are an important source of cultural and historical knowledge for people, as they learn about the history and traditions of our country and other places around the world. In addition, museums serve as places where people of different backgrounds come together to share information about history, culture, and civilization.

Under the leadership of Chairman HOEKSTRA in the last Congress, the Education and the Workforce Committee worked in a bipartisan manner to report the Museum and Library Services Act of 2002. That bill had 94 cosponsors, was supported by the Bush Administration, and had been endorsed by the American Library Association, the Chief Officers of State Library Agencies, and the American Association of Museums. The Museum and Library Services Act of 2003 is very similar to last year's bill, and with 126 cosponsors, it builds on the bipartisan bill reported by the Committee on Education and the Workforce last year.

The legislation before the House today funds the Institute of Museum and Library Services, a federal agency devoted exclusively to museums and libraries, which partner with our Nation's schools. It consolidates museum

and library board activities to reduce unnecessary paperwork and duplication. In addition, the reauthorization of the Museum and Library Services Act is an important next step in ensuring that the President's education reforms signed into law last year are properly implemented. H.R. 13 requires that all library activities are coordinated with activities under the No Child Left Behind Act, President Bush's landmark education reform legislation.

First Lady Laura Bush, a former librarian, supports reauthorization of the Museum and Library Services Act. Mr. MILLER, the ranking Democrat on our Committee is a cosponsor of this legislation—I would like to thank him for his support. Mr. HOEKSTRA has put together a good, bipartisan bill and I encourage my colleagues to support the legislation and our Nation's museums and libraries.

Mr. HOLT. Mr. Speaker, as an educator and avid reader, it's always a special pleasure to visit a library or a museum. Libraries safeguard our freedom and keep democracy healthy. Museums and libraries preserve the past and offer brighter futures to all of us. They are true community assets. That is why I was pleased to be an original cosponsor of H.R. 13, the Museum and Library Services Act.

Libraries are often referred to as the ''People's University.'' It is a fitting name.

Libraries provide all of us with free access to a fabulous wealth of information. In this increasingly technology-driven society, they speak directly to what we call the Digital Divide. A recent survey by the Department of Commerce found that our libraries are the No. 1 point of access for those who do not have Internet access at home or at work. Today, 90 percent of public libraries have some kind of Internet connection.

Research also shows us that Americans visit libraries 3.5 billion times each year; 1.6 billion items are borrowed annually from public libraries; and research librarians answer 7 million questions every week.

Clearly libraries are responding not only to the daunting challenges of the Information Age and to the changing needs of our communities, but they are continuing to serve all of their traditional roles as well.

Libraries are also true community centers. They create environments where students can do their homework, townspeople can gather, families can interact, seniors can learn new skills, and job seekers can find advice. They are forums building partnerships, linking with everyone from garden clubs to Head Start programs to extend their reach throughout our communities.

Throughout our country, libraries serve as, the catalyst for economic revitalization, bringing together our communities civic and social leaders. They provide reading material for people of all ages by sending books into maternity wards, setting up reading stations in pediatrician's offices, developing teen centers, and establishing mobile book carts in nursing homes and senior centers.

I am currently observing the improvements at my own Princeton public library that are traceable to this authorization bill. The library is in the process of constructing a state of the art library security, inventory, and circulation system that will allow library users to automatically check in and check out books.

Let me cite some other examples of how our local libraries are helping people all across the 12th District of New Jersey. The South Brunswick Public Library has been fortunate to receive funding from the Library Services and Technology Act (LSTA) grants. Their Computer Training Center, established in part by these funds serves hundreds of people each week. The center not only provides free Internet access, but it provides the training many people need to use the Internet on their own.

Robert Weidlich of Kendall Park, NJ, turned to the library when he began suffering chronic back pain brought about by hunching over a microscope all day, conducting medical research in a nearby company. He wanted to find the internal source of his pain, which his doctors had not been able to do. At the library, staff helped Weidlich use the library's collections and electronic sources to tap into the medical sources and the latest research from all over the world. He became a regular at the computer center, spending many hours logged on the Internet to learn about disorders of the spinal cord and back. As a result of his research, he located the unusual source of his pain—a damaged ligament in the lumbar region of his back. With his new understanding of the problem, he was able to invent ways to mechanically support his back so that he could go on with his life.

Peter Gao of Monmouth Junction, gleefully reported that he was able to find a new job at the post office because of the assistance the library provided in his job search when he recently lost his programming position at Dow Jones.

Greta Ji passed the Yale law school tests with a top score, thanks to the materials and computer access that she obtained through the library.

Dan Guerra, a family lawyer, regularly uses the library in his research, and especially finds the databases helpful.

Finally, the Investments Club utilizes all our resources to keep abreast of the latest market developments. None of the Club members have computers at home, nor could they individually afford the financial databases they like to check at their weekly meetings. Senior citizens like Leona Bouthwell, can now regularly check her investments and look up consumer information.

These are examples of how important libraries are to me and millions of other Americans. Mr. Speaker, Carl Rowan, a noted journalist, once said, ''The library is the temple of learning, and learning has liberated more people than all the wars in history.''

I look forward to the passage of H.R. 13 the Museum and Library Services Act.

Mr. HOEKSTRA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the order of the House of Tuesday, March 4, 2003, the bill is considered read for amendment and the previous question is ordered.

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

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

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that ayes appeared to have it.

Mr. HOEKSTRA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on passage of H.R. 13 may be followed by a 5-minute vote, if ordered, on approving the Journal.

The vote was taken by electronic device, and there were—yeas 416, nays 2, not voting 16, as follows:

[Roll No. 47]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)

Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—2

Flake
Paul

NOT VOTING—16

Conyers
Cubin
Culberson
Etheridge
Gephardt
Hunter
Lucas (OK)
Millender-McDonald
Miller (NC)
Ortiz
Ros-Lehtinen
Snyder
Stupak
Van Hollen
Wexler
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CALVERT) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1135

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. MILLER of North Carolina. Mr. Speaker, on rollcall No. 47, I was unavoidably detained. Had I been present, I would have voted ''yea.''

Ms. MILLENDER-McDONALD. Mr. Speaker, on rollcall No. 47, I was detained by a group of women constituents speaking on a panel on Violence Against Women.'' Had I been present, I would have voted ''yea.''

Mr. ORTIZ. Mr. Speaker, during rollcall vote No. 47 on March 6, 2003, I was unavoidably detained. Had I been present, I would have voted ''yea.''

MOTION TO ADJOURN

Mr. COOPER. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. COOPER moves that the House do now adjourn.

Mr. COOPER. Mr. Speaker, I am an unlikely radical. I called for a motion to adjourn today, that disrupted normal House business, in order to highlight one of the smelliest pieces of legislation in recent memory. Sunshine is the best disinfectant, and this bill, although it is labeled as helpful to our military men and women, needs lots of sunshine and lots of disinfectant so that a new, improved bill can be truly helpful to our military.

I felt compelled to rise in reluctant opposition to H. Res. 126 and H.R. 878, the rule for debate and the ''Armed Forces Tax Fairness Act.'' I am one of the strongest supporters of our National Guard and Reserve, but this bill is not good enough for them. It only grants a tiny fraction of the tax relief that our Guard and Reserve deserve, and it is a bill loaded with special interest provisions that have nothing to do with the Guard and Reserve,

Fortunately, the Republicans have now pulled the bill from the floor because I think they were beginning to notice the stink that their legislation was causing. I hope that we will vote on an improved bill very soon because our service men and women deserve a clean, strong bill to give them tax relief now.

Newspapers across the nation have denounced H.R. 878 with headlines such as, ''Help Soldiers, Not Gamblers,'' but many members still feel compelled to vote for it on final passage because it does still contain some relief for our men and women in uniform. That is a devil's bargain. We should not be blackmailed into accepting special interest tax provisions just because they are packaged with all too meager tax breaks for our Guard and Reserved. Especially in a time of war, the U.S. House of Representatives should honor and reward our Guard and Reserve, and not limit their benefits as this bill does. Above all we should not load it with lobbyists' dream lists of special interest tax provisions, such as a tax relief for foreign gamblers.

The Republicans majority are using our Guard and Reserve as human shields for their special interests selfishness. They should have allowed a substitute to be offered so that Congress could vote for either their bill, with $189 million in tax benefits for our Guard and Reserve over 10 years, or the Democrats and Senate Finance Committee bills with $851 in tax relief for our troopers. A fair vote on these two bills was denied the House, under the rule, H. Res. 126, and that's why I am opposing not only the bill but also the rule.

Who would have thought that the Republican majority would add tax breaks for foreigners who bet on U.S. horse races to the bill, or tax relief for bow and arrow manufacturers, or tax breaks for mixing diesel fuel with water. These provisions should be considered separately, not in legislation whose title is the ''Armed Forces Tax Fairness Act.''

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from Tennessee (Mr. COOPER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. COOPER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 63, noes 358, answered ''present'' 1, not voting 12, as follows:

[Roll No. 48]

AYES—63

Allen
Andrews
Ballance
Berry
Brown (OH)
Capuano
Cardoza
Carson (IN)
Clay
Cooper
Crowley
Dingell
Doggett
Evans
Farr
Filner
Ford
Frank (MA)
Grijalva
Hastings (FL)
Hinchey
Honda
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kucinich
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lynch
Markey
McDermott
McGovern
McNulty
Miller (NC)
Miller, George
Moran (VA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Pelosi
Price (NC)
Rangel
Rush
Ryan (OH)
Sabo
Schakowsky
Schiff
Stark
Tanner
Taylor (MS)
Thompson (MS)
Tierney
Towns
Velazquez
Woolsey

NOES—358

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Costello
Cox
Cramer
Crane
Crenshaw
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Everett
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson

Hoeffel
Hoekstra
Holden
Holt
Hooley (OR)
Hostettler
Houghton
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Paul

NOT VOTING—12

Conyers
Cubin
Culberson
Etheridge
Gephardt
Hunter
Lucas (OK)
Ros-Lehtinen
Snyder
Stupak
Van Hollen
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CALVERT) (during the vote). Members are reminded that there are 2 minutes remaining in this vote.

□ 1151

Mr. HONDA and Mr. SCHIFF changed their vote from ''no'' to ''aye.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHERMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 359, noes 48, answered ''present'' 1, not voting 26, as follows:

[Roll No. 49]

AYES—359

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Paul
Payne
Pearce
Pelosi
Pence
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Sullivan
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Velazquez
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—48

Baird
Baldwin
Brady (PA)
Capuano
Clay
Costello
Crane
DeFazio
Filner
Fossella
Gutknecht
Hastings (FL)
Hefley
Hinchey
Holt
Hulshof
Johnson, E. B.
Kennedy (MN)
Larsen (WA)
LoBiondo
Maloney
McDermott
McGovern
McNulty
Miller, George
Moran (KS)
Musgrave
Oberstar
Obey
Olver
Pastor
Peterson (MN)
Ramstad
Sabo
Schakowsky
Slaughter
Strickland
Sweeney
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (CO)
Udall (NM)
Visclosky
Waters
Weller
Wu

ANSWERED ''PRESENT''—1

Tancredo

NOT VOTING—26

Abercrombie
Barton (TX)
Bereuter
Conyers
Cubin
Culberson
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
English
Etheridge
Gephardt
Hinojosa
Hunter
Lucas (OK)
Manzullo
Matsui
McCollum
Peterson (PA)
Ros-Lehtinen
Sanders
Snyder
Stupak
Van Hollen
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded they have 2 minutes left in this vote.

□ 1159

So the Journal was approved.

The result of the vote was announced as above recorded.

Stated for:

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, on rollcall No. 49. Had I been present, I would have voted "aye."

Mr. VAN HOLLEN. Mr. Speaker, on rollcall Nos. 47, 48, and 49, I was unavoidably detained. Had I been present, I would have voted "aye" on these rollcalls.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 684

Mrs. JONES of Ohio. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 684, the District of Columbia Student Opportunity Scholarship Act of 2003. I was signed on by mistake.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at noon), the House stood in recess subject to the call of the Chair.

□ 1301

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LATOURETTE) at 1 o'clock and 1 minute p.m.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY), the distinguished majority leader for purposes of inquiring about the calendar.

Mr. DELAY. Mr. Speaker, I appreciate the Whip yielding to me, and I would note, Mr. Speaker, that the House has completed its business for the week.

While we expected to consider the Armed Services Tax Fairness Act today, some problems with the bill have arisen, and we intend to work through those problems over the next several days and hope to consider the bill in the very near future.

Mr. Speaker, if the gentleman would continue to yield.

Mr. HOYER. I would be glad to yield to my friend.

Mr. DELAY. The House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to the Members' offices early next week. There will be no votes in the House before 6:30 on Tuesday.

On Wednesday, we expect to consider several health-related measures: the Automatic Defibrillation in Adam's Memory Act, the Organ Donation Improvement Act, the Mosquito Abatement for Safety and Health Act, the Birth Defects and Developmental Disabilities Prevention Act. We will also consider a bill addressing medical errors. We expect several of those measures to be considered under suspension of the rules.

On Thursday, we expect to consider H.R. 5, the HEALTH Act, to improve patients' access to health care and reduce health care costs by reforming our medical liability system, and that is the schedule for next week.

I thank the gentleman for yielding and happy to answer any questions.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his information.

I want to tell the gentleman I am of two minds on the fact that we have removed from floor consideration the Armed Forces Tax Fairness Act. Of two minds because I think all of us agree that the underlying bill was a bill that we should have passed today, indeed yesterday or the day before yesterday. It is an Act that tells our service people that we are sending into harm's way that we want to make sure that we can limit the financial consequences of that service to country, as much as we possibly can.

So I lament the fact that we have had that removed from the schedule. However, I say I am of two minds because I am pleased that it was removed because we added to that bill extraneous pieces of legislation, which in and of themselves individually may have been subject to worthy debate. There was some in there that I thought were not, but having said that, I would hope that when this bill is reported back that it can be presented in a form that all 435 of us can vote for, because 435 of us, in my opinion, are for it.

So, as I say, I am of two minds. I am sorry that it is delayed, but I am sure that it will come back, hopefully soon, and that we can pass it in the form that all of us support it, and I would ask the gentleman, in that vein, does the gentleman know if this bill will be coming back next week?

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, first, I appreciate the gentleman's concerns. I might also add, the gentleman should never have to apologize for a delay, but as the gentleman knows, the Committee on Ways and Means worked on this bill and marked it up last week in open process and within the rules of their committee and the House and many of the provisions that were added to the Military Tax Fairness bill were added, in many cases, by voice vote and unanimous votes. Some were controversial, but the committee acted in good faith and marked up the bill and there was full participation by every Member on that committee.

Unfortunately, as the bill headed towards the floor, as the gentleman knows, there were concerns raised by our Members and as well as the gentleman's Members, and we felt compelled that we needed to address those concerns before we actually bring it to the floor, and that is what we are going to try to do in the next several days, and hopefully, we will get a bill that everybody can vote for.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information.

To press the point, I understand that my colleagues need to work on that and try to work out whatever problems existed, but in light of that, it is the gentleman's expectation he will be able to work out those problems next week so we can pass this bill in a form that will allow us to pass it with the overwhelming support that I think it has on this floor if it is the base bill? I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding.

I want this bill as much as anybody. It is very, very important, as the gentleman has already stated. It is important to give our military families the tax relief that they deserve, and we want to do this.

I remind the gentleman that this bill, the Military Armed Services Tax Fairness Act, has passed this House almost unanimously twice, and we hope that we can get it up here just as soon as possible. As soon as we get everything ironed out and the bill ripens a little bit, we will bring it to the floor.

Mr. HOYER. Reclaiming my time, and in an effort again to be helpful, I think that the majority leader is correct. Everybody wants this bill to pass, and the shame of it not passing today is, I am sure the gentleman shares, is that we somehow sent a message to our Armed Forces personnel arrayed across this globe, and particularly in the Middle East, at risk and they look to this capital and know full well that this bill is passed with over 400 votes and must be concluding to themselves that it was politics and political division that undermined the passage this day.

So I know my colleague is working towards this objective. This is not a criticism of the gentleman, and it was an open session in the Committee on Ways and Means, and as my colleague recalls, I am sure, the gentleman from Iowa (Mr. NUSSLE), the chairman of the Committee on the Budget, a Republican, raised the issue that this was a real problem, in open session, in committee.

So it was obviously on both sides of the aisle that we are concerned about the fact that we politicized an otherwise bipartisan, nonpartisan objective that we wanted to achieve, and I look forward to that coming back hopefully in the posture that it was in when we, 400 of us plus, came together to pass that legislation. So I would hope that can happen.

Mr. DELAY. Mr. Speaker, if the gentleman would yield.

Mr. HOYER. I would be glad to yield to my friend.

Mr. DELAY. Mr. Speaker, the gentleman was absolutely right. It was an open process in the committee, and I may stand corrected, but I believe there were Democrat amendments approved by the committee as well as Republican amendments approved by the committee in developing what at least the committee thought was a bipartisan bill. So, unfortunately, these things happen in the legislative process, and fortunately, we can correct those problems hopefully.

Mr. HOYER. I suppose whether it was a bipartisan bill or not is in the eye of the definer, I suppose, and notwithstanding that, I would hope, again, it would come back in a form that all of us could vote for it and it would not be extraneous matters.

Those extraneous matters may well have merit, but why argue them on their merit or demerit, and we ought not to hold hostage our men and women in the Armed Forces, in harm's way, families disrupted by being called to service. We ought not to say to them anything but that we are prepared to act together, we are prepared to act quickly and we are prepared to make sure that, to the extent we can, we will diminish the financial burden that their service to our country requires.

On the medical malpractice bill that the gentleman indicates will be on the floor next week, on today's major piece of legislation which we have been discussing, the Committee on Rules denied two of our ranking members' ability to offer key amendments, and we are very concerned about that. Can the leader inform me if he knows what kind of rule there will be for the medical malpractice bill, what he anticipates will be in order?

Mr. DELAY. Mr. Speaker, if the gentleman would yield.

Mr. HOYER. I will be glad to yield to my friend.

Mr. DELAY. Mr. Speaker, I do not believe there has been any discussion as to what kind of rule we would bring to the floor in order to bring the medical justice bill to the floor.

In the past, we have always, on this kind of legislation, allowed the minority to have a substitute. The chairman of the Committee on Rules obviously, along with the Committee on Rules, will consider amendments that other Members may offer, and as the gentleman well knows, the rule will be written sometime next week, so that we can bring the bill to the floor.

Mr. HOYER. Mr. Speaker, I thank the leader for his comments. I am aware of the fact that the Committee on Rules has been extraordinarily advantaged by the addition of a new chief staffer on that committee who will, I think, add greatly to the consideration of that committee of alternatives.

Mr. Pitts is a man that I have found to be fair and knowledgeable with respect to this House. He is as well an individual who was involved when the Republicans were in the minority of lamenting the fact that we did not give fair and full opportunity of loyal opposition to offer alternative proposals, and I would hope that we would reverse, frankly, the practice that has gone from 1995 to date where increasingly we have reduced the opportunity of the minority party to offer alternatives, either in the nature of substitutes or in amendments to the base bill.

I say that very seriously because I think that my colleagues were frankly correct when they were in the minority, making the proposition that that would improve legislation, and we ought to vote it up or down. If it was good when the gentleman was in the minority, presumably that same principle is good when they are in the majority.

We are tested somewhat when the shoe shifts from foot to foot to see where we want to put that foot I suppose, but I would hope that on this bill, which is a controversial bill, a bill, that is, we believe has great consequence for patients, for doctors, for hospitals, we want to make sure that our people have the best medical service available to them and that our doctors and that our hospitals and that our patients have the ability to work with one another to effect that. We have some ideas on that. We have some ideas how that can be effected, and we are hopeful, respectfully, and we would urge that the Committee on Rules give us a full and fair opportunity to present our alternative ideas if we have them. If we do not have them when we support your proposals, then fine, but if we have alternative ideas, we would urge on legislation of such great consequence to the American public that we fully debate options and ways and means of solving the problems that we are addressing.

Mr. DELAY. Mr. Speaker, would the gentleman yield?

Mr. HOYER. I would be glad to yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's concerns, and the gentleman said earlier it is all in the eyes of the beholder. In the eyes of this beholder, we think we have been more than generous with the minority, and in showing that, to entice Mr. Pitts to come work for the Committee on Rules shows our generosity to the minority because he is a very fair man, a very creative man in dealing with rules and really understands how this House works, and we hoped that by Mr. Pitts coming to work for the Committee on Rules it was a signal to everyone in the House that everyone in the House would be treated fairly.

Mr. HOYER. Reclaiming my time, I thank the gentleman for his comments. I do not want to prolong this too much.

I want to say with all sincerity, I share the gentleman's view of Mr. Pitts. I have worked with him over a long period of time. I have extraordinary respect and affection and regard for Bob Michel, for whom he worked effectively and for a long time.

□ 1315

I want to tell the gentleman, as sincerely as I can say on this floor, caring about this institution, frankly, if Billy Pitts is making the determination of what he thinks is fair or not fair, from his perspective from a long time in the minority, as to what the minority's rights ought to be in terms of offering alternatives on this floor, of having time to debate on this floor, of having individual amendments considered, I will tell the gentleman that I am confident that it will be done fairly.

But I will also tell the gentleman with equal sincerity that I have had my staff do an analysis from 1995 to date; and there has been, from 1995 to 2002, an almost straight-line reduction in the alternatives in bills allowed to the minority as we consider major pieces of legislation. I do not think that is good for our country, I do not think it is good for this institution, and it is not good for the comity between our two parties.

The gentleman from Texas and I have had an opportunity to work closely together on many items of great concern to this institution. We have worked well together. The gentleman and I have very serious disagreements on issues, but we do not have disagreements on the fact that this institution ought to operate as effectively as possible on behalf of our country. We share that in common, and I know we will continue to share that in common. But I really sincerely urge the gentleman, as the leader of his party on this floor and working with the gentleman from California (Mr. DREIER) and Mr. PITTS, to say to the American public and to this institution that we are prepared to debate these matters, we are prepared to debate these matters fully and fairly and give options to the minority party.

I will say to my friend there was some discussion in our party. We had one motion, as the gentleman knows, to adjourn, and there was some discussion that we ought to make many more motions and have disruption. We did not do that. But I will tell my friend that there is great concern on this side of the aisle that if we do not have a fair and open system to consider legislation that we will not be as cooperative as we otherwise would like to be, and so that the American public can be best served.

On the budget, Mr. Leader, if I can, when do we expect the budget to be on the floor?

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield.

Mr. HOYER. I yield to the gentleman.

Mr. DELAY. The distinguished whip understands that the Committee on the Budget is working as we speak, and continues to work to develop a product that they can mark up in the very near future. We fully expect to move a budget resolution through the House under a time frame that gives us ample opportunity to have a conference with

the Senate and complete the budget resolution by April 15, as required by law.

It is a very ambitious schedule, I know; and it is putting a lot of pressure on a lot of Members to make a lot of decisions in a very short period of time. But we feel very strongly that we need to get this budget done as quickly as possible.

Mr. HOYER. I thank the gentleman. One additional question, which this is sort of a follow-up on what I have just discussed. In the past, as the gentleman knows, we have had a number of substitutes which have been offered. Our Congressional Black Caucus has offered substitutes, our Blue Dog Caucus has offered substitutes, and I know the gentleman will be happy to hear that it is fully my expectation that the minority on the Committee on the Budget will have a Democratic alternative. I noted that the gentleman urges us to do that; and he and I share that view, and we are going to do that. But will we be allowed, Mr. Leader, to offer those substitutes as we have in the past as well as offer amendments that are requested?

I realize the gentleman cannot answer to all the amendments, because I do not know what amendments will be asked for; but will there be consideration of valid amendments that have broad-based support?

Mr. DELAY. Mr. Speaker, if the gentleman will further yield.

Mr. HOYER. I yield to the gentleman.

Mr. DELAY. I thank the gentleman for yielding. We want to follow precedent as to how we want to approach the debate on the budget, and certainly I do not want to make decisions for the Committee on Rules. They are more than capable of making their own decisions about how to bring the budget to the floor and what kind of debate we will have. But as the gentleman has already noted, we have always been open to alternatives to the majority's budget as laid out by the Committee on the Budget.

The Congressional Black Caucus has always had a substitute and others have had substitutes. I think this is because it is such an important issue, the budget of this Nation and its government; and we are hoping to have as open a debate as possible.

Mr. HOYER. I thank the gentleman very much for those comments.

ADJOURNMENT TO MONDAY, MARCH 10, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, March 10, 2003.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 11, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 10, that it adjourn to meet at 12:30 p.m. on Tuesday, March 11, 2003, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ARMED FORCES TAX FAIRNESS ACT

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, what began as the ''Armed Forces Tax Fairness Act'' for those bravely serving around the world, a bill to ensure that their families would not be taxed on the small, $6,000 death benefit payable to those families when someone is killed in conflict, that bill has now been totally perverted. The Republican leadership has desecrated the noble purpose of this bipartisan legislation.

In addition to the tax-free winnings for foreigners on horse races that was already in the bill, last night, in a truly shameful act, the House Republican leadership insisted on including in this military tax fairness bill an amnesty provision for corporate tax dodgers for the ''ex-patriots'' who have renounced America and planted their mailbox in the sands of Bermuda, even following the horrible attacks of September 11, in order to avoid paying their fair share of our military and other needs, the Republicans want to grant them amnesty.

While Americans are concerned with protecting their families, they need to know that the leadership of this House has launched a sneak attack to protect the corporate expatriates who have renounced America, and they do so in a misnamed bill, the ''Armed Forces Tax Fairness Act.''

ARMED FORCES TAX FAIRNESS ACT

(Mr. MATSUI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MATSUI. Mr. Speaker, we were to take up a bill today, which was H.R. 878, and the bill would have basically provided tax relief for our young men and women who are in the armed services, particularly those in the Persian Gulf at this time, 240,000 of them. It would have eliminated capital gains tax if and when they would sell their private residence. And if in the event that one or two of them would pass away or die, it would provide nontaxability of any survivor benefits that they would receive. This bill needs to be passed very quickly, because the President plans to go to war within the next 2 weeks or so. We are almost certain of that.

One of the problems is that last week, as the bill was in the House Committee on Ways and Means, my Republican colleagues added to the legislation a number of special interest tax breaks. Unfortunately, now it will slow the bill down. They took it off the floor of the House today because they could not even get enough votes on their side of the aisle to pass it. And, secondly, if it should pass, it will get bogged down in a House-Senate conference.

ARMED FORCES TAX FAIRNESS ACT

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I yield to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. I thank the gentleman very much.

Mr. Speaker, these tax breaks would provide for foreigners who place bets outside the United States on horse races a tax break. It would provide special tax breaks for the blend of diesel fuel and water. It will provide a special tax break for manufacturers of fishing tackle boxes. In all, $300 million worth of tax breaks like these would have been provided. A wide variety of these tax breaks would be given to these different companies, many of whom have contributed to the colleagues who in fact have offered them.

I think this is tragic. We have a situation where our young men and women are put in harm's way. We want to give them some relief so that at least they can have some peace of mind when it comes to selling their house. And many will have to sell their homes. That is one of the reasons we gave this tax break, mainly because their income is going to go down, and many have families back home.

As a result of that, we are slowing this process down now. So I would just hope they would bring the bill back, stripping off these special tax provisions.

Once again, Mr. Speaker, I want to thank the gentleman from Georgia for yielding to me.

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman from California (Mr. MATSUI) for his leadership and all his good work.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

(Mr. GINGREY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PRESIDENT'S BUDGET DOES LITTLE TO CLOSE ACHIEVEMENT GAP IN EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of North Carolina. Mr. Speaker, President Bush recently announced his opposition to the affirmative action plan used by the University of Michigan in admissions. It is troubling that the academic achievements of white students and African American students at Michigan are markedly different, but it is troubling for a reason that President Bush apparently did not consider. It is troubling that almost a half century after the Supreme Court's decision in Brown v. Board of Education there remain such disparities in the academic achievements of white students and African American students.

Mr. Speaker, the public schools are where we deliver on the promise of equality of opportunity. The public schools must deliver on that promise to white children; to black children; to children whose parents do not speak English in their homes; to the children of parents who care passionately about their children, who read to them every night, who join the PTA and volunteer at their children's schools; to the children of parents who are themselves children and are as little prepared to be parents as their parents were before them.

Just days after President Bush announced his opposition to the University of Michigan's affirmative action plan, he announced his proposed budget. We see from that budget what he would do to close the achievement gap so that universities can achieve a diversity in population without affirmative action plans like Michigan's. Mr. Speaker, he would do very little.

The very programs that are most effective in closing the achievement gap and delivering on the promise of equality of opportunity for every child are hardest hit. The proposed budget cuts No Child Left Behind by $9 billion. The act gives a nod to the promise of equality of opportunity, but the budget breaks that promise.

The budget cuts after-school programs by more than 40 percent, teacher training by almost $200 million. It cuts individualized instruction in math and reading for disadvantaged children. President Bush's budget guts Head Start, our effort to reach disadvantaged children who now arrive for kindergarten so far behind they can never catch up.

□ 1330

I sat in a first grade class in my State and had one child after another read out loud to me. Some children read effortlessly in a sing-song voice because the material lacked such challenge. Other children read laboriously, sounding out every word, getting every third or fourth word wrong.

When those children apply for college 13 years later, I fear there will be the same differences in their academic achievement, and we will still need affirmative action plans like Michigan to achieve diverse populations in our colleges.

Mr. Speaker, it is not acceptable to me that our children's chances in life depend so greatly on the circumstances into which they were born. President Bush's budget shows that he is not bothered by that.

SECURING AMERICAN BORDERS

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, yesterday I brought forward to the House a picture and a little story about an individual who died on the border last August. His name was Chris Eggle. Mr. Eggle was an employee of the United States Government acting in the capacity of a park ranger down in the Oregon Pipes National Park in Arizona. He was killed in the line of duty by people who had come across the board after being involved in some sort of drug altercation where three others were killed in Mexico.

The point of my presentation yesterday was to explain to the Members of this body that we have, in fact, a war zone on our southern border, and to a certain extent, on the northern border.

Today, unfortunately, I have the sad occasion to bring to Members' attention another young man named Jorge Salomon Martinez. Mr. Martinez was brutally murdered in Mexico just a short time ago. He was a Border Patrol agent working for the United States. Mr. Francisco Javier Rosas Molina, who is 18 years old, is in custody, and the Mexican authorities continue to search for others that they say have probably fled across the border into the United States.

Mr. Martinez had apparently met Mr. Rosas Molina earlier in the week near the border town of Naco. They began to party together and converse, and Salomon had originally identified himself to the group as a member of the Border Patrol, as employed by the Border Patrol. Then they met some other people and Rosas Molina evidently told the other members of the group that Mr. Martinez was indeed a Border Patrol agent, and what happened next is described as the following.

He said that is when Rosas Molina identified him to the others as a Border Patrol agent, and that appears to be the reason that they killed him. Martinez was beaten and his head bashed in with rocks. His Ford pickup was stolen along with other belongings, including a gold chain and a medallion. A passerby discovered the body early Wednesday and notified Mexican police. Later police received a tip about the slaying and robbery of a U.S. Border Patrol agent. The caller led agents to Rosas Molina, who had the agent's truck and medallion. Rosas Molina has admitted involvement in the slaying.

The purpose of the slaying, as it appears from the evidence gathered, is because Mr. Martinez was a Border Patrol agent. He is not the first Border Patrol agent to be killed in the line of duty on the border, he is not the first Border Patrol agent to be accosted. It happens all too frequently. It is because our borders are war zones. We were are in the process of debating whether or not, and the President is in the process of determining whether or not to send Americans off to fight a war in the Middle East. Without discussing the merits of that particular decision, I will tell Members there is a war going on on our borders. People are being killed on our borders. Troops are needed on our borders.

Our homeland needs to be defended. These people need to be defended. They need to be trained, and they need to be protected. We have to make a decision as a Nation as to whether or not we want borders or not. If we choose not to enforce our borders, we should move away from them and let people come into this country at their will. We should stop this process of sending a few people down to our border, put them into harm's way, and then refuse to actually secure the border.

Mr. Martinez, before him Mr. Eggle, and others, are examples of this kind of policy, this policy that puts people at risk without really having a desire on the part of this Nation to defend those borders or to protect our people on those borders.

Mr. Speaker, our hearts go out to the family of Mr. Martinez. Our prayers go out to that family. I hope that we will not forget his face or his story.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. BIGGERT) is recognized for 5 minutes.

(Mrs. BIGGERT addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

WINNING WITHOUT WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. DOGGETT) is recognized for 5 minutes.

Mr. DOGGETT. Mr. Speaker, I offered President Bush, as did so many others here, immediate bipartisan support for the war on terror, but regime change in Baghdad, rather than disarming Iraq, represents a diversion from that bipartisan effort.

Not only do we have continuing concerns about Osama bin Laden, but also we have grave concerns about the looming nuclear threat from North Korea, which does have long-range missiles. This threat was deliberately hidden from this House until after our vote on Iraq.

The Korean peninsula crisis worsens by the day with Administration mismanagement and neglect heightening the far greater danger from this xenophobic, despotic regime. The Administration has a ''Don't Talk, Don't Tell'' policy that is steadily narrowing our options and increasing the risk of what could easily become a devastating conflict.

Just yesterday, former Defense Secretary William Perry and former Secretary of State Madeleine Albright warned that North Korea could be headed toward ''serial production'' of nuclear weapons.

I believe that the Administration's fixation with regime change in Baghdad is diverting precious intelligence and other resources that we need to protect American families from what is a very genuine threat. Despite its clever marketing campaign, and it has been clever indeed, attempting to link 9/11 with Saddam Hussein, as of this very moment, the Administration has not offered one shred of evidence to make that connection stick, nor has it demonstrated why Iraq represents any greater danger of attacking our families today than it did on September 10, or since the time we were supplying them aid.

Today, we have crisscrossed Iraq with weapons inspectors. It does not even pose such a threat that its next-door neighbor, Turkey, is willing to challenge it.

The Central Intelligence Agency, in reports that we forced out of the Administration, has indicated that the real threat to our families would come with an invasion to Iraq and the danger that any weapons of mass destruction might spread and affect us.

Overthrowing a single tyrant, in what many will perceive to be a crusade against Islam, will ultimately jeopardize families across America as we create a generation of terrorists. Further attacks will only reinforce those here in America, who are determined to ensure our safety by trampling our civil liberties.

Attacking Iraq is apparently the first step in implementing a dangerous new security policy that dramatically alters a half century's bipartisan reliance on containment that has served to protect us from villains as bad as Saddam Hussein. America will now attack first with preemptive strikes in what could spiral into wars without end because other countries are likely to copy our model.

Fighting wars as a first choice, not a last choice, is a formula for international anarchy, not domestic security. A quick draw may take out the occasional tyrant, but it comes at the cost of destabilizing the world, disrupting the hope for international law and order, and, ultimately, it makes all of us unsafe.

True security certainly requires a strong military and a willingness to use it. We are strong enough to conquer Iraq and others, but we must be wise enough to rely on our many other strengths to rid the world of dangers. Ultimately, imposing our will by force unites our enemies and divides our allies. Defense Secretary Rumsfeld may dismiss our major partners as ''Old Europe,'' but many yearn for ''Old America'' that collectively and successfully worked to prevent and remove threats to peace and ensure the safety of our families.

This is not a choice between ''war'' and ''appeasement.'' Rather, the better alternative is to isolate Saddam Hussein and unite both his neighbors and our allies behind an aggressive inspection and weapons destruction program.

We know that the real cost of war is paid in blood. But Americans are already paying for this war at the gas pump. And with so few allies, hundreds of billions of our tax dollars that could be spent on the needs of Americans will be spent abroad.

A robust debate in an elected Congress on whether war should be waged with Iraq is the sign of a strong democracy. Unfortunately, this year, that debate took place in Turkey, not here in the U.S. House of Representatives.

FREEDOM FROM FEAR

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to voice my concerns regarding domestic violence that plagues our Nation. Franklin D. Roosevelt once said there are four essential human freedoms, the last being freedom from fear.

Today there still are too many women and children who have never experienced a life free from fear. These women and children are the 1 to 4 million women who experience serious assaults by an intimate partner each year. They are the 3.3 million children who witness their mothers being abused every year. They are the 3.2 million victims of child abuse each year.

Mr. Speaker, I rise to commend Lifetime Television and its partners for drawing attention to this most important and most persistent problem. To those women and children who are out there who are victims, please know that there are people and there are programs out there to help you become free from fear.

PLEA FOR PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to plead for peace. Every day our great Nation moves ever closer to war with Iraq. I know many Americans believe war is unavoidable. I hope and pray that they are wrong.

It is not an easy thing to disagree with the administration at a time when hundreds of thousands of our brave men and women are poised in the Persian Gulf. I want to make it clear that I will support our troops regardless of what happens, but I cannot, in good conscience, betray the nonviolent principles on which I have worked my whole life. I cannot sit silent when I believe there is still time to use diplomacy and let the inspectors do their job.

□ 1345

While I believe that the hour is late, it is not too late to stop the rush to war. It is not too late to embrace peace. War with Iraq will not bring peace to the Middle East. It will not make the world a safer or better or more loving place. It will not end the strife and hatred that breed terror.

War does not end strife. It sows it. War does not end hatred. It feeds it. War is bloody. It is vicious, it is evil, and it is messy. War destroys the dreams, the hopes, and aspirations of people. I believe, Mr. Speaker, that war is obsolete.

As a great Nation and a blessed people, we must heed the words of the spiritual: ''I am going to lay my burden down, down by the riverside. I ain't gonna study war no more.'' For those who argue that war is a necessary evil, I say you are half right. War is evil. But it is not necessary. War cannot be a necessary evil, because nonviolence is a necessary good. The two cannot coexist. As Americans, as human beings, as citizens of the world, as moral actors, we must embrace the good and reject the evil. To quote Ghandi: ''The choice is nonviolence or nonexistence.''

America's strength is not in its military might, but in our ideas. American ingenuity, freedom, and democracy have conquered the world. It is a battle we did not win with guns or tanks or missiles but with ideas, principles, and justice. We must choose our resources, Mr. Speaker, not to make bombs and guns but to solve the problems that affect all humankind. We must feed the stomach, clothe naked bodies, educate and stimulate the mind. We must use our resources to build and not to tear down, to reconcile and not to divide, to love and not to hate, to heal and not to kill. Let us, in Reverend Dr. Martin Luther King Jr.'s words, ''take offensive action in behalf of justice to remove the conditions which breed resentment, terror and violence against our great Nation.'' That is a direction in which a great Nation and a proud people should move.

War is easy; but peace, peace is hard. When we hurt, when we fear, when we feel vulnerable or hopeless, it is easy to listen to what is most base within us. It is easy to divide the world into us and them, to fear them, to hate them, to fight them, to kill them. War is easy.

But peace is hard. Peace is right, it is just, and it is true. But it is not easy to love thy enemy. No, peace is hard. As my friend and mentor, Dr. King, said when he spoke about the Vietnam War: ''War is not the answer. Let us not join those who shout war. These are days which demand wise restraint and calm reasonableness.'' He was right then and the wisdom of those words holds true today. War was not the answer then, and it is not the answer today. War is never the answer. It is not too late to stop our rush to war. Let us give peace a chance.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Virginia (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Virginia addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes.

Ms. BALDWIN. Mr. Speaker, it is clear that Saddam Hussein has been and continues to be a threat to Iraq's neighbors, his own people, and to all peace-loving nations of the world. The United States and the United Nations have recognized the dangers posed by his pursuit of nuclear, biological, and chemical weapons. The world has wisely taken action to proactively address this threat.

The issue is not whether Saddam Hussein is a terrible dictator or whether or not he is dangerous. He clearly is. The issue is whether a preemptive war is justified now. I believe the answer is no. Iraq is neither an immediate or an imminent threat to the security of the American people. Aggressive inspections and disarmament by the United Nations with the full support of member states can be successful. We have time to work together with the international community to collectively address the threat of Iraq without resorting to war and without endorsing a policy of preemptive attack.

Following the devastation of World War II, the United States showed tremendous leadership in the world as we created international institutions and a framework of international law to prevent war and to sustain and maintain peace. We were the leaders in promoting a world where conflicts could be resolved peacefully and cooperatively. While never perfect, this system of international institutions has been remarkably effective. I and many others around the world are shocked and dismayed by the unilateral, confrontational approach that this administration has taken in the world arena. We must recognize the consequences in the world community of our rejection of Kyoto, of the International Criminal Court, of the treaty to ban land mines, and our own withdrawal from the ABM treaty. We must be mindful about how our criticisms of the U.N. and NATO are heard throughout the world community.

We have to recognize that after 9–11, the world came together in solidarity with our loss, working with us to find the perpetrators, to break up al Qaeda and arrest its leaders, to interrupt the flow of money. It should have been crystal clear that fighting terrorism and protecting American security would require our friends and our allies; cooperation, not confrontation. Yet the administration instead engaged in a single-minded drive to achieve its Iraqi objectives at any cost instead of developing a policy to deal with Iraq by working with our allies, by working with the world community. Even if the administration gets what it wants this time, what is the long-term damage to our international relationships? How will it impact our efforts to stop terrorism and protect the security of the American people?

I am worried. The people that I represent are very anxious. It seems more and more likely that war is around the corner. What will that war be? Are the American people prepared? The American people are expecting, I think, a smaller conflict than we are walking into, perhaps a Grenada, a Panama or the first Gulf War; quick, hopefully few casualties, troops in and out within weeks or months. I think that this war would be different. After a large ground war to capture the entire country, we will likely occupy Iraq. The Army Chief of Staff, General Shinseki, estimated that we would need 100,000 troops or more for the occupation. We have no idea how long they would have to stay. Mr. President, we need to hear about your exit strategy, and we need to hear that now.

The congressional debate that we had last fall to authorize the use of force against Iraq did not prepare the American people for the ramifications of this war and what this administration truly envisions. I call on this administration to answer the myriad questions that have been posed by numerous Members of Congress on behalf of our constituencies before ground troops are committed. All of Congress and all of America stand by our troops, but we think it is absolutely incumbent upon this administration to answer our questions.

U.S.-FRENCH RELATIONS IN LIGHT OF IRAQI CONFLICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Speaker, in the current international debate on Iraq, I have the very clear impression that the United States and France are talking past each other and not listening to each other. More particularly, that the United States is not listening to the very nuanced views expressed by the French. My assessment of the dialogue is that President Chirac and President Bush are in accord on the objective of disarming Iraq of weapons of mass destruction and the capability to deliver such weapons. The Bush administration, however, has concluded that the only way to achieve this objective is through military action. In contrast, the French and many other U.S. allies and friendly observers favor continued diplomacy in the firm belief that a vigorous, intensive weapons inspection program will attain the disarmament objective.

It would be useful for the Bush administration to think more constructively about France's contributions to international dialogue and its distinguished record of multilateral peacekeeping as well as military intervention when justified.

A few highlights would be instructive: France was a valuable partner for the United States during the Gulf War in 1991, deploying 10,000 troops and 100 aircraft in Operation Desert Storm. From 1991 through 1995, France was an active ally to secure the peace in Bosnia. During this important peacekeeping mission, 70 French soldiers were killed and more than 600 wounded. In 1999, France deployed the greatest number of aircraft and flew the largest number of sorties of any combatant in Operation Allied Force in Kosovo. France today is contributing the largest contingent of peacekeepers in the Balkans, more than any other nation, including our own.

After September 11, French troops participated in Operation Enduring Freedom in Afghanistan where France continues to place its troops in harm's way to provide security in that critical region. French President Chirac was the first foreign leader to pay his respects to the United States in person following the September 11 attacks. This is a very significant record of valuable contributions that France has made where and when needed to combat terror and secure peace.

Our foreign policy would be better served by respecting the historical reality of the U.S.-French relationship. We need to listen to the wise counsel of this longstanding friend of America which has learned how to deal with the Islamic terrorist threat from its own painful experience in Algeria, Tunisia and Morocco and the large Arabic-Islamic population among its own citizenry.

Mr. Speaker, I include for the RECORD a New York Times op-ed piece on this very subject.

A WARNING ON IRAQ, FROM A FRIEND

(By Jean-David Levitte)

WASHINGTON.—Reading the papers from both sides of the Atlantic, I sometimes wonder whether the impending war is not between France and the United States. I would like to strongly reaffirm what, in the heart of the French people, is a longstanding reality: the friendship between France and America began in the early days of your fight for independence and has endured throughout the centuries.

America rescued my country twice in the last century—something we will never forget. Today we stand side by side in many parts of the world, including Afghanistan. France is the largest contributor of troops to NATO operations. Our friendship is a treasure, and it must be maintained, protected, enhanced.

However, the polls are clear: 78 percent of French people oppose a military intervention in Iraq. Polls are similar in most other countries, including in Eastern Europe. European governments may be divided over the use of force in Iraq, but public opinion is united.

There are, in my view, three reasons the mood is so cautious. The first relates to our assessment of what is far and away the biggest threat to world peace and stability: Al Qaeda.

French intelligence is clear that not since the Algerian war 40 years ago has my country been under such an immediate threat. Last May, 11 French citizens were killed in a suicide bombing in Karachi, Pakistan. In the fall a French tanker was attacked by Al Qaeda off Yemen. And in December, near Paris, we arrested several suspects who were suspected of close links to Al Qaeda and of planning terrorist attacks in France.

Terrorist suspects have also been arrested elsewhere in Europe—in Britain, Spain and Italy—belonging to groups connected with networks active in Afghanistan, Chechyna, Algeria and Bosnia. Yet we haven't seen any evidence of a direct link between the Iraqi regime and Al Qaeda.

A second reason for the reluctance of the French people is that Iraq is not viewed as an immediate threat. Thanks to the determination of President Bush and the international community—and to the inspections that destroyed more armaments between 1991 and 1998 than did the Persian Gulf war itself, and which have now been reinforced with stronger means and bigger teams—Saddam Hussein is in a box. And the box has been closed with the inspectors in it.

Europeans consider North Korea a greater threat. Imagine what a sense of security we all would feel if, as in Iraq, 100 inspectors were proceeding with unimpeded inspections throughout North Korea, including the president's palaces.

A third reason for the cautious mood relates to the consequences of a war in Iraq. We see Iraq as a very complex country, with many different ethnic groups, a tradition of violence and no experience of democracy. You can't create democracy with bombs—in Iraq; it would require time, a strong presence and a strong commitment.

We also worry about the region—considering that no peace process is at work for the moment in the Middle East, that none of the great powers seem able to foster one, and that a war in Iraq could result in more frustration and bitterness in the Arab and Muslim worlds.

People in France and more broadly in Europe fear that a military intervention could fuel extremism and encourage Qaeda recruitment. A war could weaken the indispensable international coalition against terrorism and worsen the threat of Islamic terrorism.

The inspections should be pursued and strengthened, and Saddam Hussein must be made to cooperate actively. War must remain the very last option.

ASBESTOS LITIGATION INUNDATES THE COURT SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, yesterday Steven Kazan, the prominent asbestos victims lawyer, informed the Congress: ''Asbestos litigation has become a nightmare because the courts have been inundated by the claims of people who may have been exposed to asbestos but who are not sick, who have no lung function deficit. This flood is conjured up through systematic, for-profit screening programs designed to find potential plaintiffs with some x-ray evidence 'consistent with' asbestosis. Ironically, and tragically, in many States that x-ray evidence triggers the statute of limitations, literally forcing the filing of premature claims. These claims are choking the asbestos litigation system and keeping the courts from doing their real job, providing compensation for people who are genuinely injured by asbestos diseases.''

Mr. Speaker, the current state of asbestos litigation is a public health tragedy in which the claims of truly ill, terminally ill cancer patients and others who struggle to breathe are mixed together with those plaintiffs who suffer no impairments. In 2001, almost 90,000 individuals joined in asbestos-related personal injury suits against 6,000 entities, but only 10 percent of those claimants have any symptoms of asbestos-related illnesses. These legal tactics force defendants into settlements because they cannot take the risk of ''betting the company'' on pronouncements of a judge and jury. This first happened in 1982 when 16,000 asbestos personal injury suits forced Johns Manville Corporation into bankruptcy. Since then, the uncertainty of asbestos litigation has driven nearly 70 major American companies into bankruptcy.

During the past 20 years, 2,100 asbestos cases have been tried or settled at a total cost of $54 billion, with over half of the money used to pay lawyers. As the Wall Street Journal points out, that is more money than the cost of 9–11, Enron and WorldCom put together.

□ 1400

It certainly is a lot of money, but sick plaintiffs are not getting their fair share. The Manville Asbestos Claim Trust created by the bankruptcy court started paying claims in 1988 and was depleted in just 2 years. Today Manville pays just 5 cents on the dollar to claimants, and more money flows out to individuals with no impairments than to people who are truly sick. The truest victims of this tragedy are those who deserve quick and fair compensation for the illnesses they suffer.

However, this problem has more victims. The long-term economic cost paid by all Americans is staggering. According to the RAND Corporation, another $150 billion to $200 billion will be spent on asbestos litigation if nothing is done. To date, $54 billion has been expended. Without reform 423,000 American jobs will be lost. Local governments will spend millions on unemployment benefits, job retraining, and medical coverage for displaced workers and their families. Workers in bankrupt firms will not only lose their jobs, but their retirement security will slip away as they watch the value of their 401(K) accounts drop by 25 percent.

The ever-burgeoning caseload has spawned criticism even from Supreme Court justices who warn that the asbestos litigation crisis is slowing the administration of justice nationwide, and therefore, Congress must act. These complaints span the idealogical spectrum of the Supreme Court, including court liberals like Ruth Bader Ginsberg and moderates like David Souter. In 1999, Souter wrote: ''The elephantine mass of asbestos cases . . . defies customary judicial administration and calls for national legislation.'' Opining on the same case, Rehnquist, Scalia, and Kennedy also begged Congress to act. Others are joining the chorus.

Both the Washington Times and the Washington Post called on Congress to move asbestos litigation reform. Just 2 weeks ago, even the American Bar Association voted to support medical standards that would bring the cases of truly sick asbestos plaintiffs to the front of the docket.

Asbestos victims, business leaders, lawyers, and opinion leaders all agree. The need for reform is clear. Therefore, today I am introducing the Asbestos Compensation Act of 2003. This bill establishes medical criteria to expedite the claims of the truly ill and gives these victims access to quick and fair compensation. Any worker who feared he was exposed to asbestos could be tested by a qualified doctor in his area identified by the Justice Department. Those found to be injured would have the value of their impairments determined in accordance with a fair formula, and the worried well would retain the right to return at a later date if they developed symptoms of asbestos-related illness.

The Justice Department would contact corporations named by the workers as responsible for injuries, apportioning liability in accordance with the facts and a set liability formula. Many contacted corporations would accept these settlement offers since they would avoid the expensive legal battles of staying in court.

Mr. Speaker, this is a cloud on our entire economy, affecting 900 stocks in the stock market and the 401(K) and other retirement savings of all of our constituents. I ask for rapid support of

this legislation. This is the most important legislation after the President's tax package that this Congress will consider this year.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 936

Mr. SCOTT of Virginia. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 936.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

(Ms. CARSON of Indiana addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ARMED FORCES TAX FAIRNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. LEVIN) is recognized for 5 minutes.

Mr. LEVIN. Mr. Speaker, I rise today because it is critical that the RECORD be clear about what happened earlier today on the floor of the House, and that we learn the right lessons.

The bill relating to Armed Forces Tax Fairness was supposed to be before us. The bill originally related exactly to that, tax fairness for those who are in the armed services. But it was decided before we met in committee, the Committee on Ways and Means, apparently by the leadership of that committee, that Members would be allowed to offer provisions totally unrelated to that important bill. A number of those in the majority decided to take that opportunity.

No Democrat participated in presenting any special interest or particular interest legislation. So what we saw was a flood of special interest or particular interest proposals totally unrelated to the critical issue of armed services tax fairness. Provisions relating to makers of bows and arrows, those who make fishing tackle boxes, a provision relating to the taxation of people, foreigners who bet on American horse races.

What happened? The majority leader earlier said on the floor that the result in the Committee on Ways and Means was a bipartisan one, as I heard his words. That is simply incorrect. We voted, Democrats, against a number of these particular provisions. We had roll calls. Republicans voted aye; Democrats by and large almost unanimously voted no. The gentleman from New York (Mr. RANGEL), the ranking member, presented a substitute that would have stripped the bill of all of these particular interest provisions and, as I remember it, have adopted the Senate provision. That was voted down.

So let the RECORD be clear as to what happened in the Committee on Ways and Means. The bill came out on a voice vote because Democrats did not want to vote against a bill relating truly to tax fairness for those in our armed services. However, we had made clear where we stood on those specific provisions.

What is the lesson? At best, this bill, as it came out of the Committee on Ways and Means, reflected misguided priorities and the arrogance of power. Misguided priorities because they inserted several hundred millions in provisions totally unrelated to armed services tax fairness. Bows and arrows, money there when we are short-changing education for our kids, fish tackle boxes when there is not enough money going for homeland security. And then horse races to help those who bet on horse races when there is not enough money for people who are short on prescription drugs.

An arrogance of power that led some in the majority to decide to put on a bill relating to tax fairness for those who were abroad as well as at home, provisions that helped those who were here at home.

So I come here because it is critical the RECORD be clear, it be critical we learn from this experience. I hope next week early on a bill will be presented here preferably the Senate bill that treats even more fairly than the House bill, without these provisions, those in the armed services.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. TIERNEY) is recognized for 5 minutes.

(Mr. TIERNEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DELAHUNT) is recognized for 5 minutes.

(Mr. DELAHUNT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

(Mr. ALLEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONORING STAFF SERGEANT BERMAN GANOE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) is recognized for 5 minutes.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor a constituent of mine who fought and died in the Vietnam War and is being honored tomorrow in my district, the fifth congressional district of Florida. In 1968, 19-year-old Berman Ganoe enlisted in the U.S. Army and was sent shortly thereafter to Vietnam. On March 24, 1970, Staff Sergeant Ganoe's helicopter was shot down while on a rescue mission in Cambodia. The helicopter that Sergeant Ganoe was aboard was acting as a rescue aircraft for a gunship team engaged in combat on the ground. A fellow army pilot who witnessed the crash of Sergeant Ganoe's aircraft called the rescue mission and the actions of the entire crew ''the most heroic act he had ever seen.''

Shortly after the crash, Sergeant Ganoe was classified as ''missing in action'' and became Marion County, Florida's only Vietnam War ''missing in action'' person. In 1974, the Army changed his status to ''assumed dead.'' In 1998, after an excavation of the crash site, Sergeant Ganoe's remains were returned to the United States but were never positively identified until mid-2001.

He is one of 22 Florida soldiers whose remains were recovered and returned to the United States following the end of the war. When the technology to positively identify years-old remains was developed and perfected, the remains were identified and the families of the fallen soldiers were contacted.

Tomorrow in my district, friends and family of Sergeant Ganoe are memorializing him and honoring his contribution to our country. A bronze memorial of Sergeant Ganoe will be unveiled at a ceremony in Ocala which will follow a private memorial service for his surviving three brothers, four sisters, and numerous friends and extended family members.

Sergeant Ganoe served his country and made the ultimate sacrifice to protect our freedom. Further, he died in a rescue mission to save the lives of fellow soldiers. Posthumously, Sergeant Ganoe was awarded the Distinguished Flying Cross, the Bronze Star, 16 Air Medals, the Purple Heart, and numerous other medals of valor.

I commend Sergeant Ganoe for his actions and stand here today to honor his life and his sacrifice. I think it is particularly important that we consider the sacrifices of Sergeant Ganoe and of the people who currently are serving in our military today.

COMMUNICATION FROM THE ATTENDING PHYSICIAN OF THE CONGRESS

The Speaker pro tempore laid before the House the following communication from the Attending Physician of the Congress of the United States:

CONGRESS OF THE UNITED STATES,
Washington, DC, March 6, 2003.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena for documents and testimony issued by the Superior Court for the District of Columbia.

After consulting with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

DR. JOHN EISOLD,
Attending Physician.

MAKING THE CASE AGAINST IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. BUYER) is recognized for 60 minutes as the designee of the majority leader.

Mr. BUYER. Mr. Speaker, I come to the floor today to cover two points. One will cover recent rulings in the FCC regarding the 1996 Telecommunications Act, and the other is we are going to talk about our foreign policy with Iraq.

Mr. Speaker, in 1996 the Telecommunications Act was heralded as a grand attempt to move the telecom markets toward competition. I was a conferee on that bill. It was a great compromise between the House and the Senate. That bill was greatly heralded by many people, but 7 years later the Act's intent has been overrun by the FCC's recent decision that has effectively blocked competition and created disincentives for investment by maintaining the UNE–P status quo.

□ 1415

It is not only the intent of the act that is being circumvented. More tangibly, the already-fragile telecom industry has suffered another financial setback. In response to the FCC's decision, many of Wall Street's analysts have made their voices heard on the negative effects that the decision will have on the economy, including Morgan Stanley, Goldman Sachs, Lehman Brothers and others.

An analogy of the FCC's decision would be to allow McDonald's, or Burger King, a competitor, to come into their restaurants and use their entire facilities. You bring your meat, you fry it up, you bring your own drinks, you use it all, you use their advertising, you use their building, you use their drive-up window, you use their cash registers, and you are in competition with the McDonald's or Burger King franchise?

No one in America would ever allow a competitor to do such a thing. But that is what is happening in the telecommunications industry. What incentive is there at all to allow investment, if that in fact is what is going to occur?

As a matter of public policy, the FCC's decision simply makes no sense. On one hand, the commission deregulates broadband, and on the other hand it complicates and multiplies regulation on UNE–P.

Last year, this body passed the Tauzin-Dingell broadband legislation, 273 to 157. I think we could argue that the will of the Congress had an impact on how the FCC views broadband. Do we now pass another bill to show the FCC that further regulation on UNE–P offers no help to the Nation's economy? Mr. Speaker, if that is what it takes, then I say, let us do it.

Mr. Speaker, I am pleased that the chairman of the Committee on Armed Services has joined us here for this Special Order on behalf of the Republican leadership.

There were some what I call the voices of dissent that came to the floor, the voice of dissent with regard to war. I call it the sounds of freedom. One was asking, please give peace a chance. The other one was saying I am concerned about the long-term damage to our alliances if we do not follow what Germany, Russia, China, and France are asking for. The other says we just need to continue our diplomacy and we should follow the lead of the French. That was the voice of dissent that came here to the floor today.

I would say to the gentleman from California (Mr. HUNTER), to those voices out there that say give peace a chance, it is easy to say that when you sit in freedom, and peace is truly the consequence of freedom. America represents freedom, and we export hope and opportunity; and Iraq and some of the sub-national terrorist organizations that represent tyranny, they export fear and terror.

I yield to the gentleman.

Mr. HUNTER. If the gentleman would yield on that point, I agree with the gentleman that the folks who express their dissent and have been expressing their dissent in government, basically giving the other side of the debate, are providing a public service by doing that. But I think there are a few observations that are important here.

There have been people demonstrating worldwide in large numbers, hundreds of thousands of people, against the prospect of war with Iraq. I do not think any of those people demonstrated when the Kurdish babies were laid low by the gas attacks with poison gas that Saddam Hussein spread over their villages.

I do not think any of those folks demonstrated when he gassed Iranians by the tens of thousands, or when he executed his own people, cut off their ears and did the myriad of reprehensible acts that have now been ascribed to him, both in closed-door sessions by our intelligence officers and in open sessions by various human rights agencies.

So I think it is always important to set the record straight, or to come into these debates with a full understanding of where they come from. And I think one of the most honest talk shows that was ever devised for television was ''Crossfire,'' where the conservative would say ''from the right,'' and the liberal would say ''from the left.''

But it is obvious that the people who are demonstrating by the hundreds of thousands, some of them well-meaning people, also include lots of people who are not necessarily demonstrating because they have a great love of mankind, or that they are special peace people or have a special care about humanity, because, if they did, they would have been demonstrating when Saddam Hussein gassed those Kurdish babies by the hundreds. They were not demonstrating there, so that did not bother them.

It did not bother them because it was not destabilizing. I think a lot of folks do not like the idea that war in itself is something unsure, it is destabilizing, that it potentially affects the cost of gasoline in your automobile, it potentially affects your community, it may affect relatives who may have to go off to war. So it is something that brings about a feeling of unsettlement.

But let us answer that question the gentleman brought up, why are we entering into this confrontation, it appears? I think one question that could be well thrown back is this: in 1991, when we had not only lots of folks in this country and around the world against us taking action against Iraq when they invaded Kuwait, we not only had lots of folks on the streets around the world, but we also had a majority of the Democrat leadership. I do not fault that Democrat leadership for having taken their position, which they have a political right to do, and taking that side of the debate. But we found afterwards, to answer those people who said give peace some time, give it a chance, give us another 10 months, 18 months, whatever, we found out that according to United Nations estimates, Saddam Hussein at the time that we defeated him in battle was 6 months away from having a nuclear weapon.

So certainly those well-meaning folks who thought that time was on our side discovered afterward, and to the surprise of everyone, conservatives, liberals, Democrats, Republicans, none of us knew how close he was to having that system. So time is not always on our side.

It is my estimate, after having conducted some closed hearings and some open hearings, eight hearings in total, it is my judgment that this country is going to have a nuclear device in about 3 years, and, along with that capability, possessing that capability, because we have allies who have nuclear devices, Britain has nuclear devices and we are not worried about them,

that country has with its present leadership, I think, the intent to use that capability against Americans, either in theater or in the American homeland.

Mr. Speaker, when you add up capability plus intent, you have a national interest; and our national interest now is to take that away from him before he has the full capability. So I think that reasonable people can differ on this subject. But the lesson of Desert Storm I was that time is not always on our side.

Mr. BUYER. Reclaiming my time, beginning with the threat, I think is probably the right place for us to start this discussion here today.

A report released on September 9, 2002, from the International Institute for Strategic Studies, an independent research organization, concludes that Saddam Hussein at that time, actually Saddam Hussein could build a nuclear bomb within months if he were able to obtain the fissile material. Iraq has stepped up its quest for nuclear weapons and has embarked on a worldwide hunt for materials to make an atomic bomb. We all know about the aluminum tubes, the dual-use material and technologies that he has been trying to obtain.

So the gentleman's comments with regard to time, it is true; and I do not know why some people are unwilling to acknowledge this individual's ambitions. Saddam Hussein has repeatedly met with his nuclear scientists over the past few years, signaling his continued interest in developing a nuclear weapons program.

With regard to chemical munitions, Iraq admits but UNSCOM cannot confirm the destruction of 6,500 chemical-weapon bombs filled with 1,000 tons of agent, over 3,000 tons of chemical warfare agents, 614 tons of precursor chemicals used to make the most toxic nerve agent, VX, 550 artillery munitions, 155 millimeter, filled with mustard and chemical warfare agent, and 31,658 empty and filled chemical weapons munitions.

Iraq continues to rebuild and expand the dual-use infrastructure that could quickly divert from chemical weapons production such as chlorine and phenol plants.

Iraq is seeking also to purchase chemical weapons, agents, precursors, and applicable production equipment and is making an effort, obviously, to hide those facilities while inspections even continue.

With regard to biological weapons, Iraq admits, but the U.N. cannot confirm, the destruction of 8,500 liters of anthrax, 2,160 kilograms of bacterial-growth media, enough to produce 26,000 liters of anthrax, 38,000 liters of botulinum toxin and 5,500 liters of aflatoxin.

Mr. HUNTER. If the gentleman would yield on that point, the facts that the gentleman is putting out are especially important because those are not guesses on our part. In fact, they are not even guesses on the part of the United Nations or on the part of the arms inspectors. Those come from documents from the Iraqis themselves, from their own declarations and their own documents. So the 6,500 liters of anthrax, for example, which is enough anthrax to kill around 1 million folks, is something that came from their documentation, not ours. That is something that they have not turned over.

The thousands of chemical munitions that the gentleman has gone through, that comes from their documentation, not ours. So this is like the storekeeper who says here is my inventory list, and then later on he wants you to expect that somehow, without any outward manifestation or anything that could be picked up or anything that was shown to the rest of the world, all of those weapons have disappeared.

Let me just say, and this might be the time to comment on this, the easiest bet in show business is that this tiny little handful of so-called inspectors, and there are less inspectors than there are policemen in the average small town in America, the idea they are somehow going to be able to go through this massive state and discover weapons of mass destruction in these vast empty buildings that the inspectors are being shown by the Iraqi bureaucrats, the idea that that is in some way going to happen is an absolute fantasy.

So I predicted early on, before this thing ever started, on the record, that they were not going to find anything of import. These folks have had a long time to bury it. And the Iraqi bureaucrat who actually leads arms inspectors into these places, and 90 percent of them are places where they have been before, time and again, big empty buildings, and lo and behold, there is a weapon of mass destruction that somehow the maid forgot to clean up from the night before, that bureaucrat is going to be considered two things: one, the dumbest bureaucrat in Iraqi history, and, secondly, shortly thereafter, the deadest bureaucrat in Iraqi history.

So this is a state that has had an entire agency devoted to hiding things very effectively, and the idea that this little bitty corporal's guard of so-called inspectors is somehow going to find them, is like saying that this massive police force in Washington, DC., and the police force in D.C. is 10 times as big as the inspectors for all of Iraq, it is like saying that the drug lords of Washington, DC. are expected to pile all of their cocaine at an intersection on Pennsylvania Avenue at a given time. When they do not pile it up, and the Washington Post thereby concludes that there is not any cocaine in Washington, DC., you will have the equivalency to what some of the media is doing today with these reports of negative findings with respect to Iraq.

Of course, they are not going to turn over this stuff that they have spent millions of dollars hiding to this little bitty force which does not have the ability to go in and which is having absolutely no success in terms of finding it.

Remember this great idea where we were going to isolate or bring out for interrogation these people in the Iraqi technical establishment, the scientists, the engineers who build this stuff? Somehow we were going to get them and the families alone outside of the country, and then they were going to tell us things, just like the ones that have come out have told us.

Now, that has not happened; and not surprisingly, while these people are under the control of Saddam Hussein, while the Iraqi guard stands there and looks them in the eye, they say, I would rather not talk unless I am accompanied by one of Mr. Hussein's officials.

□ 1430

Well, of course they say that. The safety of their lives and the lives of their children depend on them saying that.

This country has to act in the security interests of the United States. I recall, with respect to these other countries that have not come on board, that when Menachem Begin hit the Iraqi nuclear reactor site in Osirak in the 1980s, lots of countries in the world publicly deplored the act, and said this was a terrible intrusion on the Iraqi airspace. They then walked quietly into the security of their own offices and they breathed sighs of relief because that capability had been taken way.

Mr. BUYER. Mr. Speaker, I would ask the gentleman, is this the same nuclear reactor that was built by the French?

Mr. HUNTER. Yes. I think one French engineer was killed that way. There was one engineer working on a Saturday or Sunday at the Iraqi site. As I recall, there was one engineer killed.

My point is, the world has two faces; one face in which they, too, are deathly afraid of an emerging nuclear capability on the part of Saddam Hussein, and terrified with the present-day chemical and biological weapons capability. They do not want him to hurt them, they want us to protect them. On the other hand, those people, especially the people that Don Rumsfeld describes as those who live in the neighborhood, who have to deal with them, are going to be very reluctant to publicly say that the bully should be taken on, because the bully is going to remember what they said.

Mr. BUYER. I would say to the gentleman from California (Mr. HUNTER), since we talked about the present threat, let us spend a little time on what Saddam Hussein has done from 1991 to present.

With regard to his repression of the Iraqi people themselves, there is his refusal to admit human rights monitors; continued torture; the executions and repression of political opposition; disappearances of people in the night;

withholding of food and medicine in the food for peace program; the mass murder of Iraqi Kurds and Iraq Shi'a Muslims. He continues to support international terrorist organizations, which has been well known.

He also has refused to account for Gulf War prisoners. In his failure to account, Saddam Hussein has been unwilling to come forward on 609 cases of missing Gulf War prisoners of war and missing in action representing 14 nationalities, including one American pilot. We also have Saddam Hussein failing to return and account for a large number of Kuwaiti citizens and citizens of other countries who were detained during the Iraqi occupation.

Also, Saddam Hussein has refused to return stolen property from Kuwait, and Saddam Hussein has continued his efforts to circumvent the economic sanctions.

So for those who are saying give peace a chance, let us let the economic sanctions work, are they working, I ask the gentleman from California?

Mr. HUNTER. I think the gentleman has given an excellent representation of what this dictator does, Mr. Speaker, and what he stands for. I think that builds an excellent context in which we can try to evaluate whether or not peace would work, given a chance.

First, he is deceptive. Secondly, I think he believes his future depends on manufacturing weapons of mass destruction. Third, he is willing to take his own people through enormous discomfort and inconvenience and danger in order to achieve his own political ends.

But I would say to the gentleman that there are pieces of Saddam Hussein's activities, although maybe not the composite, but it can be fairly said, and it has been said by lots of people, are there not other dictators in the world who do the same thing, and we are not attacking them?

I would say that that is true. I would say the reason that I think we should move forward, and I think is the major justification for this massive operation, is American security. This guy is the leader who has used ballistic missiles against American troops and killed them with it. He has used poison gas against his own people in recent times. He has exhibited a willingness to kill Americans.

As a result of the background that I have seen and the facts that I have seen, it is my conclusion that if he can achieve the production of a nuclear device, that at some point he will use it on our troops in theater or on Americans. I think it is a wise decision to keep him from being able to do that.

That takes us to, I think, what I think is a very important point for policy debate. It has been a point for policy debate. We now have what I call the Pearl Harbor school emerging from the other side of this debate. Those are the people who say, by golly, we are America. We wait for our Pearl Harbors before we respond. When the enemy inflicts a heavy blow on us, that is when we rally; that is when we talk about the day of infamy; and that is when we go out and strike back and overwhelm the enemy, and justice prevails.

The problem with the Pearl Harbor school is that these weapons are so severe today and so dangerous and so destructive that we cannot afford to wait to have a Pearl Harbor occur before we eliminate the source. To some degree, we are carrying that out right now. September 11 killed a lot of Americans; but, arguably, the new tightening of our borders, the new security efforts we have undertaken in the American homeland should prevent some of those things from being able to happen again.

Therefore, it could be argued that there is no reason for us to be in Afghanistan going after people and disrupting terrorist groups; in fact, in some cases taking on people who personally were not involved in the event of 1995.

But what we have discovered is that we do have to do some preemption. I think this question is going to be facing us again and again in this century: Are we going to stand by and watch somebody who has demonstrated an intent to kill Americans develop high technology with which he can kill lots of Americans, and stand by and wait for him to gain that weapon and use it on us before we respond; or are we going to try to eliminate that danger before the Pearl Harbor occurs?

That is a tough thing, because Americans do not like to be the first ones to strike out. When we watch the speech of FDR after Pearl Harbor, there was no dissent in the House Chamber. That was an easy vote, that vote for war. We were all together, we had that common ground, and had that feeling that we were in the right. As Joe Lewis said, we felt that God was on our side.

Now we are faced with these terrible weapons, and we cannot afford to take the blow that will come from those systems. In a way, we are a little bit like little tiny postage stamp Israel that stood there and watched this nuclear reactor being built in Iraq. They had seen the speeches by Saddam Hussein where he made thinly veiled threats to the effect that the final recipient of the output of those nuclear reactor plants would be weapons detonating in Israel. Israel realized they were too small, too flimsy, too frail to take that massive blow, so they went out and destroyed that plant.

Unfortunately, one person was killed. He was an engineer from France who was working there over the weekend. But because of that, they saved thousands of people from being killed.

So whether we embark on this policy of preemption or not is a valid subject for a major policy debate, but I think, in many cases, the answer must be yes; and certainly in this case this person is a person who has already killed Americans with ballistic missiles as well as with conventional capability, and has tried to acquire these other capabilities.

Because of that, I think we see the intent, and when the intent is married up with the ability to do it, we are going to rue the day that we, for convenience' sake and for stability's sake and for safety's sake, we gave up an opportunity to disarm him when we had the opportunity.

Mr. BUYER. Mr. Speaker, to support the gentleman's position on a preemptive strike, I think it has been clear that Saddam Hussein's efforts to circumvent the economic sanctions has proven itself very successful. Saddam has illegally imported hundreds of billions of dollars in goods, in violation of economic sanctions, and even outside of the U.N.'s oil for food program.

For example, Iraq has imported a fiberoptic communications system that supports the Iraqi military. It has diverted dual use end items obtained under the oil-for-food program for military purposes. For example, Iraq diverted U.N.-approved trucks for humanitarian relief purposes for military purposes, and has used construction equipment to rebuild weapons of mass destruction-affiliated facilities. They came to Iraq under the dual use program.

Saddam Hussein also has about $3 billion in illegal proceeds that he is able to use with these items. He is contracting with over 75 nations around the world, and he is giving priority contracts to France, Germany, and Russia in return for their support in this very difficult time.

Does the gentleman have any comments he would like to add?

Mr. HUNTER. Mr. Speaker, I would just say, and I hope my colleague will excuse me, because I have to go try to do something we have both been working on, and that is talk to some folks from our Committee on the Budget and convince them we need more for defense.

But I would say, Mr. Speaker, that I think the gentleman has laid out a very well-documented case for taking action. I notice also that the gentleman is a veteran of the Gulf War. He told me about the apprehension that he and other Americans had when they heard those missiles coming in.

This is a very dangerous situation we are in. I think we have to acknowledge it every time we debate this issue. Is this dangerous? Yes, it is dangerous. The policies of doing nothing are also extremely dangerous. This is not going to be the easy century following the disassembly of the Soviet empire that we once thought it was going to be.

I think we need to have a broad military capability, the ability to make a surgical strike, to fight guerilla warfare, to take on conventional attack and armored attack, and also the ability to stop a missile attack. We live in an age of missiles, and we have to be able to stop that.

In this case, we have to have the ability to preempt and disarm an adversary whose intended goal is to destroy Americans. I know it is a difficult,

tough thing to do, and I would just ask the gentleman to comment on this a little in his remarks after I leave.

I have been impressed with this President, because if he had wavered slightly through this last process of the last 6 months or so, we would be faltering right now. But he understands his role, which is as President of the United States, and his duty to the security of the United States.

That is not a role which is to be subverted by a vote by Cameroon, for example, or some other country whose name Americans have difficulty remembering. It is an American obligation to defend Americans. He is our Commander in Chief. He staged the forces very effectively for this operation. He is willing to account for the success or failure of any military operation. He is a good commander in chief. I think he has done the right things.

I think some of the allies falling by the wayside was entirely predictable, because when good old Americans can carry the load, other countries are often willing to let us do that. That is why, when we bring 90 percent of the funding to a military operation that they ask us to do, like Bosnia, we sometimes choke a little bit but we usually do it; and usually they are willing to stand back and let us bear the brunt of those operations, because it is practical for them for their politics and economy.

But this President has kept his eye on the ball, which is to disarm Saddam Hussein. I think he is moving this mission forward in a very effective manner.

I want to thank the gentleman. I would like him to talk a little bit about Desert Storm. I have to take off, but I would like the gentleman to share with folks about Desert Storm, that the gentleman is a veteran of, and the quality and capability of the folks we have in the Armed Forces.

Mr. BUYER. I thank the gentleman from California, Mr. Speaker.

There have been over 17 resolutions before the United Nations in which Saddam Hussein continues his open defiance.

The first resolution was November 29 of 1990, that said Iraq must comply fully with Resolution 660 regarding the illegal invasion of the country of Kuwait.

The next resolution was number 686, on March 2 of 1991. It says Iraq must release prisoners detained during the Gulf War. Iraq must return Kuwaiti property seized during the Gulf War. Iraq must accept the liability from international law for damages during its illegal invasion of Kuwait. He has not done anything about that.

The next resolution, number 687 on April 3 of 1991, Iraq must unconditionally accept the destruction, removing and rendering harmless under international supervision of chemical and biological weapons, all stocks of agents, and all related subsystems and components of all research development, support, and manufacturing facilities. This was in 1991.

Iraq must unconditionally agree not to acquire or develop nuclear weapons or nuclear weapons-usable material, or any research, development, or manufacturing facilities. It continues, recalcitrant.

Iraq must unconditionally accept the destruction, removal and rendering harmless under international supervision all ballistic missiles with a range greater than 150 kilometers. Now he is destroying missiles; this was back on April 3 of 1991. The list goes on and on under that resolution.

The next resolution out of the U.N. Security Council was number 688 on April 5 of 1991. It condemns the repression of the Iraqi civilian population, the consequences of which threaten international peace and security.

Iraq must immediately end repression of the civilian population, and Iraq must allow immediate access of international humanitarian organizations to those in need of assistance. It never happened. Those were the words of the U.N. April 5 of 1991.

The next resolution came from the U.N. Security Council, number 707, on August 15 of 1991.

□ 1445

It condemned Iraq's serious violation of resolution 687. It condemned Iraq's noncompliance with the International Atomic Energy Agency and its obligations under the Nuclear Nonproliferation Treaty. Iraq must halt nuclear activities of all kinds until the Security Council deems Iraq in full compliance. August 15 of 1991. Never happened.

The next resolution by the U.N. Security Council, No. 715, October 11 of 1991, said Iraq must fully cooperate with the U.N. and the International Atomic Energy Agency inspectors. Never happened.

The next resolution from the U.N. Security Council, No. 949, October 15 of 1994, condemns Iraq's recent military deployments toward Kuwait. Iraq must not utilize its military or other forces in a hostile manner to threaten its neighbors or U.N. operations in Iraq. Iraq must fully cooperate with U.N. weapons inspectors and Iraq must not enhance its military capability in southern Iraq. Never happened.

The next U.N. Security Council resolution was No. 1051 on March 27, 1996. They said Iraq must report shipments of dual-use end items related to weapons of mass destruction to the U.N. and to the International Atomic Energy Agency. Iraq must fully cooperate with the U.N. and these agency inspectors and allow immediate unconditional, unrestricted access. It never happened.

The next U.N. Security Council resolution, 1060, on June 12, 1996. It deplores Iraq's refusal to allow access to U.N. inspectors and Iraq's clear violations of previous U.N. resolutions. Iraq must cooperate fully with U.N. weapons inspectors and allow immediate unconditional and unrestricted access. It never happened.

The next resolution by the U.N. Security Council was No. 1115 on June 21 of 1997. It condemns repeated refusal of Iraq authorities to allow access to U.N. inspectors which constitutes a clear and flagrant violation of U.N. resolutions 687, 707, 715 and 1061. Iraq must fully cooperate with the U.N. weapons inspectors and allow immediate, unconditional and unrestricted access. Iraq must give immediate unconditional, unrestricted access to Iraqi officials whom the U.N. inspectors want to interview. It never happened.

The next U.N. Security Council resolution was 1134 on October 23, 1997. It condemns repeated refusal of Iraqi authorities to all access to the U.N. inspectors which constitutes a flagrant violation, again, of resolutions 687, 707, 715, and 1061. It says Iraq must fully cooperate with the U.N. weapons inspectors and allow immediate unconditional, unrestricted access.

Boy, this sounds like a broken record.

Iraq must give immediate unconditional, unrestricted access to Iraqi officials whom U.N. inspectors want to interview. It never happened.

The next resolution came from the U.N. Security Council on November 12, 1997. It condemned the continued violations by Iraq of previous U.N. resolutions including the implicit threat of safety of aircraft operated by U.N. inspectors and the tampering of U.N. inspectors' monitoring equipment. It reaffirmed Iraq's responsibility to ensure the safety of U.N. inspectors, and Iraq must fully comply with U.N. inspections and allow immediate unconditional, unrestricted access. It never happened.

The next U.N. Security Council resolution was 1154 on March 2, 1998. They said Iraq must fully cooperate with the U.N. and the International Atomic Energy Agency weapons inspectors and allow immediate unconditional, unrestricted access and notes that any violation would have the severest of consequences for Iraq. That was in 1998. Do you think Iraq was scared? These words are beginning to get very, very empty if you say them over and over again.

The next resolution was 1194, September 9 of 1998. It condemned the decision by Iraq on the 5th of August 1998 to suspend cooperation with the U.N. and the International Atomic Energy Agency inspectors, which constitutes a ''totally unacceptable contravention of its obligations under the U.N. resolutions 687, 707, 715, 1060, 1115, and 1154.'' And they said Iraq must fully cooperate with the U.N. and IAEA weapons inspectors and allow immediate unconditional, unrestricted access.

The next resolution came on the 5th of November of 1998. It was resolution 1205 of the U.N. Security Council. It condemns the decision by Iraq of 31 October 1998 to cease cooperation with

the U.N. inspectors as a flagrant violation of resolution 687 and other resolutions. And they said Iraq must immediately and completely and unconditionally cooperate with the U.N. and IAEA inspectors. It never happened.

The next resolution by the U.N. Security Council was No. 1284, December 17, 1999. It created the United Nations Monitoring, Verification and Inspection Commission to replace previous weapons inspection teams. And they said Iraq must allow this new inspection team the immediate unconditional, unrestricted access to Iraqi officials and its facilities. Iraq must fulfill its commitment to return Gulf War prisoners, this is 1999, and calls on Iraq to distribute humanitarian goods and medical supplies to its people and address the needs of vulnerable Iraqis without discrimination. It never happened.

The next resolution then was the one which is presently being discussed, 1441. This resolution was meant to be different from all of these that I just mentioned. Because this resolution was by its very nature words that were negotiated painstakingly to give a final opportunity for Iraq to comply with its disarmament obligations under all these relevant resolutions by the council.

During that same time, Congress decided it would also exercise a voice. In 1998 there was H.R. 4655, a sense of the Congress that U.S. policy is regime change and democracy for Iraq. That was during the Clinton administration, October 5 of 1998.

On December 20 of 2001, House Joint Resolution 75, Congress spoke and said Iraq is in material breach of U.N. resolutions. It passed this House by a vote of 390 to 12.

The next resolution that came from this House was on October 10, 2002, which authorized military force in Iraq and passed this House by a vote of 296 to 132. So we have had a continued decade of deception and defiance that has been noted.

The decade of deception and defiance continues. I went through this long litany. Sure, it may have taken 15 minutes, but it was 10 years of work and labor by the U.N.

The time for the U.N. in its relevancy and materiality of this present is before us. Are the words going to have meaning? The President has come forward and made that point very clear to the United Nations.

My hope is that the U.N. stands firm and gives definition to their meaning. Saddam Hussein has had a long history of complying with inspectors on a very small and technical scale, and then he continues to cheat inspectors on a very large scale. His tactical concessions are designed to buy time and ease pressure on his regime and to split the international community and to hopefully end resolve.

Since 1991 Saddam has presented no fewer than six, six full and final and complete declarations of his illegal biological weapons programs alone. Each of these has been an outward lie and has failed to account for large stockpiles of prohibited materials.

The United Nations has worked with three countries to give very good examples of cooperative disarmament. Those countries would be South Africa, Kazakhstan, and Ukraine. And there are three very basic elements of cooperation. One is a decision must be made at the highest level to disarm. Next would be you have to state your national intentions. And third is you cooperate with international efforts to verify the disarmament behavior and that it is open and it is transparent, not secretive.

Iraq with regard to its highest level, their efforts are concealment. Iraq also tasked its key institutions toward thwarting the inspectors, and instead of transparency, Iraq chooses to conceal and lie. That is very, very different from what we have seen. So the cosmetic compliance that is presently going on is nothing new.

With regards to Dr. Blix, I want to extend my thanks. He has a very difficult job to do. He is trying to make Saddam Hussein comply. Knowing that this track record that we have laid out, knowing the little games he plays, and the cheat and retreat strategy that he has, Dr. Blix has a tremendous job. But Dr. Blix was never meant there to be a detective. He was meant there to work with a country cooperatively in a transparent effort to disarm the country that was meant to comply with all of these resolutions.

So almost what has happened is that the world has placed an unrealistic expectation upon Dr. Blix. We cannot do that and should not do that to him. That is why resolution 1441, it demands nothing less than the full and immediate disarmament by Iraq. So this report that is going to be presented tomorrow is extremely important. I believe that no one can say that Iraq's cooperation has been full and immediate because the regime has submitted a false declaration, it has blocked private interviews. Only 5 of the 30 requested UNMOVIC have even taken place. They have threatened witnesses and their families with death, and they have hidden documents and concealed materials from inspectors.

The ''why now'' question for me is obvious. For others who perhaps do not know about all these resolutions and what has gone on, it is a good question to ask. The President has come forward with a preemptive doctrine. Some maybe do not understand what a preemptive doctrine is.

What is extremely important is after September 11 is that we have a right of self-defense. We also should be taking our defenses in doubt. What that means is you do not just say we are only going to focus on homeland security. We are going to cower in our defenses and seek the security because we feel unsecure. No. You take it to where the threat is. So whether it is in Afghanistan or whether it is in the Horn of Africa or wherever al Qaeda is trying to hide, you work cooperatively with nations; you take it to the terrorist organizations.

Likewise, with Saddam Hussein, who poses a threat to destabilize the region of the Middle East, the United States as a superpower, some people are uncomfortable with that word, but it is true. The United States is the sole remaining superpower. We have a responsibility to regional stability in the world.

Saddam Hussein has been recalcitrant to the world, and his threats will continue along with his cooperation with these terrorist organizations.

Now, I am a father, like many. My son is 17. I love Ryan. But if I said, Ryan, you know, you have got a curfew and he violated his curfew 17 times and I did nothing, and I see he is getting ready to go out tomorrow night and I said, Ryan, remember your curfew, what do you think he is going to do? He is going to come home whenever he pleases. Why? Because my words are hollow. They mean nothing. I say them, but he will not follow them because they have no meaning or definition, therefore, no consequence for the recalcitrant act. That is Saddam Hussein.

So all these resolutions that I talked about, great words. They are firm. But if the U.N. is not going to give meaning and definition to the words, who will?

□ 1500

Who will stand up and exercise the might to make right? Once again, the United States, we have seen this before. We have been there before. We are going to do it again.

I think about my comrades who find themselves on the desert floor. I remember very much what it was like. One thing I can share and to the mothers and fathers who have their loved ones who are about to be in harm's way is that not only has this Congress taken the appropriate resources to help train and equip these men and women over the last decade, this force is better than the force that I fought with in the Gulf War. I am so proud of them. When I see them, they give me chills. They represent the very best of America.

I will never forget the scene in the Indianapolis airport of a young sailor who was getting ready to be shipped off, and he has his sisters with him, his very young brother, his parents are standing there and his grandparents are also standing there, and he is standing there in a sailor's uniform. His youngest brother is holding the sailor's cap as if it were a crown, and it is a scene unlike many scenes all across the country.

Now this Congress has done its duty. It has been vigilant to make sure that this force is prepared. It will be highly lethal, it will be highly mobile, and it has very precise munitions.

With regard to the enemy for which they are about to face, I remember the

Iraqi people themselves, to include the conscripts. I interrogated many of them during the Gulf War. They do not like Saddam Hussein. Iraq is a very wealthy country, and Saddam only takes the wealth of that country to the benefit of a very few as he suppresses other tribes within Iraq. They do not like Saddam Hussein.

One of the individuals I was interrogating had, under his blouse, I saw this red and blue sort of semicircle. I could not understand exactly what it was. I asked him to undo his blouse and it was a Chicago Cubs T-shirt. He had relatives that lived in Michigan, and they were fans of the Cubs, and so he tried to track the Chicago Cubs.

One other story. In order to help bring calm and peace at the Western antiwar camp, we gave the Iraqi prisoners, over 46,000 of them, what they wanted to hear. They wanted to listen to Madonna. So we piped in Madonna music. They are more Western than one can imagine, and they do like America, and they do not like Saddam Hussein.

With regard to the leadership, I came out of the interrogation tent. My interpreter at the time was former King Fahd's grandson, Bandar, and as I come out of this tent, there is an Iraqi general officer sitting on the desert floor. He is sitting there with his legs crossed. His elbows are on his knees. His hands are in his face, and he is weeping like a child so hard that his shoulders are actually shaking. I stood there and I looked at this and behind are his army. I walked up to the gentleman, and I kicked the sole of his boot. I then ordered him to stand at attention.

Through the interpreter he tells the general man to stand up. I got really close to him, looked at him, asked if he was a general officer. He asked him and acknowledged and shook his head and said yes, and I told him then act like one. Now think about this scene. I am a United States Army captain, telling an Iraqi general officer how to act. Why? Why would a United States Army captain have to do such a thing? Because he was not a general officer because of his strategic mind and his tactics. He was a general officer because of his loyalties and relationships to Saddam Hussein.

So, with regard to ''the enemy'' in which we are about to face, they are not led by great military minds. So it would be no wonder why the conscripts and others will fold quickly. I also believe that he was weeping, not for his men which stood behind him, he was weeping for himself because he knew that upon repatriation, Saddam Hussein would probably execute him. That is the repression of Saddam Hussein.

The Kurds and the Shi-ites have been waiting a long time for this day. I know that in my own sense and feeling of having gone through what no differently that my ancestors have gone through for freedom and liberty in this country, I know about the consequences of war. I know about the long dark shadows of horror. I know about things that are unimaginable and things one does not speak of and things that we see we just cannot believe. War is inhumane toward mankind and I cannot believe in this day and age, for all of our sophistication and technological advances, that man still yet has not found a way to resolve our differences.

The bottom line is this is not up to us. This is now up to Saddam Hussein. I still hold out the hope that there is a country out there that is willing to take him in and that we can actually move in peacefully and change the regime. That is my desire, that is my hope. It is my prayer and I know that the soldiers that are standing there feel the same way. They pray for peace, even though they are prepared for war because they are the ones that gave an oath to give their life to defend the Constitution and our very liberties and freedom.

So let me end where we started, with the voice of dissent. I acknowledge the voice of dissent as constructive to the discussion. I find what is not constructive are those in an antiwar message that would also be ''un-American.'' Do not go out and burn the flag. Do not say and be obnoxious and do something stupid. If a person has got something that is constructive that can bring peace and tranquillity to this world, step forward and say it, but they can do so in a manner without being un-American or being disrespectful of individuals of whom have lost loved ones, or even have someone who finds themselves in harm's way in the very next few days.

I think what we should do is go find something and send it to a soldier that is in the desert. Pick it out, support the troops that are over there. Believe me, it is a very lonely place, the Saudi Arabia and Iraqi and Kuwaiti desert. Just to glance upon the American flag is something that will give a chill because it is the only thing out there that that can strike a memory of home and of loved ones.

I know that the decision that President Bush has in front of him is one that he understands the burden of the decision because he also understands the opportunity that the peace will bring, not only to the regional stability, but the opportunities and new alliances and greater heights for freedom.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. MENENDEZ (during the Special Order of Mr. BUYER). Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 130) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 130

Resolved, That the following named Members be and are hereby elected to the following standing committee of the House of Representatives:

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Mrs. Jones of Ohio, Mr. Green of Texas, Ms. Roybal-Allard, Mr. Doyle.

Mr. MENENDEZ (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAR WITH IRAQ

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. OBEY) is recognized for 60 minutes as the designee of the minority leader.

Mr. OBEY. Mr. Speaker, in the conduct of foreign affairs, every President deserves the benefit of the doubt.

I am standing here today in an empty Chamber because these special orders are simply the time in the House's schedule when after legislative business is concluded Members can gather or take the time to get something off their chest, and so I am here today to get something off my chest about the coming war with Iraq.

As I said, in the conduct of foreign affairs, I think every President deserves the benefit of the doubt, and on a number of occasions, I have worked with Presidents, regardless of party, on foreign policy issues. Sometimes I have honestly differed.

Iraq, in my view, is a close call. There is no doubt that Saddam Hussein is a pathological thug. We have lived with and contained other sociopaths before. Example, Joseph Stalin, whose 50-year anniversary of his death we just celebrated yesterday. It is hard to believe he has been gone 50 years, but we did not attack the Soviet Union, even though Stalin was probably one of the two greatest sociopaths of all time, the other being Hitler.

We have also seen groups like the Khmer Rouge systematically butcher their own people, and certainly, the administration has not, in any way, demonstrated or tried to demonstrate that Saddam had anything to do with the attack of September 11.

But it may very well be that we need to remove him at some point, and that point may be soon. My purpose today is not to talk about that. My purpose is to talk about what condition America will be in both at home and abroad if we take on that task, because if we do it, we have an obligation to go after Saddam in a way that does not weaken our ability to lead the world in dealing with future challenges that will certainly confront us.

My concern is that this administration has demonstrated such shortsighted arrogance that they have made it more difficult for the United States to retain its leadership ability and to see that the U.S. has the support it needs in this coming endeavor.

Now, it is obvious that President Bush and Mr. Rumsfeld and Mr. Wolfowitz and a number of others in the administration have intended to attack Saddam since the moment they took office, but if that is so, you would think that the administration would have done anything that they could do in order to build allies for the coming effort, both at home and abroad. Instead, the administration has dealt with Congress and with the international community in a my way or else approach.

At home, after September 11, the Congress in total bipartisanship fashioned an initial $40 billion package to deal with the immediate response needs of the administration, but then when Members of the House and Senate attempted to talk to the administration about the need to do more to build up our homeland security efforts in our ports, on our borders, in our local communities. We were told, in essence, if you allocate or if you appropriate one dime more than I have asked for, I will veto it.

Again, in June, when Congress tried again to beef up our ability to protect communities and ports and other vulnerable areas from terrorist attack, the President vetoed more than a billion-and-a-half dollars in homeland security money that this House and the other body voted to provide by 90 percent margins of both political parties in both Chambers.

Now, that action by the White House, in vetoing those funds, raised doubts in Congress. Were we really willing to do everything necessary to baton down the hatches at home, to guard against retaliatory action if we are going to take on Saddam? The answer from the White House, given by its action on the veto of home security funds, was only partly.

Internationally, the signals were just as confusing. Now, I know the French do not need many excuses to go their own way in foreign affairs. They have demonstrated that from the time of Charles de Gaulle.

But look at the administration's conduct the last 2 years on four fronts. First, in the past 2 years, the administration has unilaterally announced its intention to, or its desire to blow up three international treaties: the nuclear test ban treaty, the antiballistic missile treaty, and the global warming treaty. Then after those actions, the administration professes surprise when the French and the Germans feel free to engage in a little unilateralism of their own. By example, it seems to me that, by example, the administration made it easy for France and Germany and others to go their own way because that is what we announced our free right and intention to do on those other treaties.

□ 1515

Second, the administration added to the unraveling of NATO and the weakening of the Security Council resolve by announcing twin doctrines of American unilateralism and preemption. Now, obviously, the United States and any other sovereign nation has the right to undertake a unilateral or preemptive act to defend its own people. Obviously. But to announce it and to trumpet it to the world as a new intellectual doctrine scared the bejabbers out of many countries and gave other countries an excuse to do the same thing.

Mr. Speaker, whatever happened to Teddy Roosevelt's advice, ''Speak softly and carry a big stick''? And it did not help that the administration's chest-beating on preemption came at the same time that our own officials were worried pea green about a preemptive military action that might be taken by either India or Pakistan during their escalated confrontation.

Third. The administration even let it be known that nuclear weapons were a possibility in Iraq under certain circumstances. That also added to the world's jitters. The net result of the administration's overblown rhetoric resulted in pro-American responses in public opinion polls in Europe declining by almost 20 percent. And all of that made it easier for the French and the German governments to question the Bush administration and its policy on Iraq. I think it would have been much harder for them to do so if the administration had not spent the last 2 years telling the rest of the world we were going to do everything our way or suffer the consequences.

And even if we, in the end, obtain the acquiescence of countries like Germany and France to proceed on Iraq, our past rhetoric will make it more difficult for the U.S. to have their support in the years ahead when we will be neck deep in a post-war Iraqi-American regency of dubious wisdom. So, in my view, in short, the administration, by its rhetoric, has written a textbook on how not to rally support on a controversial question.

Fourth. As a result of the unilateralist rhetoric, the administration has also raised the cost of this endeavor to U.S. taxpayers. President Bush's father was able to work the world by telephone, sort of in a dialing-for-dollars operation, in which he was able to convince other countries to pay their share for the cost of attacking Iraq in 1991. This President has brought a new wrinkle to diplomacy. He has offered to pay other countries for their share of the cost associated with this war. That really is an interesting wrinkle. Meanwhile, the administration has steadily hidden the potential range of costs and the duration of our occupation of Iraq from the American people.

Now, I have no doubt that we are going to war; and when we do, I, like every other Member of this body, will rally around the troops in the field, because they are doing their duty under the Commander in Chief and we have no choice and no desire to do anything but to support them. I know my daughter-in-law's brother is one of those patchy helicopter pilots who will be stuck with heavy duty over there. But, please, Mr. Speaker, spare us the rhetoric about how this operation is going to transform Iraq into a beacon of democracy.

Mr. Speaker, I have heard such overblown rhetoric about how this action will unleash the forces of sweetness and democracy in Iraq, but I fully expect that the next thing we are going to hear is that we ought to replace New Hampshire with Iraq on the Presidential primary cycle.

Mr. Speaker, it is clear that the die is cast, and I am not going to continue to chew the same old argument. This House has already voted. But before this operation moves ahead, I want to express my dismay at the shortsighted and thoughtless manner in which the administration, through its careless and arrogant unilateralist rhetoric, has mishandled relations with the same NATO allies that we will need in the Security Council. And I would ask some of the same questions I asked on this floor before we went to war against Iraq in 1991. And I would say parenthetically that I was privileged to chair that debate for a considerable period of the time in which it occurred back then. But I want to ask some of the same questions I asked then.

Now, the administration clearly expects this war to go swiftly, and they expect it to go well. And they are probably right. I think they are, and I hope that they are. But my concern is what about afterwards. Do we really believe that we will not create thousands of new recruits for al Qaeda and other terrorist organizations in the Arab world? Do we really intend to continue the policy of benign neglect and drift that has characterized our policy toward the moribund peace process between the Israelis and the Palestinians? How long will U.S. military presence be in the Middle East after the war is over, and how do we intend to handle that presence that we do not become a hated occupying power in a radicalized region of the world?

And I would ask this: While we are focusing on Iraq, is the administration, by default, going to acquiesce in North Korea's becoming a permanent member of the nuclear club? It appears from what we see in the papers that that is very likely on the part of the administration.

And then I would ask, bringing the issue closer to home, what are we going to do to protect our own economy from the cost of both this war and its 10-year aftermath? So far the administration's answer is we are going to go to war and so we need to cut your taxes.

Can you imagine President Teddy Roosevelt or President Woodrow Wilson or FDR or Harry Truman saying we are going to go to war and your country needs you to accept a tax cut? Should we really be saying, we are going to go to war and so you should have a tax cut and your kids should pay the bill, not just for the war but for the 10 years afterwards? We are already being asked to borrow money to pay for this war, and the scuttlebutt is that the minute the war begins we are going to get a bill from the administration, a request for about $100 billion. And Lord knows what it is going to cost in the next 10 years.

And my simple and last question would be: Should we, at the same time that we are borrowing money to pay for this war, should we also be borrowing money to take millionaires off the tax role, as the White House tax and budget request in fact is asking us to do? I would hope that the political leadership of this country would be more mature than that and more fair than that. I cannot believe that we are going to put this war on the cuff; that we are then going to proceed with tax action that will take another more than $1 trillion out of the Federal Treasury in the next few years and then go to the American people with a straight face and say we have strengthened the economy for the long term.

I think Americans expect to do their duty in a time of crisis, and I think Americans do not expect that while we are having several hundred thousand troops abroad prepare to make the ultimate sacrifice in defense of what the President has concluded is in our national interest, I do not believe that at a time when those soldiers are doing that, that the best we can do back home is to say to everyone on the home front, folks, you are going to have to sacrifice by taking a tax cut, even though it is going to load billions and billions of dollars of debt on future taxpayers, including the kids that we say this war is being fought to help protect.

So, Mr. Speaker, this country is going to war. It is obvious. But I would hope that the next time that we do so we have not ahead of time, as the administration has done, that we have not ahead of time looked for ways to antagonize the very allies that we are going to need in this case, like we need support in the Security Council today if we are to have unity in the world when we take on Saddam. I hope we learn from this experience that if you intend to ask the support of the world in a military endeavor of this nature that you do not spend the first 2 years saying, by the way, everything we are going to do in the world, we are going to do it our way or no way. I do not think that is an intelligent or a thoughtful way to run foreign policy. And I certainly do not think that adding over $1 trillion to our budget deficit and our national debt over the next few years is a way to run the economy at a time when we are contemplating going to war.

□ 1530

HUMAN RIGHTS ABUSES IN IRAQ

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Indiana (Mr. PENCE) is recognized for 60 minutes.

Mr. PENCE. Mr. Speaker, I rise today in the wake of so many thoughtful remarks made in this Chamber as perhaps this Congress is about to adjourn a weekend before America may again be called upon to lead the civilized world and the arsenal of democracy into battle.

We have heard from my colleagues this afternoon, many of the strategic and military and diplomatic justifications for that. They are legion. The violations of U.N. Resolution 1441 are painfully and patently obvious. The rejection by the regime of Saddam Hussein over the last 2 decades through five Presidential administrations and 17 U.N. resolutions, of one international convention after another, argue for the civilized world, for the forces of order, to rise up against the forces of disorder, as the columnist Thomas Friedman, from the New York Times, is want to say.

I rise today after having received a very thoughtful e-mail from a constituent named David in Richmond, Indiana. David is opposed to the war strongly, and he wrote to me after urging my staff to make sure that I saw the letter, not knowing that I see all my mail, but he urged me to look at a Web site, and so I did. It was not just a Web site opposed to the war, but it was mostly a Web site, takebackthemedia.com, or some such thing, that showed very moving photographs of families in Baghdad.

Mr. Speaker, I brought a few of those photographs with me today, like this photograph of a beautiful baby boy curled up on a rug with his official travel papers of his family before him to prove his location. He looks an often lot like one of my three small children. David had me look at these pictures of families, like this beautiful young family with a boy about the age of my 11-year-old son, families on the streets of Baghdad. The argument was if as a Member of Congress, I were to look into the faces of those who may by virtue of living in Baghdad fall into harm's way, I might change my mind about the use of force.

Mr. Speaker, I must tell Members, as I told David in a phone call, when I look into these bright shining faces of families who live in Baghdad, in the region of what used to be Mesopotamia, this picture taken January 5, 2003, I am not moved away from taking action to remove this regime, I am moved closer toward it. As I said to David in a phone call late yesterday, when I look into these faces, I see an argument for removing Saddam Hussein because I cannot imagine, particularly for the four young women depicted in this photograph, what it is like to live in Iraq during these last 20 years.

Mr. Speaker, that is why I rise today. It is in the hope of talking about the human rights record of this regime that I come to the floor today. We recall a great deal of focus in the 1990s on the human rights record of Slobodan Milosevic, and the world community coming together, including France and Germany, calling on the United States of America to challenge and to remove Slobodan Milosevic for one reason: Because of his record of abuse of human rights, his wanton killing of Muslims strictly out of a policy horrifically known as ethnic cleansing. President Clinton did nobly lead America into the breach with France and Germany under the color and authority of NATO and remove that barbarous dictator.

There were no U.N. resolution. There was no previous example of them attacking their neighbors or discussion of weapons of mass destruction, there was just a dictator who abused and tortured and killed his own countrymen for ethnic reasons.

So I am a bit confused when the human rights record of Saddam Hussein seems to be irrelevant to many who oppose the war. It is a record against which the record of Slobodan Milosevic pales in comparison. The United Nations Commission on Human Rights has actually said that Saddam Hussein's record on human rights is second only to that of Adolph Hitler in the 20th century, and I want to speak on some facts, things that we know about Saddam Hussein and his regime. It is about these beautiful young girls that I hope Members' hearts will attach, to think of a regime in which these young girls are forced to live is my purpose today.

First, from the United Nations High Commissioner for Human Rights, a 1997 report, the Commission on Human Rights, reaffirming that all member states have an obligation to promote and protect human rights elaborates the following actions by Iraq that it strongly condemns:

One, the massive and extremely grave violations of human rights and international humanitarian law by the Government of Iraq, resulting in an all-pervasive, repression and oppression sustained by broad-based discrimination, and this is the U.N.'s terms, against his own people, widespread terror.

Two, suppression of freedom of thought, expression, religion, information, association, assembly and movement through fear of arrest, imprisonment and other sanctions.

Summary and arbitrary executions were also condemned by the U.N. Commission on Human Rights in 1997, including political killings, enforced or involuntary disappearances by the thousands. Without regard to due process, political opponents of Saddam Hussein, according to the U.N. Human

Rights Commission, have disappeared into the mist. Arbitrary arrest, detention consisting of a routine failure to respect due process of law, and again thinking of these families, Mr. Speaker, I quote, ''widespread systemic torture in its most cruel forms. The enactment and implementation of decrees prescribing cruel and inhuman punishment, namely mutilation for punishment of offenses and diversion of medical care services for such mutilations.''

Mr. Speaker, this is a barbarous regime, and I begin by quoting from the United Nations because we hear so much about how we ought to rely on the United Nations and I begin there, but the facts simply continue to flow. Think about that for a moment, Mr. Speaker. Widespread terror against his own people, the suppression of human rights, suppression of freedom of thought, expression, religion, information, association, assembly and movement through fear of arrest, imprisonment and other sanctions, summary and arbitrary executions and political killings, widespread and systematic torture in its most cruel forms. That is from the Commission on Human Rights United Nations High Commissioner, April 16, 1997.

Mr. Speaker, citing from the report published by Great Britain, let us talk about what we know from organizations like Amnesty International and others, let us talk about the torture that is sanctioned by the government of Saddam Hussein and in which he has been personally involved on many occasions.

From the British report, we find that the victims of torture and their families have reported the following methods of torture to international human rights like Amnesty International and Human Rights Watch, eye gouging.

Amnesty International reported the case of a Kurdish businessman in Baghdad who was executed in 1997. When his family retrieved his body, the eyes had been gouged out and the empty eye sockets stuffed with paper.

Piercing of hands with an electric drill. A common method of torture for political detainees, Amnesty International reported one victim who then had acid poured into his open wounds during interrogation in Iraq.

Suspension from the ceiling. Victims are blindfolded, stripped and suspended for hours by their wrists, often with their hands tied behind their backs. This causes dislocation of shoulders, tearing of muscles and ligaments. Iraq is also known to use electric shock. A common torture method, shocks are applied to various parts of the body including ears, tongue, fingers and genitalia.

Sexual abuse. Victims, particularly women, have been raped and sexually abused as a means of interrogation on a routine basis by this regime.

Mock executions. Victims are told to be executed by firing squad. A mock execution is staged. Victims are hooded, brought before a firing squad, and then blanks are fired as a form of torture.

David Scheffer, U.S. Ambassador at Large for War Crimes, reported that photographic evidence showed that Iraq had used acid baths during the invasion of Kuwait. Victims were hung by their wrists and gradually lowered into acid.

These are unspeakable acts of barbarism, Mr. Speaker. I am a bit loathe in this, what is a public forum by definition, to speak these words after school is out, but I think it is important as we think through the strategic issues, as we think through the diplomatic issues, international convention, disarmament, international terrorism, that we also think of this. These are the facts that I must assume that the sincere activists, perhaps at this very hour, are engaged in some demonstration here in America, or perhaps even on the streets of Baghdad, these are the facts that these people must not know. How could any decent human being, knowing the official barbarism of the regime of Saddam Hussein, ever deign to defend it.

Let us talk for a moment about the cost to fellow Muslims. There are many who want to divide the world along religious lines between the West and the Islamic world, suggesting that we in the West are not challenging an outlaw regime in Baghdad that has attacked 3 of its 5 adjacent neighbors during its regime and used chemical weapons on its own people, but rather that we are somehow engaged in a war against an ''ism,'' against a religion.

Here is the truth, again citing the recent British report published this fall. The truth of it is that Muslims have had no greater enemy in contemporary history than Saddam Hussein. I believe it is accurate to say that Saddam Hussein has killed more Muslims than any government leader in the past 50 years, including Slobodan Milosevic who sought, through a policy of ethnic cleansing, to destroy the Muslim population in the form of Yugoslavia.

□ 1545

The Iran-Iraq war, which ranged from 1980 to 1988, resulted in 1 million Muslim casualties dead and wounded. Iranian casualties in that war, Mr. Speaker, were estimated at between 450,000 and 730,000. Iraqi casualties were between 150,000 and 340,000. Really not since our Civil War have we ever as a nation experienced casualties the likes of which occurred in a barbaric and ruthless war between these two nations for 8 years.

During the 1988 Anfal campaign in Iraqi Kurdistan, Iraqi troops were responsible for the death or disappearance of up to 100,000 Muslim Kurds. Also according to Great Britain on March 16, 1988, Iraqi troops killed up to 5,000 and injured some 10,000 Muslim Kurds in a single day in a chemical weapon attack on the town of Halabja in northern Iraq.

The 1990 Iraqi invasion of Kuwait led to the death of 1,000 Kuwaiti Muslim nationals. 605 prisoners of war remain completely unaccounted for since 1991, including nationals of Kuwait, Saudi Arabia, India, Syria, Lebanon, Iran, Egypt, Bahrain and Oman. Between 3 million and 4 million Muslim Iraqis have abandoned their homes and sought refuge outside of Iraq. Many hundreds of thousands of Iraq's Muslims have been displaced internally. Estimates of 900,000 according to the United Kingdom's report may be conservative.

In the north, towns and villages were systematically destroyed by the regime during the war with Iran. Further south, non-Arabs in the region of Kirkuk have been relocated to other parts of Iraq and Arabs induced to occupy their homes and lands. And in the south, between 300,000 and 500,000 Muslim citizens have been forced from their traditional homes in Iraq's marshlands. Thousands of Muslims have been arbitrarily arrested, ill treated, tortured, and executed in Iraq in recent years.

This is according to the International Alliance for Justice News Service, Amnesty International, Human Rights Watch Country Report, and the U.S. Committee for Refugees Report, and I will cite each of the following. The regime of Saddam Hussein has reaped an extraordinary and barbarous toll on Muslims in the region over its 20-some-odd-year history. This is also a regime that has used chemical weapons according to the Human Rights Watch's ''Genocide in Iraq'' report.

Mr. Speaker, I will say for a moment that while I have great respect for Amnesty International and great respect for Human Rights Watch and as a member of the Committee on International Relations I greatly cherish any organization that makes its business to attend to the human rights of people around the world, I must concede standing on this particular side of the aisle, Mr. Speaker, not to have a great deal culturally in common with most of the people that are drawn to the work of these organizations. I have a passion for human rights. I am on the Subcommittee on the Middle East for precisely that reason. I am interested in advancing the human rights of people all across the world in whatever brief time that I have in this institution. But I know that most people who think about these things and donate to these organizations have a little bit of a different political view from mine and I suspect, Mr. Speaker, a different political view of the war from mine.

And so I am hoping that somehow through this process, we can reach some of those who object to this war, who express fealty and appreciation for Human Rights Watch and for Amnesty International and for all the plethora of groups out there that largely draw their support from the left, who have

nonetheless chronicled as a great service to mankind the barbarism of this regime.

According to the Human Rights Watch ''Genocide in Iraq'' report, which carried extensive research into chemical weapons attacks in northern Iraq, based on field interviews, they have determined that at least 60 villages as well as the town of Halabja were attacked with mustard gas, nerve gas or a combination of the two during the Anfal campaign against the Kurds between 1987 and 1988.

Human Rights Watch says that the Iraqi regime has used chemical weapons for at least four complementary purposes: number one, to attack base camps and main-force concentrations of Kurdish guerillas; two, to harass and kill retreating guerillas; three, to inflict, I make emphasis here, Mr. Speaker, that we are not simply talking about Iraq deploying chemical weapons in a military environment, which according to international convention and expectation is barbarism but also, according to Human Rights Watch, they have deployed chemical weapons to inflict exemplary collective punishment on civilians for simply supporting the Kurdish guerillas. The most dramatic case is the chemical bombing of Halabja after the seizure of the town by guerillas and Iranian revolutionary guards. And lastly, they have used it simply to spread terror among civilian populations as a whole, flushing villagers out of their homes to facilitate their capture, relocation, and killing.

The list of chemical attacks by Iraq against its own citizens, and not just in a military context, is astonishing and horrifying. And the list goes on, Mr. Speaker, of evidence upon evidence of a regime that has lost any connection to the civilized world.

But I want to go back to these pictures, if I can; and I have not yet shown all of them. These are some great-looking kids. This photograph that I got off the aforementioned Web site was apparently taken on December 19, 2002, in Baghdad, and those are some beautiful little girls. I have got two little girls of my own. They are 9 and 8 years old, Mr. Speaker. I think that I would do anything to deliver my little girls from living in the kind of society and under the kind of regime that I am here to describe and that organizations like Amnesty International and Human Rights Watch have identified and associated with the regime under the leadership of Saddam Hussein.

Let me share with you some testimony which was presented before the Congressional Human Rights Caucus on the human rights situation in northern Iraq, the Kurdish minority. This is the testimony of Bayanne Surdashi, a Kurdish humanitarian aid worker now in asylum in the United States of America. After pleasantries, Bayanne told the following story. This is a Kurdish Iraqi and her personal story:

''I was 12 years old when I experienced firsthand the suffering of my people. One evening in the spring of 1987, one of my aunts and her whole family showed up on our doorstep in Sulaymaniyah unexpectedly. We learned that their village, Askar, was one of several that were attacked by Iraqi helicopters using chemical gas and then turned into rubble by bulldozers. My aunt's family had managed to avoid the military and find their way to our home. They spent 11 months hiding with us.

''Later the Iraqi regime relocated them to newly built government settlements where they could be closely watched by the military. They were not allowed to return to their farms and were turned from hard-working independent people into people dependent on the government for their very simplest needs. Over time my family discovered that at least 40 of our relatives living in the villages had been killed during this genocidal campaign known as the government's Anfal policy. Only those relatives who managed to escape or hide survived the horror of Anfal which killed more than 150,000 Kurds.

''Three years later after our failed uprising against Saddam Hussein in 1991, the Iraqi army used every possible form of brutality as they moved into northern Iraq, destroying everyone and everything before them. In the middle of a cold, rainy winter, we were awakened by the sound of bombs. It was clear that Saddam's army was very close. My parents feared that Saddam would again use chemical gas like he did during the genocidal campaign, so, like hundreds of thousands of other frightened Kurds, we fled. We said good-bye to our home, and we joined a flood of other refugees crowding the streets on our way out of the city and out of Iraq in search of sanctuary. We walked on foot for 10 days through the mountains before we reached Iran and safety, poorly clothed from harsh weather and without enough food or water. We were surrounded by the sound of misery and distress and witnessed families burying their dead along the road and weeping mothers unable to let go of their dead infants. Due to shock, one of my brothers suffered terrible seizures a few times a day.

''When we finally returned home,'' Bayanne would conclude before this congressional committee, ''we learned that some of our relatives did not survive the exodus. My mother's aunt had been in the hospital when we left but died along with hundreds of other patients abandoned by the staff who were forced to flee the city as well. My uncle was found frozen to death in the mountains. On the radio we heard more than a thousand Kurds died every day during the exodus.''

That was the testimony of a 12-year-old little girl who because of the courage of her family made it out. This could be a picture of her, Bayanne Surdashi. She is now a Kurdish humanitarian aid worker. She escaped. Hundreds of thousands did not. But when I think of my children that same age and I think of that horror through which she passed, my blood runs cold. And I am amazed that others' does not. I am amazed, Mr. Speaker. I really am. And I just must assume that those who oppose the use of force in Iraq do not know this. Because I believed when I voted to authorize the use of force, Mr. Speaker, I believed it was right under international conventions going from the U.N. resolution 687 that was the cease-fire in 1991 and that it was appropriate for us to make clear to Iraq that they must disarm, they must disclose, they must destroy their weapons and cease any liaisons with terrorist organizations. I supported giving the President that authority. I have supported the administration unflaggingly in its attempt to develop international support for this war and believe those arguments are enough.

But there is this, which when taken in its totality, 20 years of barbarism, we see that the case against Iraq does not end with diplomatic resolutions, Mr. Speaker. The case against Iraq does not end with liaisons with terrorist organizations. The case against Iraq ends here. It ends with what will end when that regime ends.

I want to speak specifically to the issue of torture, which as I have said before is systematic in Iraq. I think again of David who asked me to look at a Web site, Mr. Speaker, where there were pictures, and I think of innocent Iraqis like this. This photograph was taken January 5, 2003, on the streets of Baghdad. These are adorable kids who maybe look an awful lot like the kids that we now know are tortured to extract information from their parents by this regime.

Mr. Speaker, I am very moved by that thought, and the sheer horror of it, but I want to reflect for a moment on what the word ''systematic'' means.

□ 1600

We are not talking, Mr. Speaker, about the torture that happens on the margins in the basement of the prison because of the brutality of prison guards who are operating outside the rule of law. When the U.N. Commission on Human Rights and Amnesty International and Human Rights Watch use the phrase that torture is systematic in Iraq, that means it is part of the system of Iraq. It is part of the ordinary undue process that the people of Iraq must endure.

And I hope I make this point, Mr. Speaker, that we are not talking about a regime that has left the rails. We are not talking about a regime that some of its operators have lost their way. We are talking about a regime that sanctions the torture and killing of its own people. The most senior figures in this regime, according to international sources, have been personally involved in torture.

Saddam Hussein runs Iraq with close members of his own family, the ''filthy

40'' that we heard about in the media this week, most of them either married into the family or in some way related by blood. Most of these come from his hometown of Tikrit. These are the only people he feels he can trust. He directly controls the security services and, through them and a huge party network, his influence reaches deep into Iraqi society. Saddam presides over the all-powerful Revolutionary Command Council, which enacts laws and institutions and it has been through this council, according to Amnesty International in a report published in August of 2001, ''torture is used systematically against political detainees. The scale and severity of torture in Iraq can only result from the acceptance of its use at the highest level.''

Over the years, Amnesty International and other human rights organizations have received thousands of reports of torture and interviewed dozens of torture victims who survived and escaped. Some of the propagandists, Tariq Aziz comes to mind, may step before the cameras some day in the near future and hold out something from a statute book in Iraq that says that torture is illegal in Iraq. But according to the report recently published by the British Government, our intelligence sources are not aware of a single case of an Iraqi official suspected of carrying out torture being brought to justice or prosecuted, not one.

I quote again, Amnesty International in a report from 2001: ''Torture is used systematically against political detainees,'' and stay with me now. ''The scale and severity of torture in Iraq can only result from the acceptance of its use at the highest level,'' according to Amnesty International.

Let me tell the story about a family, and I think we have a picture of a wonderful family in Baghdad. This photograph taken on the streets of Baghdad on January 7, 2003. A father, maybe a grandfather, with his arm around what looks to be about an 11- or 12-year-old boy and a daughter in a shawl, and it is a warm family photograph. Let me read the story of a family arrested in late 2000, not long ago. They were taken to two separate interrogation centers in Iraq within Republican Guard facilities located along the road to Abu Ghraib, according to a report published by the United Kingdom.

The husband was held in one center whilst the wife and children were held in a women's facility. The husband and wife were interrogated under torture about the husband's sale of vehicle that the interrogator said had been captured by Iraqi security forces during a raid on Iraqi oppositionists. The interrogators said separately to both husband and wife that they would cease the torture if they signed confessions admitting to be collaborating with oppositionists. They refused. The wife was stripped naked and cigarettes stubbed out on all parts of her body when she refused to implicate her husband.

This was August of 2000. I am not talking about ancient history, Mr. Speaker. According to testimony, she was beaten and thrown around the interrogation room. Her children were forced to watch the torture. She was eventually released, having been told her husband would continue being tortured until she returned to confess. She was arrested again 2 weeks late and the same pattern of torture was repeated, leaving her a psychological wreck.

During his testimony, the husband's arms were tied behind his back. He was then suspended in the air using a hook hung from the ceiling. According to testimony, this caused intense pain as his muscle and shoulder ligaments were torn. After a period, the interrogators entered the room and the husband was unhooked, placed in a chair. From close range, he was then shot at with a pistol whenever he refused to agree to sign the confession. Sometimes shots were fired which missed his body. At other times, a pistol muzzle was placed against his fingers, toes, and arms and fired so as to mutilate those areas. Over the following 2 weeks, further interrogations occurred at intervals following periods of food and water deprivation. Eventually the husband and wife's wider family paid a bribe to an Iraqi intelligence officer and they were released, and subsequently survived to escape from Iraq and testify.

Mr. Speaker, I recite these things because I think many people just do not know them. I recite these things because there are many who want to morally equivocate in this case and even to suggest that there are other countries that have weapons of mass destruction, Iraq is no different. Iraq is different, Mr. Speaker.

Let me give you more examples. Among these pictures that I was presented when I went to a Web site called to my attention by a constituent who opposed the war who asked me to look into the eyes of some recent photographs of people who live in Baghdad and think about the cost of this war. Among those photographs here is a January 5 picture of four beautiful girls and one little boy, and it is a good starting point for us to talk about women in Iraq, Mr. Speaker. I am not going to quote some propagandist organization on the right or some pro-war organization. I am going to quote from the Human Rights Alliance in France and Amnesty International's report in 2001 about the treatment of women by the regime in Baghdad.

According to Amnesty International, a 25-year-old woman known as Um Haydar was beheaded in the street without charge or trial at the end of December, 2000, after her husband, suspected by the authorities, of involvement in Islamic armed activities, fled the country. Beheaded in the street without a trial. And some think this is just another country, Mr. Speaker.

Men belonging to Saddam Fidayeen took Haydar from her house in the al-Karrada district in front of her children and mother-in-law. Two men held her arms and a third pulled her head from behind and beheaded her in front of her family, according to witnesses with firsthand knowledge presented to Amnesty International. Human Rights Alliance in France, their report in 2002, young woman was arrested because her husband had refused to join the war against Iran. Pregnant at the time, she gave birth in prison on 3 December, 1999. She said, ''I breast-fed my son, but they took him away when he was 17 days old so that he would not become like me. I'm still looking for him. I never had further news of him.''

This woman, who was also horribly tortured in prison, still said she suffers endless torture, the torture of not knowing where her son is. This according to Human Rights Alliance in France.

Najat Mohammed Haydar, an obstetrician in Baghdad, was beheaded in October, 2000, apparently on suspicion of prostitution, according to Amnesty International. Even by Iraqi standards, her execution was an outrage, Mr. Speaker. There was no evidence to support the charge of prostitution. She was reportedly arrested before the introduction of the policy to behead prostitutes. The real reason for her death was believed to be, according to Amnesty International, her criticism of corruption in the Iraqi health service. A female obstetrician in Baghdad was beheaded in October of 2000.

I cannot say enough, and as I prepared for these remarks today, these are things that shocked my conscious and mind. I know where I was in October of 2000, Mr. Speaker, and to think that there is still a place in the world where a professional woman, an OBGYN, a medical doctor could criticize her government's health policy and be beheaded publicly is a frightening thought. But that is Baghdad and that is Iraq.

A few more personal stories, Mr. Speaker, and then I will yield this Chamber to another colleague. It is the individual stories that touch me the deepest. When I got that e-mail from David in my district, I had to thank him. He challenged me, Mr. Speaker. He said that if you support this war, I challenge you to go to a Web site where there are photographs of families that live in Baghdad, recent photographs of the people who may fall under the wake of U.S. military involvement. He challenged me, and I rose to the challenge, and I went to the Web site, but instead of finding myself backing away from engagement, I found myself drawn to it. I looked into the face of this little boy and he looks like mine. And it is the personal stories that draw me into this and reaffirm my belief that the rule of law and the laws that govern civilized men and women on planet earth are not the province of the west. They are not the province of English-speaking people or Europeans, but the freedom from terror, the obligations of due process, the freedom of

speech and association, these are things that attach to the human heart that this little boy, sitting on a carpet in Baghdad, smiling for all the world to the camera, not knowing what may well be coming to his city, touches me deeply.

A few more personal stories and I will close. These are from an Amnesty International report issued in November of 1999. They are personal stories regarding Iraq's obvious human rights violation, and I say this it as often as I can, Mr. Speaker, that I might per chance by some be heard that what I am reading now is not from some pro-war, pro-Bush Web site or document. This is from Amnesty International. Abd al-Wahid al-Rifa'i, married with nine children, according to Amnesty International, was arrested without a warrant on 8 March, 1999, at 2 a.m.

Taken from his house in Baghdad by plainclothes security men, initially he was held in the headquarters of the General Security Directorate. According to Amnesty International and testimony thereafter, he was then taken to a hospital because of ill health, returned to the Baghdad security headquarters where he is currently held without charge or trial. Since his arrest, his family has not been allowed to visit him. He is believed to have been arrested because authorities suspected he was in contact with the opposition through his brother, an active anti-government opponent who lives in Europe.

□ 1615

His brother, a businessman, fled with his wife and children to Jordan in 1995. The previous month, he had been detained in Iraq accused of having contacts with opposition abroad, and was tortured. This included beatings, suspension by his feet, electric shock to his lips and genitals. He escaped by bribing a prison official in August of 1995, and a criminal court sentenced him to death in absentia. His brother remains incarcerated without charges in his absence.

Ibrahim Amin al-'Azzawi, a 70-year-old lawyer, according to Amnesty International, was arrested on the morning of 23 March 1999. Four plainclothes security men took him away from his house in Baghdad. He was reportedly not involved in any opposition activities.

The previous evening his daughter, Bushra, married with two children, came with her children to her parents' house in a state of shock. She told her family, who are Sunni Muslims, that her husband had been arrested at his house and taken away by security men.

The whole family could not sleep that night. When the four security men came to the house around 6 a.m., they knocked at the door, and it was Ibrahim Amin al-'Azzawi who opened the door. They searched the house, confiscated documents, and arrested Ibrahim without giving him any reason for the arrest.

The family then feared that the security men would return and arrest them. Bushra and her two children and her two unmarried sisters and their 61-year-old mother collected some of their valuables and ran from the house. A few weeks later, they managed to flee the country. They believe that the reason behind their father's arrest was that his son-in-law, a Shi'a Muslim, was suspected of involvement in some antigovernment activities.

Ibrahim Amin al-'Azzawi was executed. His body was buried by the authorities. No information of a charge, trial, or sentencing was available. No information was made available to Amnesty International as to the fate of his son-in-law. This was a 70-year-old lawyer in Baghdad, who upon hearing that his son-in-law had been arrested in the dead of night, went to his house to comfort his daughter and was himself dragged off and executed. This is Iraq, Mr. Speaker. This is Iraq today, 1999, according to Amnesty International.

Let me tell you a story about a 67-year-old man, married with four grown children. Ayatollah al-Shaikh Murtadha al-Burujerdi is his name, I say with respect, age 67. He was shot dead by armed men on the night of 22 April 1998 as he walked home from the shrine of Imam Ali in al-Najaf one of the Shiite Muslims' holiest cities, where he had led the congregation in dawn prayers. His two companions were also shot and sustained injuries.

He had reportedly been harassed in the past by Iraqi security services, and there had been at least one attempt on his life in 1991, and following the Shiite uprising in the South, he was arrested with scores of other Shiite scholars, was detained, and then released.

A few weeks before his murder, he had been visited by a delegation from the Ministry of Religious Endowments and Religions Affairs, urging him to stop leading the prayers. He was reported to have stated to the delegation he would only agree if he received in writing an order from the Iraqi government. Following the assassination, an official statement released by the government blamed the intelligence service of a foreign country. Amnesty International.

These names are hard for me to pronounce, but these facts are not hard for me to understand: a 67-year-old grandfather coming back from a prayer service, shot and killed. Two men were coming back from one of the holiest places for Shiite Muslims were also shot and wounded. His offense was praying.

The list, Mr. Speaker, goes on and on and on. There is persecution of the Kurds that has been documented again and again. There has been much human rights and religious persecution within Iraq. It is a record of mindless barbarism that is contemporary, not ancient history.

Some may believe that these were things of a frontier period in the regime before law and order took hold. These things may happen, they say; but I am talking from the benefit of the great work of Human Rights Watch and Amnesty International.

Mr. Speaker, I speak of things that have happened within months of this day. A woman who was a medical doctor was beheaded because she criticized the government; a grandfather walking back from a prayer service, shot and killed simply because he did not adhere to the government's demand that he stop leading prayers with the Shiite Muslims; and the systematic use of torture as part of government policy.

So I rise today to simply add something to the discussion. I do so with great humility, Mr. Speaker, knowing that each one of us among the 435 who are privileged to serve in this place are simply part of a national conversation. We are the way America talks to itself.

I had a burden on my heart, Mr. Speaker, that America ought to be talking about this. We get caught up in resolutions and weapons of mass destruction, and were they or were they not involved with al Qaeda, were they or were they not involved in September 11. Each one of us, by our own lights and by the facts, will decide what we believe, and decide what we believe should be the proper course of action.

However, what I see the debate bereft of is an honest discussion of the barbaric and virtually unprecedented record on human rights that is contemporary Iraq under Saddam Hussein.

These families, these kids. December 19, 2002, this paragraph was taken of two beautiful little girls, about the age of my girls, in Baghdad. When I think of the man who was beheaded in front of his wife and children, when I think of the parents who were incarcerated and tortured in front of their children, when I think of the woman who escaped from Iraq, but they took her boy of 17 days away because they did not want him to be polluted by her ideology and thinking, she grieves to this day, not for the torture that she suffered and no doubt the physical scars she bore, but she feels the emotional scars of not knowing where her baby boy is.

It is about these families, Mr. Speaker, that I believe in the justness of our cause. I think of those words from Ecclesiastes, Chapter 4: ''Again I looked and saw all the oppression that was taking place under the sun. I saw the tears of the oppressed, and they have no comforter. Power was on the side of their oppressors, and they have no comforter. I declared that the dead who had already died are happier than the living who are still alive; but better than both is he who has not yet been, who has not seen the evil that is done under the sun.''

When I look into these eyes, Mr. Speaker, I see the tears of the oppressed. When I look into these eyes, I know the evil that is done under the sun. Because of the outstanding work of Human Rights Watch and Amnesty International, I am able, and millions

are able, to know of these things, and the reality of them.

But let it not be said in this place that they have no comforter, that they have no defender; because in the days ahead, as we pause and reflect this weekend, each of us going to our own place of worship, I suspect many millions of Americans in churches and synagogues and mosques and in their own private devotions will pray.

We will, each of us, pray, not just for the safety of our troops, but we will pray for these who shed the tears of the oppressed. We will pray that God will have his mercy on all the innocent in the way of war, confident that our military will use extraordinary efforts to avoid casualties by noncombatants.

It is my hope that somewhere in the heart of hearts of the children in these pictures that I have shown today, and in the families they represent, there will be the knowledge that there is a defender; there is a nation, some 50 nations, that stand ready to end their oppression, to dry their tears, and to lead Iraq into a new dawn of civilization, a new dawn of freedom from oppression and torture and the abuse of women and the stifling of basic civil and human rights.

That is my prayer, that is my hope, and of that I remain confident, that the United States of America will, if need be by force, or by showing enough force that it is voluntary, lead Iraq into that bright future.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

AMERICA'S ROLE IN FINDING A SOLUTION TO TERRORISM

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 60 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I take this time to try to craft and articulate the burden that so many of us feel as we hope to be part of a solution that respects life over death, and clearly captures the role and the position of the United States of America as the singular world power, the problem solver, the great humanitarian.

Mr. Speaker, I believe that the American people every day epitomize a caring Nation, a population that is charitable and eager to be of help. I know that, Mr. Speaker, because none of us are the same since 9–11. We cried, we hoped, we prayed, and all we wanted to do was to embrace our brothers and sisters who had lost their loved ones; and even to find some sense of hope that more would be found alive. We watched steadfastly every day, every hour, every minute, every second as the brave first responders were looking to find life.

So I know that Americans truly are those who care about people; and yes, where there is no justice, Americans desire to march in to create justice.

Mr. Speaker, we could find almost zero divide when Americans rose to the floor of the House in the United States Congress after 9–11 and authorized the President's authority to fight the war against terrorism. Not only did Members of the United States Congress offer themselves as soldiers in the political process of fighting the war on terrorism, but all of America joined.

As we looked around as far as the eye could see, and as far as we could hear, and as far as we could imagine, nations all over the world, Mr. Speaker, joined us in our horror, in our hurt and pain, but in our resolve. As I traveled on behalf of this Congress, whether it was in the Caribbean, in Africa, in Asia; whether it was in the Pacific or in South America, Australia and other places, they all, to a one, said, we are with you. We feel the pain of this Nation, and we wish to fight with you.

□ 1630

Mr. Speaker, there is nothing like a coalition of strength and resolve that will make democracy and freedom a breathing, living entity, not just words.

Mr. Speaker, I was eager to join my colleagues shortly after 9–11 and shortly after we began the war on terrorism as we went to Afghanistan. One of my major concerns, Mr. Speaker, was to make sure I greeted and met with the men and women of the United States military, as I have done, Mr. Speaker, in going to Bosnia during the middle of that war before the Dayton Peace Treaty was signed; meeting with the respective presidents at that time, Milosovic who obviously told an untruth and got his just todo by being tried before the war crimes tribunal. And then as I went to Kosovo to meet with General Wesley Clark near the muddy near Albania as we were in a collaborative effort with NATO raising our voices against ethnic cleansing, murderous acts, stopping that with our allies; and then going into Afghanistan to see the troops and to go into that nation to begin to hopefully encourage it to be a nation, and as well to see the pain that was there.

I do not have the pictures of the faces of children, but when you go to an orphanage with a thousand children's scars and sores all over their faces, you have a resolve to say America is here now; we are going to help you.

I mentioned Afghanistan last before I discussed this dilemma with Iraq because I have just heard the pleas of women from Afghanistan saying that even with the commitment of this Nation, there is fear in Afghanistan now because they wonder about America's resolve to help them. I am thinking, of course, of the battle fiercely going on there with our troops bravely fighting against the Taliban that are in the respective mountains and caves that maybe which cleared the city.

But Afghans will tell you the Taliban are still there, that the terrorists still abound. What does this say to America and our foreign policy and to this Congress? Unlike 20 years ago, we cannot abandon Afghanistan and so Afghanistan becomes a front that deals with the needs for American military to be present, and in essence the needs for us to continue our war against terrorism.

But how do we do that, Mr. Speaker? We are now yielding to what I consider an untimely move toward war in Iraq, when in actuality our job is not finished in Afghanistan. And in fact we have options to be able to address the question in Iraq. There is no doubt that a despot rules that country. I hesitate to say, Mr. Speaker, tragically we could probably list 30 to 31 nations with that kind of despotic leader; and so the United States has to be methodical, we have to work with coalitions, we have to be able to reflect upon history.

We have to look at the Berlin Wall and as Americans saw that wall crumbling brick by brick. How did it go so? Because the United Nations, the allies and America had a resolve to have a strong defense and to be able to allow the German people to see a better way; and it crumbled from within, not without, of course, a strong military from the allies making it known to Germany that we would not tolerate the continued existence. The resolve brought the wall down. And out of that, we saved thousands of lives without going to war.

Russia, the Soviet Union, is not the Soviet Union of yesteryear. And the independent European countries that used to be part of the Soviet Union are clamoring to be part of NATO. How did we do that with our resolve and our persistence in a coalition?

There is nothing worse than this Nation going forward unilaterally and preemptively against Iraq. What we will be intending to do may not be the result because all of those wonderful people that we want to save, those 6-year-old babies, 2-month-old babies, those elderly women, elderly men, those young families who are seeking nothing but a better life will be the collateral damage, how cold a word, of our unilateral attack on Iraq and Bagdad. Lives will be lost, and certainly large numbers of the brave young men and women in the United States military who without one bit of criticism are there in the Mid East now will be lost.

War should be the last option, Mr. Speaker. I have not said war should never be an option because I do not believe in this Nation being a wimp. And I believe that if this Nation needed defending, every American would step over each other in order to be on the frontline. But you cannot characterize one patriotism on the basis of raising the doubts of a war at this juncture

with Iraq, unilaterally and preemptively, or with what I call an unwilling coalition.

Both Britain and the United States would do well to look to the options that have been represented by the U.N., which is more projected, extended, defended U.N. inspections. Hans Blix truly believes that he has made some successes; and of course, we will hear further tomorrow. And maybe the added time that Canada wants to have until the end of the month, maybe the added time that some of our allies want to have extended time are worthy of one building a willing coalition, but as well preparing the innocent lives, the victims, the people of Iraq for what might come and find a way to minimalize the loss of life. Is that not important to the United States?

What about an option, Mr. Speaker, of gathering the religious leaders of the world in an intense closed-door negotiations? How do we know that we might not find the pathway for the exile of Saddam Hussein? We have not asked them. This is religious leaders from all denominations. We have just heard from the Pope yesterday. This past Sunday I called for weeks and months of prayer to instruct the leadership of the world and our Nation to be able to find a way to end this deadlock without a war. Many may say that Saddam Hussein is playing games with us and he will dismantle the missiles and then start up again.

Well, Mr. Speaker, it is well known that the U.N. inspectors while they were there were able to disarm Saddam Hussein more than the Gulf War of 1991, 1992; and so we do have options. That is what is important. We want to give those babies in Iraq the option to live, those mothers the option to live. We want to provide them with the milk and medicine that they need to live. We want to create individuals who clamor after democracy, not hate America because they view that we are going to do this unilaterally. We want a peaceful solution in the Mid East between the Israelis and the Palestinians. We want a free and independent Israel. We want the Palestinians to abhor as we do the suicide bombings and we want them to stop so there can be coexistence and freedom. We cannot do that if we do not give attention to a solution, full attention.

We cannot make Afghanistan whole and rid ourselves of the Taliban and get rid of those cells that are growing terrorists if we do not pay attention to Afghanistan; if we do not pay attention to women who are still being abused and treated disrespectfully and unequally. And I respect the Muslim faith. I know that the Muslim faith is quite different from the Taliban autocratic rule that extinguishes all rights. America is the single world power, and there is much responsibility that comes with privilege. And they are lining up, Mr. Speaker, and in a war with Iraq takes the toll where there may not be a solution that we would welcome. And then we have the crisis in Afghanistan, we have the terrible horrific loss of life, the jeopardy to the homeland security. And frankly, Mr. Speaker, we have North Korea, the North Korea that I believe this administration should be engaged in with policies that will recognize that they pose a problem with nuclear weapons.

We know that North Korea in 1998 succeeded in developing a No Dong missile with a range estimated at up to 900 miles capable of covering South Korea and most of Japan. And North Korea reportedly deployed nearly 100 No Dong missiles by 2003. On August 31, 1998, North Korea test-fired a three-stage rocket, apparently the prototype of a Taepo-Dong One missile. The third stage apparently was an attempt to launch a satellite. In 1998, officials told CNN that North Korea is constructing at least two new launch facilities for medium-range missiles as we have just noted.

It is well known that North Korea has the capacity, Mr. Speaker, in fact, an atomic reactor with the capacity of about 5 electrical megawatts constructed between 1980 and 1987, reportedly is capable of expending enough uranium fuel to produce about 7 kilograms of plutonium annually, enough for the manufacture of a single atomic bomb annually. North Korea in 1989 shut down a reactor for about 70 days. And our intelligence officials believe that they removed some of the fuel rods from the reactor at that time.

The information I shared is public knowledge. And so we have an ongoing crisis that requires us to not singularly look to Iraq as the solution to our concerns about terrorism, threats against Americans, and the despotism of the world. Because, Mr. Speaker, there are human rights violations all over the world, as I said earlier, in upwards of 30 countries. And interestingly enough, the United States has been effective in negotiations with a strong military.

Why not take up the offer of leaders of government, heads of religious organizations doing an intense negotiations to extract Mr. Saddam Hussein out of there? Do we not recognize that we can be strong in diplomacy?

Mr. Speaker, I would also argue that this Congress needs to assess options. Why do I say that? Because the Constitution clearly dictates that the Congress declares war under article 1, section 8. The President is the Commander in Chief. I respect that. And as I stated, I said that if these troops are deployed, there is no quarrel with the United States military. No quarrel with the troops. We will be in full support of the efforts that they are making. Let the resounding sound of the vote that we took yesterday make it very clear that there is no divide on our appreciation for the Reservists, the enlisted personnel, the civilians who are now fighting for our freedom. Let it be known, of course, that our prayers are with them and there will be no divide on the work that they are doing for us.

That is why I have come to the floor today, Mr. Speaker, because I believe there are options. We can have a strong military presence and Saddam Hussein will have nowhere to run. And we can allow those U.N. inspectors to vigorously be in Iraq, and we can save lives, and we can build a coalition of allies enthusiastically supporting this effort, similar to the effort in 1991.

And in this Congress there was a difference of opinion. But the coalition was strong, the debate was strong, the debate was knowledgeable. Why, Mr. Speaker? Because the debate was right before the invasion or the launch of our efforts, right before.

□ 1645

So all of the people had all of the facts. The Congress knew about anything that needed to be known about, and there was disagreement but there was authority given. We debated the Iraqi resolution when no one knew about North Korea, those facts were not given to us. I was represented to us that we could have a willing coalition, with NATO would be with us. The facts are different now, Mr. Speaker.

So I want for this country the best. I want for Americans the best. I want the world to know that these are the best people you could ever get to know.

We have shed the ugly American. There is no such person, because we care about what happens to people in this world. I know that because my constituents every day sign up and volunteer for the United States military to go and fight for people who cannot fight for themselves, including United States of America.

But this war in Iraq will turn the tide, and it may not get the results we would like, but what I think is important to know for Americans is that as we make these decisions, a war decision will push us into the center of Baghdad for 20, 30 years while we have to be in the center of Afghanistan for 20 or 30 years, while we have to be in the center or North Korea for a long time.

Is not it preferable, Mr. Speaker, to try the options of negotiations? Is it not worth trying to save American lives as well?

Just to show my colleagues that we do lose civilians overseas, in Vietnam we lost civilians in high numbers. Looks like we lost close to 30,000 it seems in the embassy bombings in Beirut, 1983; embassy bombing, Kenya, 1998. Civilians lives being lost to a nonmilitary, and that is not 30,000. I think that is less than that.

I believe it is important, Mr. Speaker, as we think about the decisions that have to be made that we look at the option for peace. I, too, want a free and democratic Iraq. It is important to note that it will not come overnight and it is all in the way we do it.

There is now a united Germany. There is now a united number of Soviet countries, united around the concept of democracy, and the Soviet Union does not stand.

I believe it is imperative, Mr. Speaker, that we look at options other than war, and I will continue to work with colleagues who believe, as many Americans believe, that we can find an option to save lives. We do not know what the toll will be, and by not knowing what that toll will be, we cannot factually say that the results will be as we would desire it, but we do know that if we continue in negotiation and strength, and that we are steadily, methodically disarming Iraq and Saddam Hussein, we know that, we have seen that proof, there is no reason why we could not continue that path because America has the strength, the resolve and the power to be able to win a war with Iraq. There is no doubt.

Do we have the strength and the power and the resolve to rebuild the alliances, to be able to have a coalition that has resolve to help us in Iraq? That is success. I am concerned that that may not be the full case, and so I do want to acknowledge the words of Dr. Martin Luther King, who said that in order to find peace we must become ecumenical and not sectional; that the judgment of God is upon us; that we must find a way to live in this world as brothers and sisters.

No, Mr. Speaker, it is not a simplistic perspective. It is not an imagined perspective. I am a realist, Mr. Speaker, but I said at the beginning, democracy is not about simple words. It is to be practiced, and the way we can convince the world is because we are a democracy and not a monarchy and that the people's voices can be listened to.

I believe there are people of goodwill in America who would be welcoming of negotiations that could be extending so that we could negotiate a peaceful resolve in Iraq, and then, Mr. Speaker, that if the ultimate results did not resolve themselves, that the case may have to be ultimately made for that last option, but it seems to me with a domestic agenda rising, it is imperative that we be concerned about America's destiny, its senior citizens, its children, those suffering and not having mental health services, those needing health care services, those needing housing, those who are addicted to drugs or infected with HIV/AIDS. Every day there is a cry for help, those needing funding of the children protective services, all of those, the homeless youth, homeless veterans, veterans who need to have service.

Mr. Speaker, the list is long, but I would simply say to my colleagues that we can find a better way than the loss of lives of hundreds of Americans overseas that I have just noted in Vietnam and Beirut in 1983 and Kenya in 1998. We can find another way, and I hope to work over the next week, as I said, with coalitions who are eager to work in a manner that will generate the freedom and the expression of freedom through the practicing of America's democracy by showing to the world that we know with our resolve how to negotiate, how to be part of the United Nations, how to embrace our allies and get the job done. We can do this peacefully, but with resolve and that is what my commitment is.

Mr. Speaker, I hope my colleagues will join me on this.

BLOCKING PROPERTY OF PERSONS UNDERMINING DEMOCRATIC PROCESSES OR INSTITUTIONS IN ZIMBABWE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 108–45)

The SPEAKER pro tempore (Mr. BISHOP of Utah) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a national emergency with respect to the unusual and extraordinary threat to the foreign policy interests of the United States posed by the actions and policies of certain individuals who have formulated, implemented, or supported policies that have undermined Zimbabwe's democratic institutions.

Over the course of more than 2 years, the Government of Zimbabwe has systematically undermined that nation's democratic institutions, employing violence, intimidation, and repressive means including legislation to stifle opposition to its rule. This campaign to ensure the continued rule of Robert Mugabe and his associates was clearly revealed in the badly flawed presidential election held in March 2002. Subsequent to the election, the Mugabe government intensified its repression of opposition political parties and those voices in civil society and the independent press calling on the government to respect the nation's democratic values and the basic human rights of its citizens. To add to the desperation of the besieged Zimbabwean people, the current government has engaged in a violent assault on the rule of law that has thrown the economy into chaos, devastated the nation's agricultural economy, and triggered a potentially catastrophic food crisis.

As a result of the unusual and extraordinary threat posed to the foreign policy of the United States by the deterioration of Zimbabwe's democracy and the resulting breakdown in the rule of law, politically motivated violence, and the political and economic instability in the southern African region, I have exercised my statutory authority and issued an Executive Order which, except to the extent provided for in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

Blocks all property and interests in property of the individuals listed in the Annex to the order;

Prohibits any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to the order, including the making or receiving of any contribution of funds, goods, or service to or for the benefit of the persons designated pursuant to the order.

The Secretary of the Treasury is further authorized to designate any person determined, in consultation with the Secretary of State, to be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any persons designated in or pursuant to the order. The Secretary of the Treasury is also authorized in the exercise of my authorities under the International Emergency Economic Powers Act to implement these measures in consultation with the Secretary of State. All Federal agencies are directed to take actions within their authority to carry out the provisions of the Executive Order.

This Executive Order further demonstrates the U.S. commitment to supporting the Zimbabwe's democratic evolution, and strengthens our cooperation with the European Union in efforts to promote that evolution. The European Union has acted to freeze the assets of 79 individuals responsible for the political, economic, and social deterioration of Zimbabwe. With the exception of two individuals no longer associated with the Government of Zimbabwe, this order encompasses all those identified by the European Union.

I have enclosed a copy of the Executive Order I have issued.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 6, 2003.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ETHERIDGE (at the request of Ms. PELOSI) for today on account of attending a funeral.

Mr. LUCAS of Oklahoma (at the request of Mr. DELAY) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEWIS of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of North Carolina, for 5 minutes, today.

Mr. MORAN of Virginia, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Mr. OBERSTAR, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. TIERNEY, for 5 minutes, today.

Mr. DELAHUNT, for 5 minutes, today.

Ms. BALDWIN, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

(The following Members (at the request of Mr. BUYER) to revise and extend their remarks and include extraneous material:)

Mr. GINGREY, for 5 minutes, today.

Mrs. BIGGERT, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. TANCREDO, for 5 minutes, today.

Mr. LEVIN, for 5 minutes, today.

Ms. GINNY BROWN-WAITE of Florida, for 5 minutes, today.

ADJOURNMENT

Ms. JACKSON-LEE of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until Monday, March 10, 2003, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

969. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Tobacco Loss Assistance Program 2001 (RIN: 0560-AG61) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

970. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Livestock Indemnity Program (RIN: 0560-AG33) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

971. A letter from the Chief, Regulatory Review and Foreign Investment Disclosure Group, Department of Agriculture, transmitting the Department's final rule — Hard White Wheat Incentive Program (RIN: 0560-AG71) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

972. A letter from the Administrator, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule — Apple Market Loss Assistance Payment Program III (RIN: 0560-AG85) received February 13, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

973. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Mexican Fruit Fly; Addition of Regulated Area [Docket No. 02-121-2] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

974. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — AQI User Fees: Extension of Current Fees Beyond Fiscal Year 2002 [Docket No. 02-085-2] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

975. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Exotic Newcastle Disease; Additions to Quarantined Area [Docket No. 02-117-3] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

976. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Swine Health Protection [Docket No. 03-008-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

977. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Remove Texas From Lists of States Approved to Receive Stallions and Mares From CEM-Affected Regions [Docket No. 03-004-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

978. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Exotic Newcastle Disease; Additions to Quarantined Area [Docket No. 02-117-4] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

979. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Witchweed; Regulated Areas [Docket No. 02- 042-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

980. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Animal Health Protection Act; Revisions to Authority Citations [Docket No. 02-076-1] received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

981. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Implementation of the United States Warehouse Act (RIN: 0560-AG45) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

982. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Tobacco Marketing Quotas, Acreage Allotsments and Production Adjustment (RIN: 0560-AG51) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

983. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Dairy Indemnity Payment Program (RIN: 0560-AG08) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

984. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Grazing Payments for 2001 Wheat, Barley, or Oats (RIN: 0560-AG22) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

985. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Collecting Guaranteed Loss Payments From FSA Farm Loan Program Borrowers (RIN: 0560-AG44) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

986. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Limitations on the Amount of Farm Service Agency Guaranteed Loans (RIN: 0560-AG64) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

987. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Conservation Reserve Program-Farmable Wetlands Pilot Program (RIN: 0560-AG38) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

988. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Sale and Purchase of Flue-Cured Tobacco Across County Lines (Florida and Georgia) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

989. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Conservation Reserve Program-Good Faith Reliance and Excessive Rainfall (RIN: 0560-AG37) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

990. A letter from the Director, Regulatory Review Group, Department of Transportation, transmitting the Department's final rule — Boll Weevil Eradication Loan Program (RIN: 0560-AG69) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

991. A letter from the Director, Regulatory Review Group, Department of Transportation, transmitting the Department's final rule — 2002 Farm Bill Regulations-Termination of Peanut Market Quota Program and Revised Flue-Cured Tobacco Reserve Stock Level (RIN: 0560-AG75) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

992. A letter from the Director, Regulatory Review Group, Department of Transportation, transmitting the Department's final rule — Amendments to the Tobacco Marketing Quota Regulations (RIN: 0560-AG40) received February 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

993. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Regulations for Permits, Approvals and Registration and Related Regulations [MD 128-3097a; FRL-7450-4] received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

994. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California state Implementation Plan, Ventura Air Pollution Control District [CA 266-0383; FRL-7454-4] received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

995. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Department's final rule — Approval and Promulgation of Air Quality Implementation Plans; Connecticut; New Source Review/Prevention of Significant Deterioration Revision [CT-068-7225a; A-1-FRL-7445-9] received

February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

996. A letter from the Acting Principal Deputy Associate Administrator, Evironmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Reorganization of and Revisions to Administrative and General Conformity Provisions; Documents Incorporated by Reference; Recodification of Existing SIP Provisions; Correction [VA085/086/089/102/103-5046a FRL-7455-7] received February 25, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

997. A letter from the Assistant Secretary, Department of Defense, transmitting a report responding to Section 8171 of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act of 2002 (P.L. 107-117); to the Committee on International Relations.

998. A letter from the United States Trade Representative, Executive Office of the President, transmitting a report on the implementation of United States-Israel Free Trade Agreement, pursuant to Section 3105 of the Trade Act of 2002; to the Committee on Ways and Means.

999. A letter from the Secretary, Department of Energy, transmitting the Department's plan for the construction and operation of the mixed oxide (MOX) facility at the Savannah River Site in Aiken, South Carolina, pursuant to Section 3182 of the Bob Stump National Defense Authorization Act for FY 2003; jointly to the Committees on Armed Services and Energy and Commerce.

1000. A letter from the General Counsel, Department of Commerce, transmitting a draft bill entitled, ''Marine Mammal Protection Act Amendments of 2003''; jointly to the Committees on Resources, the Judiciary, International Relations, and Ways and Means.

1001. A letter from the General Counsel, Department of Defense, transmitting the Department's legislative initiatives for inclusion in the National Defense Authorization Act for FY 2004; jointly to the Committees on Armed Services, Transportation and Infrastructure, Energy and Commerce, Resources, Ways and Means, the Judiciary, and Government Reform.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 14. A bill to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes; with an amendment (Rept. 108–26). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 659. A bill to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals (Rept. 108–27). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 663. A bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, and for other purposes; with an amendment (Rept. 108–28). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DEFAZIO:

H.R. 1109. A bill to establish a Financial Markets Oversight Commission in order to combine the functions of the Commodity Futures Trading Commission and the Securities and Exchange Commission in a single independent regulatory commission, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS (for himself, Mr. LIPINSKI, Mr. RODRIGUEZ, Mrs. CHRISTENSEN, Mr. ROSS, Ms. NORTON, Mr. PETERSON of Minnesota, Mr. FORD, Ms. WOOLSEY, Mr. FROST, Mr. OWENS, Ms. CARSON of Indiana, Mr. MCDERMOTT, Mr. GRIJALVA, Mr. HALL, Ms. VELAZQUEZ, Mr. WEXLER, and Mr. LUCAS of Oklahoma):

H.R. 1110. A bill to extend Federal funding for operation of State high risk health insurance pools; to the Committee on Energy and Commerce.

By Mr. BALLENGER (for himself, Mr. ANDREWS, Mr. SANDLIN, Mr. SOUDER, Mr. BEAUPREZ, Mr. GOODE, Mr. GRIJALVA, Mr. LAHOOD, Mrs. MYRICK, Mr. CUNNINGHAM, and Mr. HOSTETTLER):

H.R. 1111. A bill to amend title 10, United States Code, to revise the rules relating to the court-ordered apportionment of the retired pay of members of the uniformed services to former spouses, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KINGSTON (for himself, Mr. FOLEY, Mr. HOYER, Mr. DEUTSCH, Mr. ROGERS of Michigan, Mr. JENKINS, Mr. CASTLE, Mr. FROST, Mr. NADLER, Ms. ROS-LEHTINEN, Mr. GIBBONS, Mr. GORDON, Mr. HOEFFEL, Mr. BURNS, Mr. GINGREY, Mr. MATHESON, and Mr. SCHROCK):

H.R. 1112. A bill to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

By Mr. KINGSTON:

H.R. 1113. A bill to authorize an exchange of land at Fort Frederica National Monument, and for other purposes; to the Committee on Resources.

By Mr. KIRK (for himself, Mr. HYDE, Mrs. JOHNSON of Connecticut, Mr. PORTMAN, Mr. SHAYS, Mr. BURR, Mr. MICA, Mr. MCCOTTER, Mr. GILLMOR, Mr. SHIMKUS, Mr. TIBERI, Ms. GINNY BROWN-WAITE of Florida, Ms. ROS-LEHTINEN, Mr. FOLEY, Mr. BAKER, Mr. KENNEDY of Rhode Island, Mr. DOOLITTLE, Mr. CASTLE, and Mr. MCCRERY):

H.R. 1114. A bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes; to the Committee on the Judiciary.

By Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. MORAN of Virginia, Mr. SMITH of Texas, Mr. STENHOLM, Mr. DELAY, Mr. DOOLEY of California, Mr. HYDE, Mr. HOLDEN, Mr. COX, and Mr. CRAMER):

H.R. 1115. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS (for himself, Ms. BERKLEY, Mr. BAIRD, Mr. BERMAN, Mr. WEXLER, Mr. DELAHUNT, Mr. NADLER, Ms. NORTON, and Mr. PASCRELL):

H.R. 1116. A bill to reform the medical malpractice insurance business, to provide for Federal alternative medical malpractice insurance, and to limit frivolous lawsuits; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COX:

H.R. 1117. A bill to improve health care choice by providing for the tax deductibility of medical expenses by individuals; to the Committee on Ways and Means.

By Mr. BOEHLERT (for himself, Mr. PASCRELL, Mr. QUINN, and Mr. GREEN of Texas):

H.R. 1118. A bill to establish the SAFER Firefighter Grant Program; to the Committee on Science.

By Mrs. BIGGERT (for herself, Ms. PRYCE of Ohio, Ms. DUNN, Ms. GRANGER, Mr. BOEHNER, Mr. NORWOOD, Mrs. BLACKBURN, Mr. BALLENGER, Mrs. MYRICK, Ms. HART, Mr. BLUNT, Mr. STENHOLM, Mrs. JOHNSON of Connecticut, Mrs. WILSON of New Mexico, Mr. LIPINSKI, Mrs. BONO, Mr. SAM JOHNSON of Texas, Mrs. MUSGRAVE, Mrs. NORTHUP, Mr. COLE, Mrs. JO ANN DAVIS of Virginia, Mr. GINGREY, Mr. REYNOLDS, Mr. TIBERI, Mr. PETRI, Mr. HOEKSTRA, Mr. MCKEON, Mr. GREENWOOD, Mr. EHLERS, Mr. DEMINT, Mr. ISAKSON, Mr. KELLER, Mr. PLATTS, Mr. OSBORNE, Mr. WILSON of South Carolina, Mr. KLINE, Mr. BARRETT of South Carolina, Ms. GINNY BROWN-WAITE of Florida, Mr. BRADY of Texas, Mr. BURTON of Indiana, Mr. BUYER, Mr. BROWN of South Carolina, Mr. CAMP, Mr. CRANE, Mr. CULBERSON, Mr. CUNNINGHAM, Mr. DREIER, Mr. FRANKS of Arizona, Mr. GOODLATTE, Mr. HASTINGS of Washington, Mr. KENNEDY of Minnesota, Mr. KIRK, Mr. KOLBE, Mr. MANZULLO, Mr. OTTER, Mr. OSE, Mr. PAUL, Mr. PITTS, Mr. ROGERS of Michigan, Mr. ROHRABACHER, Mr. SCHROCK, Mr. SIMMONS, Mr. SMITH of Michigan, Mr. SOUDER, Mr. TANCREDO, Mr. TERRY, Mr. WALDEN of Oregon, Mr. WELDON of Florida, Mr. HYDE, Mr. BAKER, Mr. GILLMOR, Mr. CHABOT, and Mr. SHADEGG):

H.R. 1119. A bill to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector; to the Committee on Education and the Workforce.

By Mr. BACHUS (for himself, Mr. CONYERS, Mr. HOEFFEL, Mr. RANGEL, and Mr. RAHALL):

H.R. 1120. A bill to ensure and foster continued patient safety and quality of care by clarifying the application of the antitrust laws to negotiations between groups of health care professional and health plans and health care insurance issuers; to the Committee on the Judiciary.

By Mr. CANTOR:

H.R. 1121. A bill to limit the period of validity of driver's licenses and State identification cards issued to nonimmigrant aliens to the period of validity of nonimmigrant visas; to the Committee on the Judiciary.

By Mrs. CAPPS (for herself, Mr. GEORGE MILLER of California, Mrs. DAVIS of California, and Ms. LEE):

H.R. 1122. A bill to amend the Solid Waste Disposal Act to provide funding for the clean up of MTBE contamination from underground storage tanks, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. JO ANN DAVIS of Virginia (for herself, Mr. SOUDER, Mr. MORAN of Virginia, Mr. TOM DAVIS of Virginia, Mrs. CHRISTENSEN, and Mrs. MILLER of Michigan):

H.R. 1123. A bill to authorize States to regulate the receipt and disposal of out-of-State municipal solid waste; to the Committee on Energy and Commerce.

By Mr. DINGELL (for himself, Mr. BROWN of Ohio, Mr. TOWNS, Mr. PALLONE, Mr. DEUTSCH, Mr. RUSH, Ms. ESHOO, Mr. ENGEL, Mr. GREEN of Texas, Ms. MCCARTHY of Missouri, Ms. DEGETTE, Mrs. CAPPS, Ms. SOLIS, Mr. ANDREWS, and Mr. DEFAZIO):

H.R. 1124. A bill to reduce the cost of medical malpractice insurance, to enhance patient access to medical care, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH (for himself, Mr. BLUNT, Mr. CARDIN, Mr. PALLONE, Mr. GARY G. MILLER of California, Mr. LINCOLN DIAZ-BALART of Florida, Mrs. EMERSON, Mr. DELAHUNT, Mr. VAN HOLLEN, Mr. ROGERS of Michigan, Mr. MCHUGH, Mr. BOEHLERT, Mr. LEACH, Mr. JANKLOW, Mr. HINCHEY, Mr. GREEN of Wisconsin, Mr. LATOURETTE, Mr. CLYBURN, Mr. TERRY, Mr. DAVIS of Alabama, Mr. SANDERS, Mr. GORDON, Ms. HART, Mr. KLECZKA, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. KUCINICH, Mr. DEUTSCH, Ms. WOOLSEY, Mr. WEXLER, Mr. DAVIS of Illinois, Mr. BOEHNER, Ms. BALDWIN, Ms. BERKLEY, Mr. PASCRELL, Mr. MCDERMOTT, Mr. PICKERING, Mr. FOLEY, Mr. ROSS, Mr. ANDREWS, Mr. MCCRERY, Mr. MCNULTY, Mr. BOOZMAN, Mr. GOODE, and Mr. KILDEE):

H.R. 1125. A bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GRANGER (for herself, Mr. WYNN, Mr. FROST, Mr. SCHROCK, Mr. CANNON, Ms. ROS-LEHTINEN, Mr. BOEHNER, Ms. GINNY BROWN-WAITE of Florida, Mr. ISAKSON, and Mr. CANTOR):

H.R. 1126. A bill to amend the Internal Revenue Code of 1986 to expand the expense treatment for small businesses and to reduce the depreciation recovery period for restaurant buildings and franchise operations, and for other purposes; to the Committee on Ways and Means.

By Mr. GREEN of Wisconsin:

H.R. 1127. A bill to amend title 10, United States Code, to direct the Secretary of the Army to establish a combat artillery medal; to the Committee on Armed Services.

By Mr. GREENWOOD (for himself, Mr. HOEFFEL, Mr. BRADY of Pennsylvania, Mr. DOYLE, Mr. ENGLISH, Mr. FATTAH, Mr. GERLACH, Ms. HART, Mr. HOLDEN, Mr. KANJORSKI, Mr. MURPHY, Mr. MURTHA, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. PLATTS, Mr. SHERWOOD, Mr. SHUSTER, Mr. TOOMEY, and Mr. WELDON of Pennsylvania):

H.R. 1128. A bill to name the Department of Veterans Affairs outpatient clinic in Horsham, Pennsylvania, as the ''Victor J. Saracini Department of Veterans Affairs Outpatient Clinic''; to the Committee on Veterans' Affairs.

By Mr. HERGER:

H.R. 1129. A bill to amend the Internal Revenue Code of 1986 to provide for installment reporting of certain gain from the sale of an interest in a service business; to the Committee on Ways and Means.

By Mr. HOLT (for himself, Mr. SHAYS, Ms. HOOLEY of Oregon, Mr. DEFAZIO, Mr. ISRAEL, Mr. MORAN of Virginia, Mr. BLUMENAUER, Ms. SCHAKOWSKY, Mr. PAYNE, Ms. BERKLEY, Mr. TOWNS, Mr. FRANK of Massachusetts, Mrs. MALONEY, Mr. LEVIN, Mr. STARK, Mr. SHERMAN, Mr. PALLONE, Mr. HONDA, Mr. MARKEY, Mr. OLVER, Mr. BAIRD, Mrs. DAVIS of California, Mr. GEORGE MILLER of California, Mrs. NAPOLITANO, Ms. NORTON, Mr. SMITH of Washington, Mr. ANDREWS, Mr. PASCRELL, Mr. MCDERMOTT, Mr. WU, Mr. FORD, Mrs. JONES of Ohio, Ms. SLAUGHTER, Mr. WEXLER, Mr. FARR, Mr. MEEHAN, Ms. LEE, Mr. NEAL of Massachusetts, Mr. DELAHUNT, Mr. GUTIERREZ, Mr. CLAY, Mr. BOUCHER, Ms. WOOLSEY, Mr. RANGEL, Mr. CAPUANO, Mr. BROWN of Ohio, Mr. WEINER, Ms. CORRINE BROWN of Florida, Ms. DELAURO, Mr. INSLEE, Mrs. CAPPS, Mr. MCNULTY, Mr. HOEFFEL, Mr. BISHOP of New York, Mr. MATSUI, Ms. MCCARTHY of Missouri, Mr. FILNER, Mr. GILCHREST, Mr. BECERRA, Mr. DEUTSCH, Mr. NADLER, Mr. ROTHMAN, Mr. OWENS, Mr. SCHIFF, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HINCHEY, Mr. KIRK, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. LEACH, Mr. GRIJALVA, Mr. FROST, Mr. UDALL of Colorado, Mr. LANTOS, Mr. ABERCROMBIE, Mrs. JOHNSON of Connecticut, Mrs. LOWEY, Mr. FATTAH, Ms. SOLIS, Mr. PASTOR, Mr. PRICE of North Carolina, Mr. EVANS, Mr. ACKERMAN, Mr. RODRIGUEZ, Mr. CROWLEY, Mr. BRADY of Pennsylvania, Mr. COOPER, Mr. MCGOVERN, Mr. LYNCH, Mrs. TAUSCHER, Mr. DAVIS of Illinois, Mr. JEFFERSON, Mr. CARSON of Oklahoma, Mr. CASE, Mr. SIMMONS, Mr. RAHALL, Mr. MOORE, Mr. SERRANO, Mr. KUCINICH, Mr. MENENDEZ, Mr. ENGEL, Mr. LARSON of Connecticut, Mr. LEWIS of Georgia, Mr. BERMAN, Mr. UDALL of New Mexico, Mr. DOGGETT, Ms. HARMAN, Mr. DINGELL, Ms. LOFGREN, Ms. JACKSON-LEE of Texas, Mr. TIERNEY, Mr. GONZALEZ, Mr. LANGEVIN, Mr. WAXMAN, Ms. WATSON, Ms. LINDA T. SANCHEZ of California, Mr. RUSH, Mr. MILLER of North Carolina, Ms. LORETTA SANCHEZ of California, Mr. KENNEDY of Rhode Island, Mr. HASTINGS of Florida, Ms. KILPATRICK, Ms. ROYBAL-ALLARD, Ms. DEGETTE, Mr. CONYERS, Mr. CARDIN, Ms. ESHOO, Mr. BACA, Mr. EMANUEL, Mr. BELL, Mr. DOOLEY of California, Ms. WATERS, Mr. CUMMINGS, Mr. VAN HOLLEN, and Mr. HINOJOSA):

H.R. 1130. A bill to require the Secretary of the Interior to implement the final rule to phase out snowmobile use in Yellowstone National Park, John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park, and snowplane use in Grand Teton National Park; to the Committee on Resources.

By Mr. JEFFERSON:

H.R. 1131. A bill to amend the Internal Revenue Code of 1986 to extend and expand the enhanced deduction for charitable contributions of computers to provide greater public access to computers, including access by the poor; to the Committee on Ways and Means.

By Mr. JEFFERSON (for himself and Mr. RANGEL):

H.R. 1132. A bill to amend the Internal Revenue Code of 1986 to provide a credit to promote homeownership among low-income individuals; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 1133. A bill to amend the Internal Revenue Code of 1986 to provide a temporary exclusion for members of reserve components of the Armed Forces and Department of Defense civilian employees serving in a combat zone and to extend the exclusion for serving in a combat zone to Department of Defense civilian employees; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 1134. A bill to amend the Internal Revenue Code of 1986 to increase the work opportunity credit and welfare-to-work credit; to the Committee on Ways and Means.

By Mr. JEFFERSON:

H.R. 1135. A bill to amend the Internal Revenue Code of 1986 to provide increased incentives for business investments in low-income communities and small businesses; to the Committee on Ways and Means.

By Mr. KLECZKA (for himself, Mr. SHAW, Mr. MATSUI, Mr. RANGEL, Mr. BALLENGER, Mr. BRADY of Texas, Mr. DOGGETT, Mr. SAM JOHNSON of Texas, Mr. LAHOOD, Mr. LATOURETTE, Mr. POMEROY, Mr. RYAN of Wisconsin, and Mr. GOODLATTE):

H.R. 1136. A bill to amend title 36, United States Code, to repeal the Federal Charter for Retired Enlisted Association, Incorporated; to the Committee on the Judiciary.

By Mr. LATHAM (for himself, Mr. MCINTYRE, Mr. COLE, Mr. COMBEST, Mr. RYUN of Kansas, and Mr. NUSSLE):

H.R. 1137. A bill to exepmt small trailer manufacturers from enhanced early warning reporting requirements under the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act; to the Committee on Energy and Commerce.

By Mr. MARKEY (for himself and Mr. SMITH of New Jersey):

H.R. 1138. A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; to the Committee on Energy and Commerce.

By Mr. MEEKS of New York:

H.R. 1139. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of

frequent flyer mileage awards; to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H.R. 1140. A bill to amend the Internal Revenue Code of 1986 to stimulate economic development by enhancing the availability and benefits of small issue bonds; to the Committee on Ways and Means.

By Mr. MEEKS of New York:

H.R. 1141. A bill to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for credit card interest; to the Committee on Ways and Means.

By Mr. MICHAUD (for himself and Mr. ALLEN):

H.R. 1142. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. MILLENDER-MCDONALD (for herself, Mrs. CHRISTENSEN, Mr. FRANK of Massachusetts, Mr. MCNULTY, Ms. WOOLSEY, Mr. MCDERMOTT, and Mr. OWENS):

H.R. 1143. A bill to amend title XIX of the Social Security Act to permit States to expand Medicaid eligibility to uninsured, poor adults; to the Committee on Energy and Commerce.

By Ms. MILLENDER-MCDONALD (for herself, Mr. WEXLER, Ms. WOOLSEY, Ms. NORTON, Mr. HOLDEN, Mrs. CHRISTENSEN, Mr. RANGEL, Mr. MCNULTY, Mr. FROST, Mr. CASE, Mr. SCHIFF, Mr. MCDERMOTT, Mr. GRIJALVA, Mr. KILDEE, Mr. BACA, Mr. RUSH, Mr. ORTIZ, Mr. OWENS, Mr. ACKERMAN, Mr. GUTIERREZ, Ms. LEE, Mr. DAVIS of Alabama, Mr. TOWNS, Mr. COOPER, and Mr. LANTOS):

H.R. 1144. A bill to provide, with respect to diabetes in minority populations, for an increase in the extent of activities carried out by the Centers for Disease Control and Prevention and the National Institutes of Health; to the Committee on Energy and Commerce.

By Ms. MILLENDER-MCDONALD (for herself, Mr. WEXLER, Ms. LOFGREN, Ms. WATSON, Ms. NORTON, Mr. BRADY of Pennsylvania, Ms. KAPTUR, Ms. WOOLSEY, Mrs. CHRISTENSEN, Mr. HONDA, Mr. WALSH, Mr. RANGEL, Mr. MCNULTY, Mr. FROST, Mr. MCDERMOTT, Mr. KILDEE, Mr. WAXMAN, Ms. MCCOLLUM, Mr. WATT, Mr. OWENS, Mr. HOUGHTON, Mr. JEFFERSON, Mr. PAYNE, and Mr. BROWN of Ohio):

H.R. 1145. A bill to provide additional appropriations for the fiscal year 2003 for the Peace Corps; to the Committee on International Relations.

By Mr. PAUL:

H.R. 1146. A bill to end membership of the United States in the United Nations; to the Committee on International Relations.

By Ms. MILLENDER-MCDONALD (for herself, Ms. JACKSON-LEE of Texas, Ms. NORTON, Mr. MORAN of Virginia, Mr. OWENS, Ms. SCHAKOWSKY, and Mrs. CHRISTENSEN):

H.R. 1147. A bill to improve the safety of firearms; to the Committee on the Judiciary.

By Ms. MILLENDER-MCDONALD (for herself and Mr. FERGUSON):

H.R. 1148. A bill to direct the Secretary of Homeland Security to carry out activities to assess and reduce the vulnerabilities of public transportation systems; to the Committee on Transportation and Infrastructure.

By Ms. MILLENDER-MCDONALD (for herself, Ms. NORTON, and Mr. OWENS):

H.R. 1149. A bill to authorize the Secretary of Health and Human Services to carry out programs regarding the prevention and management of asthma, allergies, and related respiratory problems, to establish a tax credit regarding pest control and indoor air quality and climate control services for multifamily residential housing in low-income communities, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARY G. MILLER of California (for himself, Mr. COX, Mr. CALVERT, and Mr. ROYCE):

H.R. 1150. A bill to direct the Secretary of Transportation to make grants to Orange County, California, for intercounty express bus service, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MORAN of Virginia (for himself, Ms. NORTON, Mr. WYNN, Mr. VAN HOLLEN, Mr. TOM DAVIS of Virginia, and Mr. HOYER):

H.R. 1151. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Government Reform.

By Mrs. MYRICK:

H.R. 1152. A bill to increase the cap on qualified small issue bonds; to the Committee on Ways and Means.

By Mr. OTTER (for himself, Mr. CANNON, Mr. SIMPSON, Mr. AKIN, Mrs. CUBIN, Mr. CULBERSON, Mr. DOOLITTLE, Mr. GIBBONS, Mr. HERGER, Mr. HUNTER, Mr. MCINNIS, Mr. PAUL, Mr. PETERSON of Pennsylvania, Mr. RADANOVICH, Mr. REHBERG, Mr. SHUSTER, Mr. TANCREDO, and Mr. YOUNG of Alaska):

H.R. 1153. A bill to accelerate the wilderness designation process by establishing a timetable for the completion of wilderness studies on Federal lands, and for other purposes; to the Committee on Resources.

By Mr. PAUL (for himself, Mr. NORWOOD, Mr. DUNCAN, Mr. GOODE, Mr. SESSIONS, Mrs. MUSGRAVE, Mr. FLAKE, and Mr. AKIN):

H.R. 1154. A bill to provide that the International Criminal Court is not valid with respect to the United States, and for other purposes; to the Committee on International Relations.

By Ms. PRYCE of Ohio (for herself, Mrs. BIGGERT, Mr. CRANE, Mr. FOLEY, Mrs. JOHNSON of Connecticut, Mr. SENSENBRENNER, Mr. BECERRA, Mr. LEWIS of Georgia, Mr. MATSUI, and Mr. VAN HOLLEN):

H.R. 1155. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Ways and Means.

By Ms. LORETTA SANCHEZ of California (for herself and Mr. GARY G. MILLER of California):

H.R. 1156. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project; to the Committee on Resources.

By Mr. SANDERS (for himself, Mr. PAUL, Mr. DEFAZIO, Mr. BLUMENAUER, Mr. OWENS, Ms. LEE, Mr. FARR, Mr. TOWNS, Mr. GRIJALVA, Mr. CONYERS, Mr. MCDERMOTT, Ms. JACKSON-LEE of Texas, Mr. HINCHEY, Mr. OLVER, Ms. WOOLSEY, Mr. FRANK of Massachusetts, Mr. JACKSON of Illinois, Mr. MCGOVERN, Ms. BALDWIN, Ms. WATERS, Mr. FORD, Mr. LIPINSKI, Mr. STARK, and Mr. UDALL of Colorado):

H.R. 1157. A bill to amend the Foreign Intelligence Surveillance Act to exempt bookstores and libraries from orders requiring the production of any tangible things for certain foreign intelligence investigations, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDLIN:

H.R. 1158. A bill to modify the antitrust exemption applicable to the business of medical malpractice insurance, to address current issues for health care providers, to reform medical malpractice litigation by making available alternative dispute resolution methods, requiring plaintiffs to submit affidavits of merit before proceeding, and enabling judgments to be satisfied through periodic payments, to reform the medical malpractice insurance market, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW (for himself and Mr. FOLEY):

H.R. 1159. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment for foreign tax credit limitation purposes of certain transfers of intangible property; to the Committee on Ways and Means.

By Mr. SHERWOOD (for himself, Mr. OBEY, Mr. WALSH, Mr. SANDERS, Mr. MCHUGH, Mr. HOLDEN, Mr. LATOURETTE, Mr. SWEENEY, Ms. BALDWIN, Mr. QUINN, Mr. EHLERS, Mr. GOODE, Mr. BROWN of Ohio, Mr. SHUSTER, Mr. PETERSON of Pennsylvania, Mr. OLVER, Mr. FILNER, Mr. LARSEN of Washington, Mr. HINCHEY, Mr. SANDLIN, Mr. MURTHA, Mr. MCNULTY, Mr. OSBORNE, Mr. SIMMONS, Mr. BACA, Mr. BOUCHER, Mr. SENSENBRENNER, Mr. BOYD, Mr. PICKERING, Mr. BERRY, Ms. KAPTUR, Mr. REHBERG, Mr. GILCHREST, Mr. POMEROY, Mr. DEFAZIO, Mr. LOBIONDO, Mrs. CAPITO, Mr. GRIJALVA, Mr. TURNER of Texas, Mr. GREENWOOD, Mr. ENGLISH, Mrs. KELLY, Ms. HART, Mr. ROGERS of Michigan, Mr. BARTLETT of Maryland, Mr. KLECZKA, Mr. HOUGHTON, Ms. DELAURO, Mr. MCGOVERN, Mr. PETRI, Mr. SMITH of Michigan, Mr. DOYLE, Mr. KUCINICH, Mr. SIMPSON, Mr. PITTS, and Mrs. EMERSON):

H.R. 1160. A bill to impose tariff-rate quotas on certain casein and milk protein concentrates; to the Committee on Ways and Means.

By Mr. SMITH of Texas (for himself, Mr. COBLE, Mr. SENSENBRENNER, Mr. POMEROY, Mr. LAMPSON, Mr. FOLEY, Mr. BAKER, Mr. BARTLETT of Maryland, Mr. CANNON, Mr. CULBERSON, Mr. DELAY, Mr. WAMP, Mr. RYUN of Kansas, Mr. GILCHREST, Mr. WILSON of South Carolina, Mr. GREEN of Wisconsin, Mr. HUNTER, Ms. JACKSON-LEE of Texas, Mr. JENKINS, Mrs.

JOHNSON of Connecticut, Mr. PICKERING, Mr. SIMMONS, Mr. SOUDER, Mr. SPRATT, Mr. STENHOLM, Mr. WELDON of Florida, Mr. PENCE, Mr. OXLEY, Mr. MATHESON, Mr. LOBIONDO, Mr. KENNEDY of Minnesota, Mr. ROGERS of Michigan, Mr. WELLER, Mr. BACHUS, Ms. HART, Mr. GOODLATTE, Mr. KELLER, Mrs. CAPITO, and Mr. VISCLOSKY):

H.R. 1161. A bill to prevent trafficking in child pornography and obscenity, to proscribe pandering and solicitation relating to visual depictions of minors engaging in sexually explicit conduct, to prevent the use of child pornography and obscenity to facilitate crimes against children, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Washington (for himself, Mr. DOOLEY of California, Mr. MCINTYRE, Mr. TURNER of Texas, Ms. ESHOO, Ms. LOFGREN, Mr. REYES, Mr. COOPER, Mr. JOHN, Mrs. TAUSCHER, Mr. CASE, Mrs. MCCARTHY of New York, Mrs. JONES of Ohio, Mr. KIND, Mr. SCOTT of Georgia, Mr. BAIRD, and Mr. DAVIS of Florida):

H.R. 1162. A bill to amend the Internal Revenue Service Code of 1986 to allow a deduction for certain distributions from a controlled foreign corporation to encourage companies to invest in worker hiring and training, infrastructure investments, capital investments, financial stabilization of the company, and research and development; to the Committee on Ways and Means.

By Mr. STEARNS:

H.R. 1163. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain interest amounts received by individuals; to the Committee on Ways and Means.

By Mr. SWEENEY (for himself and Mr. MCNULTY):

H.R. 1164. A bill to extend the deadlines under part I of the Federal Power Act for commencement of construction of two hydro-electric projects in the State of New York; to the Committee on Energy and Commerce.

By Mr. THOMPSON of California (for himself, Ms. SLAUGHTER, Mr. HINCHEY, Mr. GEORGE MILLER of California, Mr. FILNER, Mr. QUINN, Mr. BROWN of Ohio, Mrs. NAPOLITANO, Ms. NORTON, Mrs. DAVIS of California, Mr. STARK, Ms. MCCOLLUM, Mr. HONDA, Ms. DEGETTE, Mr. BLUMENAUER, Ms. DELAURO, Ms. LEE, Mr. PASCRELL, Ms. SCHAKOWSKY, Mr. ROTHMAN, Mr. SCHIFF, Mr. OWENS, Ms. BORDALLO, Mr. ENGEL, Ms. MILLENDER-MCDONALD, Mr. GILCHREST, and Ms. ESHOO):

H.R. 1165. A bill to establish a grant and fee program through the Environmental Protection Agency to encourage and promote the recycling of used computers and to promote the development of a national infrastructure for the recycling of used computers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. UDALL of New Mexico (for himself, Mr. MANZULLO, Ms. VELAZQUEZ, Mr. GRAVES, Mr. RENZI, Mr. FRANKS of Arizona, Mr. MATHESON, Mr. HAYWORTH, Mr. KILDEE, Mr. UDALL of Colorado, Ms. MILLENDER-MCDONALD, Mr. BALLANCE, Mrs. CHRISTENSEN, Mr. GONZALEZ, Mr. ACEVEDO-VILA, Mr. CASE, Mr. MICHAUD, Mrs. JONES of Ohio, Mr. CARSON of Oklahoma, Mr. FALEOMAVAEGA, Ms. BORDALLO, Mrs. NAPOLITANO, and Mr. DAVIS of Illinois):

H.R. 1166. A bill to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Native Alaskans, and Native Hawaiians; to the Committee on Small Business.

By Mrs. WILSON of New Mexico:

H.R. 1167. A bill to amend title 38, United States Code, to permit remarried surviving spouses of veterans to be eligible for burial in a national cemetery; to the Committee on Veterans' Affairs.

By Mr. BEREUTER:

H. Con. Res. 79. Concurrent resolution expressing support for a peaceful, just, and lasting settlement to the Cyprus problem; to the Committee on International Relations.

By Mr. BOEHLERT (for himself, Mr. ROYCE, Mr. HOUGHTON, Ms. WOOLSEY, Mr. GILCHREST, Mr. LANTOS, Mr. UDALL of Colorado, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SANDERS, Ms. LEE, Ms. MILLENDER-MCDONALD, Mr. TOWNS, Mr. HASTINGS of Florida, Ms. SLAUGHTER, Mr. CUMMINGS, Mr. FATTAH, Mr. PAYNE, Mr. FALEOMAVAEGA, and Mr. OWENS):

H. Con. Res. 80. Concurrent resolution expressing the sense of Congress relating to efforts of the Peace Parks Foundation in the Republic of South Africa to facilitate the establishment and development of transfrontier conservation efforts in southern Africa; to the Committee on International Relations.

By Mr. HASTINGS of Florida:

H. Con. Res. 81. Concurrent resolution condemning the Democratic People's Republic of Korea for its announcement that it has restarted a nuclear reactor at Yongbyon and for the provocation caused by the interception of a United States Air Force reconnaissance plane by North Korean military aircraft; to the Committee on International Relations.

By Mr. HOSTETTLER (for himself, Mr. HUNTER, Mr. YOUNG of Alaska, Mr. BARTLETT of Maryland, and Mr. THORNBERRY):

H. Con. Res. 82. Concurrent resolution expressing the sense of the Congress on commemorating the 20th Anniversary of President Ronald Reagan's vision for protecting the United States against ballistic missile attack and commending President George W. Bush's commitment to a multi-layered ballistic missile defense system to protect the homeland of the United States from ballistic missile attack; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-MCDONALD (for herself, Mr. ABERCROMBIE, Ms. BERKLEY, Ms. BORDALLO, Mr. DAVIS of Illinois, Mr. DELAHUNT, Mr. DOGGETT, Mr. FILNER, Mr. HOEFFEL, Mr. HONDA, Mr. ISRAEL, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. KUCINICH, Mr. LARSON of Connecticut, Ms. LOFGREN, Mr. OWENS, Mr. ROHRABACHER, Ms. ROYBAL-ALLARD, Ms. LORETTA SANCHEZ of California, Ms. SCHAKOWSKY, Mr. TIAHRT, Mr. TOWNS, Ms. WOOLSEY, Mr. WU, and Mr. WYNN):

H. Con. Res. 83. Concurrent resolution Honoring the victims of the Cambodian genocide that took place from April 1975 to January 1979; to the Committee on International Relations.

By Mr. TIAHRT (for himself, Mr. RYUN of Kansas, Mr. MORAN of Kansas, and Mr. MOORE):

H. Con. Res. 84. Concurrent resolution providing for the acceptance of a statue of President Dwight D. Eisenhower, presented by the people of Kansas, for placement in the Capitol, and for other purposes; to the Committee on House Administration.

By Mr. MENENDEZ:

H. Res. 130. A resolution electing Members to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. MEEKS of New York:

H. Res. 131. A resolution expressing the gratitude of the House of Representatives to the people and Government of Malaysia for their support, cooperation, and assistance in combating international terrorism; to the Committee on International Relations.

By Mr. OSE (for himself, Mr. SENSENBRENNER, Mr. CHABOT, Mr. CUNNINGHAM, Mr. CARDOZA, Mr. HERGER, Mr. OTTER, Mr. DOOLITTLE, Mrs. NAPOLITANO, Mr. PORTER, Mr. FRANKS of Arizona, Mr. OXLEY, Mr. HENSARLING, Mrs. BONO, Mr. KENNEDY of Minnesota, Mr. WALSH, Mr. BARRETT of South Carolina, Mr. ISAKSON, Mr. EVERETT, Mr. GARY G. MILLER of California, Mr. FROST, Mr. ROGERS of Alabama, Mr. HAYES, Mr. WILSON of South Carolina, Mr. RENZI, Mr. FOLEY, Mr. NEY, Mr. BEAUPREZ, Mrs. CAPITO, Mrs. NORTHUP, Ms. GINNY BROWN-WAITE of Florida, Mr. CHOCOLA, Mr. SHUSTER, Mr. BURNS, Mr. HAYWORTH, Mr. MATHESON, Mr. STEARNS, Mr. SWEENEY, Mr. GERLACH, Mr. GOODE, and Mr. NUNES):

H. Res. 132. A resolution expressing the sense of the House of Representatives that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and should be overturned, and for other purposes; to the Committee on the Judiciary.

By Mr. SULLIVAN (for himself, Mr. CANNON, Mr. KING of Iowa, Mr. RYUN of Kansas, Mr. LEWIS of Kentucky, Mr. GREEN of Wisconsin, Mr. GIBBONS, Mr. OTTER, Mr. TOOMEY, Mr. PITTS, Ms. HART, Mrs. MYRICK, and Ms. GINNY BROWN-WAITE of Florida):

H. Res. 133. A resolution amending the Rules of the House of Representatives to establish a discretionary spending ledger and a mandatory spending ledger; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. DELAY, Mr. BLUNT, Ms. PRYCE of Ohio, Mr. COX, Mr. REYNOLDS, Mr. DREIER, Mr. DOOLITTLE, Mr. KINGSTON, Mr. CRANE, Mr. SHAW, Mr. HERGER, Mr. MCCRERY, Mr. CAMP, Mr. RAMSTAD, Mr. SAM JOHNSON of Texas, Ms. DUNN, Mr. PORTMAN, Mr. HAYWORTH, Mr. HULSHOF, Mr. MCINNIS, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. BRADY of Texas, Mr. RYAN of Wisconsin, Mr. CANTOR, Mr. HENSARLING, Mr. PITTS, Mr. MCKEON, Mr. WILSON of South Carolina, Mr. DEMINT, Mr. FOSSELLA, Mr. MCCOTTER, Ms. GINNY BROWN-WAITE of Florida, Mr. BOEHNER, Mr. FRANKS of Arizona, Mr. KELLER, and Mr. GARY G. MILLER of California.

H.R. 5: Mr. BROWN of South Carolina and Mr. HOLDEN.

H.R. 12: Mr. REGULA, Mr. STENHOLM, and Mr. GOODLATTE.

H.R. 33: Mr. BOOZMAN and Mr. ROSS.

H.R. 111: Mr. POMBO.

H.R. 132: Mr. MEEKS of New York and Mr. MILLER of North Carolina.

H.R. 151: Ms. BORDALLO.

H.R. 167: Mr. SAXTON.

H.R. 168: Mr. KILDEE.

H.R. 173: Mr. RAHALL, Mr. ENGLISH, Mr. JONES of North Carolina, Mr. GREEN of Texas, Mr. LYNCH, Mr. INSLEE, Ms. GINNY BROWN-WAITE of Florida, Mr. JANKLOW, Mr. GALLEGLY, Ms. KAPTUR, Mr. SERRANO, Mr. ISRAEL, Mr. LANGEVIN, Mr. MEEHAN, Mr. WALSH, and Mr. DEUTSCH.

H.R. 205: Mr. LATHAM and Mr. CASE.

H.R. 218: Mr. PORTMAN, Mr. HASTINGS of Florida, and Mr. BOSWELL.

H.R. 220: Mr. WAMP and Mr. FOLEY.

H.R. 236: Mr. KUCINICH, Ms. WATERS, Mr. BALLANCE, Mr. BISHOP of Georgia, Mr. MEEK of Florida, Mr. ABERCROMBIE, and Ms. KAPTUR.

H.R. 284: Mr. ADERHOLT, Mr. FORBES, Mr. KENNEDY of Minnesota, Mr. TERRY, Mr. STRICKLAND, and Mr. BONNER.

H.R. 286: Mr. MCINNIS.

H.R. 303: Mr. TIBERI and Mr. MCINTYRE.

H.R. 328: Mr. ROGERS of Kentucky, Mr. WATT, Mr. PASTOR, and Ms. LORETTA SANCHEZ of California.

H.R. 339: Ms. GINNY BROWN-WAITE of Florida.

H.R. 444: Mr. MARIO DIAZ-BALART of Florida, Mr. KOLBE, Ms. DUNN, Ms. HART, and Mr. FOLEY.

H.R. 487: Mr. FOLEY.

H.R. 488: Ms. GINNY BROWN-WAITE of Florida.

H.R. 552: Mr. BONNER and Mr. KING of New York.

H.R. 525: Mr. EMANUEL, Mr. TIERNEY, Mr. SHERMAN, Mr. SKELTON, Mr. UPTON, Mr. HILL, Mrs. TAUSCHER, Mr. BERMAN, Mr. CROWLEY, Mrs. EMERSON, Mr. SPRATT, Mr. MARSHALL, Mr. DELAHUNT, Mr. MCGOVERN, Mr. STENHOLM, Mr. BRADY of Texas, Mr. SAM JOHNSON of Texas, Mr. HOUGHTON, Mr. WAXMAN, Mr. NADLER, Mr. SCOTT of Georgia, Mr. WATT, Mr. SHAW, Mr. ABERCROMBIE, Mr. CUNNINGHAM, Mr. HASTINGS of Florida, Mr. ROTHMAN, Mr. FOLEY, Mrs. LOWEY, Mr. WELDON of Pennsylvania, Mr. LARSON of Connecticut, Ms. BERKLEY, Ms. LORETTA SANCHEZ of California, Ms. LINDA T. SANCHEZ of California, Mr. BISHOP of New York, Mr. RYAN of Ohio, Mr. MCNULTY, and Mr. ISAKSON.

H.R. 529: Mr. MCNULTY.

H.R. 543: Mr. WOLF, Mr. PAUL, Mr. KOLBE, Mr. GREEN of Wisconsin, and Mr. ALEXANDER.

H.R. 545: Mr. FOLEY, Mr. MCHUGH, and Mr. MATHESON.

H.R. 570: Mr. UDALL of Colorado and Mr. STEARNS.

H.R. 571: Mr. HILL, Mr. DOOLITTLE, Mr. PORTER, Mr. FEENEY, and Mr. MANZULLO.

H.R. 583: Mr. OWENS, Mr. WICKER, Mr. SHIMKUS, Mr. FLAKE, Mr. PLATTS, Mr. HERGER, Mr. SESSIONS, Mrs. MYRICK, Mr. SHADEGG, Mr. GUTKNECHT, Mr. JENKINS, Mr. JONES of North Carolina, Mr. MANZULLO, Mr. CAMP, Mr. SIMPSON, Mr. DAVIS of Alabama, Ms. GINNY BROWN-WAITE of Florida, Mr. ROSS, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. ROGERS of Alabama.

H.R. 588: Mr. TIBERI and Mr. OXLEY.

H.R. 594: Mr. SAXTON, Mr. ORTIZ, Mr. MOLLOHAN, Mr. TOM DAVIS of Virginia, and Mr. INSLEE.

H.R. 627: Mr. OLVER, Mr. SOUDER, Mr. MCNULTY, Mr. WEXLER, and Mr. OWENS.

H.R. 643: Ms. LOFGREN, Mr. OWENS, Ms. MCCOLLUM, and Mr. MOORE.

H.R. 655: Mr. LIPINSKI.

H.R. 660: Mr. ROGERS of Kentucky, Mr. WELLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BARTLETT of Maryland, Mr. KING of Iowa, and Mr. SHUSTER.

H.R. 678: Mr. CUMMINGS, Mr. CLYBURN, and Mr. BACHUS.

H.R. 715: Mr. LIPINSKI and Ms. LORETTA SANCHEZ of California.

H.R. 728: Mr. FORBES.

H.R. 735: Mr. CLAY, Mr. LANTOS, Mr. LEACH, Ms. PRYCE of Ohio, and Mr. LYNCH.

H.R. 760: Mr. JANKLOW.

H.R. 768: Mr. CLYBURN.

H.R. 779: Ms. WATERS.

H.R. 780: Mr. ALLEN, Mr. KILDEE, and Mr. VAN HOLLEN.

H.R. 784: Mrs. CAPITO and Mr. FRANK of Massachusetts.

H.R. 786: Mrs. KELLY.

H.R. 792: Mr. WILSON of South Carolina, Mr. ALEXANDER, Mr. ROGERS of Kentucky, Mr. SOUDER, Mr. CLYBURN, Mr. BOSWELL, Mr. KIRK, Mr. DELAHUNT, and Mr. BONNER.

H.R. 804: Mr. JONES of North Carolina.

H.R. 806: Ms. LORETTA SANCHEZ of California.

H.R. 808: Mr. HAYWORTH, Mr. CANTOR, and Mr. MCNULTY.

H.R. 811: Mr. CONYERS, Ms. CORRINE BROWN of Florida, Ms. NORTON, and Ms. JACKSON-LEE of Texas.

H.R. 813: Mr. KILDEE.

H.R. 814: Mrs. NAPOLITANO, Mr. DEUTSCH, and Ms. LORETTA SANCHEZ of California.

H.R. 815: Mr. FORD.

H.R. 817: Mr. BOSWELL.

H.R. 830: Mr. UDALL of Colorado.

H.R. 839: Ms. DUNN and Mr. GORDON.

H.R. 847: Mr. COSTELLO.

H.R. 857: Mr. WELDON of Pennsylvania, Mr. MCGOVERN, and Mr. GEORGE MILLER of California.

H.R. 859: Mr. SAM JOHNSON of Texas, Mr. ISAKSON, and Mr. SHERMAN.

H.R. 870: Ms. DUNN.

H.R. 871: Ms. GINNY BROWN-WAITE of Florida and Mr. BOSWELL.

H.R. 876: Mrs. CAPITO and Mr. CARSON of Oklahoma.

H.R. 894: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 896: Mr. KILDEE, Mr. UDALL of Colorado, Mr. MATHESON, and Mr. RANGEL.

H.R. 897: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FROST, Mr. DEFAZIO, and Ms. WOOLSEY.

H.R. 919: Mr. BAIRD, Ms. GINNY BROWN-WAITE of Florida, and Mr. ISRAEL.

H.R. 926: Mr. LINDER, Mr. HAYWORTH, and Mr. GUTKNECHT.

H.R. 934: Mr. MCNULTY.

H.R. 937: Mr. LAHOOD.

H.R. 953: Mr. UDALL of Colorado, Mr. NEAL of Massachusetts, and Mr. SHERMAN.

H.R. 973: Ms. KAPTUR.

H.R. 997: Mr. TAYLOR of Mississippi, Mr. PITTS, Mr. WILSON of South Carolina, Mr. HOSTETTLER, Mr. LIPINSKI, Mr. BURTON of Indiana, Mr. STEARNS, Mr. HAYES, Ms. GINNY BROWN-WAITE of Florida, Mr. BARTLETT of Maryland, and Mr. GOODE.

H.R. 1022: Mr. REYES, Mr. LANTOS, Mrs. CHRISTENSEN, Mr. BACA, Mr. FROST, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. GONZALEZ, Mr. NEAL of Massachusetts, and Mr. MARKEY.

H.R. 1029: Ms. WOOLSEY and Mr. CAPUANO.

H.R. 1032: Mr. FOLEY and Mr. HAYWORTH.

H.R. 1039: Mr. STARK.

H.R. 1043: Mr. ETHERIDGE, Mr. NEY, Mr. DAVIS of Tennessee, Mr. SAM JOHNSON of Texas, and Mr. GERLACH.

H.R. 1056: Mr. WEXLER, Mr. GRIJALVA, and Ms. LEE.

H.R. 1068: Mr. LATOURETTE, Mr. MURTHA, Mr. PALLONE, Mr. TOWNS, Mr. OWENS, Mr. HINCHEY, Mr. HOLDEN, Mr. PICKERING, Mr. GRIJALVA, Mr. GREEN of Texas, Mr. CULBERSON, Mr. SESSIONS, Mr. MCNULTY, Mr. WEINER, Mr. LEACH, Mr. SERRANO, Mr. WYNN, Mr. TAYLOR of Mississippi, Mr. CASE, Ms. DELAURO, Mr. LANTOS, Mr. SANDLIN, Mr. LIPINSKI, Mr. CARSON of Oklahoma, Mr. HOEFFEL, Ms. MILLENDER-MCDONALD, Ms. LEE, Mr. FORD, and Mr. FORBES.

H.R. 1077: Mr. LEWIS of Georgia.

H.R. 1093: Mr. FRANK of Massachusetts, Mr. LEWIS of California, Mr. FROST, and Mr. WOLF.

H.R. 1108: Ms. EDDIE BERNICE JOHNSON of Texas.

H.J. Res. 4: Mr. PITTS, Mr. CARDOZA, Mr. JOHN, and Mr. RYAN of Wisconsin.

H.J. Res. 20: Mr. FATTAH.

H.J. Res. 22: Mr. DAVIS of Tennessee.

H. Con. Res. 21: Mr. KENNEDY of Minnesota.

H. Con. Res. 23: Mr. CASTLE.

H. Con. Res. 49: Mr. WEXLER, Mr. SHIMKUS, Ms. BERKLEY, Mr. ENGEL, Mr. DEUTSCH, Mr. GARRETT of New Jersey, and Mr. FRANK of Massachusetts.

H. Res. 59: Mr. ENGLISH.

H. Res. 50: Mr. TERRY, Ms. HART, Mr. MORAN of Virginia, Mr. ENGLISH, Mr. LOBIONDO, and Mr. KIND.

H. Res. 72: Mr. FOLEY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted form public bills and resolutions as follows:

H.R. 684: Mrs. JONES of Ohio.

H.R. 936: Mr. SCOTT of Virginia.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, THURSDAY, MARCH 6, 2003 No. 36

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

PRAYER

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

Almighty God, we confess that it is sometimes easier to pray about Your presence and power than it is to turn over the control of our lives and our work to You. We are here to serve You by working together as we serve our Nation. But built right into our two-party system is the potential for discord and the lack of civility. Sometimes procedures can become more important than progress and winning more crucial than finding ways of working together.

Now at the beginning of this day, remind the Senators and all of us who serve with them that this is Your Senate, that we are accountable to You, and that we could not breathe a breath without Your permission. In our mind's eye we picture a day in which we can put You and our Nation first. We humble ourselves lest we miss Your call to greatness. For You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, Thursday, March 6, 2003.

To the Senate:

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

TED STEVENS,
President pro tempore.

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

SCHEDULE

Mr. BENNETT. Madam President, the Senate will be in a period for morning business until 10 a.m., with the time equally divided between the two leaders or their designees. Following morning business, the Senate will return to the Estrada nomination, with the time equally divided between the chairman and ranking member of the Judiciary Committee or their designees. At 10:30, the Senate will vote on the motion to invoke cloture on this important nomination. If cloture is not invoked on the nomination, the Senate will resume consideration of the Moscow Treaty. Additional amendments are expected to the resolution of ratification. Therefore, Senators should anticipate votes throughout the day. The Senate will complete action on the Moscow Treaty this week.

ORDER OF PROCEDURE

I ask unanimous consent that the time allocated for morning business be equally divided between the majority leader and the minority leader or their designees.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. We had a majority and minority member coming over this morning. They are not coming now, so for anyone who has had a desire to come speak and has not had the opportunity, this would be the opportunity to do that until 10 today.

Mr. BENNETT. That is my understanding.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, the Senate will now be in a period for morning business until the hour of 10.

The Senator from Utah.

WAR IN IRAQ

Mr. BENNETT. Madam President, seeing no one else here and being prepared to yield as soon as someone comes with a desire to speak, I will take advantage of this opportunity to make a few comments with respect to the pending situation in Iraq.

Since I returned from last weekend in Utah, I have become increasingly aware of how anxious people are about Iraq and the possibility of war in Iraq. This anxiousness comes from those who are supporters of the President as well as those who are detractors of the President. Some who have faith in the President's judgment and in his instincts say, we will back him but we are very concerned about the possibility of going to war. Those who do not have faith in the President's political judgment are almost beside themselves with anger and anxiety that he would go ahead in the face of what they consider to be serious worldwide opposition to the war.

As I look out at the situation, as best I can I have tried to explain to them

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

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what I see to help them understand that which the Washington Post editorial said last week; that is, the risks of not going to war in the present circumstances are probably greater than the risks of going to war. Those who are looking to the United States to exercise leadership in this part of the world—indeed, to free them from the tyranny of Saddam Hussein—are just as desperate that perhaps we might back down as are those who fear that war will come.

War is never an easy decision, and I assure all of my constituents that this President is not given to war simply as something to do. That which we hear in the press about this possibility is clearly wrong; that is, the suggestion that perhaps the President is going to war in order to secure more oil for America. I point out that if oil were our motivation, war would be our last option. We could simply turn to Saddam Hussein, remove the sanctions, make accommodations with him, and say, go ahead and produce all the oil you want and we will take advantage of that and the impact of that on the world oil market.

Nor does it have anything to do, as some have suggested in the press, with the desire on the part of this President to somehow redeem the pledge that was made by his father. All of this rewrites history. George W. Bush—or George Bush, the first, if I might use that term—was operating under a series of resolutions from the United Nations that did not authorize him to invade Iraq or go into Baghdad to remove Saddam Hussein. The decision was made, after examining the circumstances on the battlefield, that the mandate laid down by both the Congress and the U.N. had been fulfilled when the first George W. Bush had succeeded in liberating Kuwait.

We can look back through the lens of history and say that was a mistake in terms of what happened in the area, but by no means was it a circumstance where we could say that the present President Bush feels a need to somehow revenge his father or atone for his father. At the time, the decision was made on the basis of the legal situation and the best information available from the battlefield. In hindsight, we might say it was the wrong decision, but under no circumstances can we say that the first President Bush should be criticized for having made it.

No, the reason we are going forward in Iraq has to do with much more of the American spirit and the American tradition. America is not an imperial power, in spite of the statements by some of the people in the European press. America does not seek Roman-type domination over other nations. When America moves forward in war, it is for one purpose only, and that is to advance the cause of freedom. Usually, it is to advance the cause of freedom in America; that is, to preserve our citizens from attack. That is an aspect of the current situation.

Those who say, no, Iraq has never attacked us are being blind to the interconnections throughout the world of the Middle East with respect to terror. They say, we do not have a smoking gun to prove absolutely that al-Qaida, when they attacked the World Trade Center and the Pentagon, was receiving aid from Iraq. Those who are waiting for that kind of absolute certainty before they move ahead are not cognizant of the intelligence information that is available not only to those who have attended classified briefings but, frankly, to the whole world based on the presentations made by Secretary Powell at the U.N. and in other circumstances.

There can be no doubt that America has been attacked, has been attacked by those who have received sanctuary in Iraq, and has been attacked by those who will, if not stopped, come back at us again and again and again. It is their clear desire to drive the Americans out of the Middle East through military—if necessary, terrorist—tactics, to see to it that we leave. When we leave, what will be the legacy of that decision? If we back out of our military threat against Iraq, what will we leave behind? Will we leave stability? Will we leave freedom? Will we leave prosperity? No. If we back out of the region now, we will leave behind us continued warfare, continued death, continued poverty, and continued torture. That is not the American tradition, to turn our back on those circumstances and walk away when there is an opportunity to advance freedom, liberty, prosperity, and peace.

I do not envy the President the challenge of the decision he must make, but I recognize America has traditionally, when aroused, stood on the side of moving ahead to protect liberty wherever we can. If we do go ahead with military action in Iraq in the face of Saddam Hussein's continuing refusal to disarm, what, then, will be the legacy we will leave behind when the entire operation is finished? We can only look at other American circumstances to try to find the parallel. When we moved into imperial Japan at the end of the second world war, defeated the Japanese military, what did we find? A feudal system where women were not only not allowed to vote but in many cases were treated like property and chattel, where slavery existed throughout the empire, where property rights were not available to any except those who had been born to them—a feudal society firmly mired in circumstances of centuries before.

What did we leave behind when we departed? A free nation that had women's suffrage, where slavery was abolished, where property rights were available to all, where the rule of law existed in a democratic society. We saw the Japanese rise to a level of prosperity thereafter that made them the second strongest economy in the world. That was the legacy we left behind when we achieved military victory.

When we won the Second World War, we not only liberated those people who considered themselves under the yoke of foreign domination—the Dutch, the French, the Belgians, et cetera—we also liberated the Germans, who were our enemies, and the Japanese, who were our enemies. After the Second World War, those who had been our adversaries had a greater degree of freedom, a greater degree of prosperity, and a peace and calm in their circumstances they did not have under their previous regimes. They did not live under American domination or American legions left there as the Romans would do. They lived there in freedom and peace and were protected by American military might from those who would have attacked that peace.

It is that history in America that gives me confidence that President Bush will do the right thing in Iraq. If war becomes necessary because of Saddam Hussein's continued refusal to disarm and his continued refusal to step down and turn his country to freedom, if war becomes necessary, the American tradition says the legacy we will leave behind will be one that our children can be proud of and in which Iraqi children can rejoice.

Let us not shrink from our responsibility to be the protectors of freedom and liberty throughout the world. And let us not shrink from our responsibility to protect America from those who would attack us if we do not move ahead.

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

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

The legislative clerk proceeded to call the roll.

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

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

ESTRADA NOMINATION

Mr. DASCHLE. Mr. President, shortly we will have a vote on cloture on the nomination of Miguel Estrada. Let me just say that I am saddened that we have to have this vote at all. Democrats are not interested in delaying the debate, delaying the vote. What we are interested in is the same standard set for judicial nominees virtually all through history. Nominees in the past have come before the Judiciary Committee, they have answered their questions, they have provided the documentation, votes have been taken, and judges overwhelmingly have been confirmed. This is the exception, not the rule.

While we were in the majority we confirmed 101 judicial nominees. I haven't checked, and I have no way of knowing, but I suspect all 101 confirmed judges are conservatives. I don't think they would have made it through

the screening process of the Bush administration were they not conservative.

We have voted on a large number—I don't have the number before me—of judges this year. Again, I would say, without exception, those judges are conservative and, with rare exception, those judges were confirmed unanimously.

There are those who suggest that somehow because this is a conservative judge, Democrats are balking at confirmation. I will oppose Mr. Estrada even if we have the opportunity at some point in the future because I am confident, based on his answers to questions so far, and the limited information we do have available to us so far, that he represents an extreme point of view, not a moderate point of view. I believe those extreme positions are ones that would cause concern, whether he were extreme liberal or extreme conservative.

But the issue in this immediate case is not philosophical temperament. This issue is about intransigence. This issue is whether or not Miguel Estrada or anybody else ought to be held to the same standard for consideration of this important position, the second highest court in the land. He has been asked to fill out a job application and he refuses to fill out the final pages of that application. We are left to guess what his qualifications are. We are left to guess what his judicial temperament is. For many of my colleagues, that is insufficient. His attitude, his disposition, his intransigence is why we are here today. So it is not Democrats, it is Mr. Estrada, it is the administration that continues to be unwilling to provide the cooperation and the information that Members have used in the past to make their judgments.

There has been so much misinformation regarding past precedent, but even if you sift through all of the misinformation in the assertions relating to other judges and their degree of compliance with the law, I don't know of anyone who has not acknowledged that Solicitor General documents have been shared with members of the Judiciary Committee and the Senate on past occasions. That is fact. Judge Bork, Benjamin Civiletti, Judge Rehnquist—there are many who have provided the very information we have requested.

So it is regrettable we are at this point. We have been debating this nomination now for a month. I would like very much for us to turn to other important matters. We may be going to war soon. The Senate ought to have an opportunity to discuss the implications of war, our thoughts about war. We have not had that discussion. Perhaps now is the time to do so.

As I have said on the floor on several occasions, the administration seems to be consumed with this one job but ignores the fact that over 2.5 million Americans have lost their jobs. This Senate ought to be devoting its attention and time to dealing with the real issues confronting our country domestically, which are the economy, the loss of jobs, the stagnation, the uncertainty.

I was with a group this morning who said investment is simply not in evidence in large measure because of uncertainty, because people do not know what the future holds economically. We ought to be moving forward on an economic debate. We ought to be moving forward to address those 2.5 million Americans who have lost their jobs, but we have not done so. Yet day after day, hour after hour, we continue to be consumed by the one job at the expense of the millions.

There are many reasons I wish conditions would be different this morning. I do hope Mr. Estrada will see fit to be more cooperative. I have appreciated the willingness on the part of the administration to encourage Mr. Estrada to meet with Members. But as many of us have noted, it is not his willingness to meet; it is his unwillingness to provide information that has brought us to this point. Meeting alone is cosmetic. Meeting alone is more of a public relations ploy than a meaningful way with which to ascertain the facts. We don't need more public relations. We don't need more efforts to meet if those meetings cannot be more productive.

So I hope we can move on to issues of great import to this country, whether it is foreign policy or the economy or the many other domestic issues we face. We have attempted day after day to bring an economic stimulus bill to the Senate floor. Perhaps with this vote the way can be cleared to allow that to happen. But whatever happens, I think it is important to put my colleagues on notice that the vote will not change regardless of how many votes may be cast. We feel strongly as a caucus, and we will continue to hold the position as a caucus, that the information Mr. Estrada has so far failed to provide is not in keeping with past precedent; it is not in keeping with constitutional expectations; it is not in keeping with our expectations with regard to the cooperation we would expect from any nominee.

I hope as we consider how we might resolve this matter, Mr. Estrada will work with us, provide information we have asked, work with us to ensure that those unanswered questions can be answered and that in the meantime we can turn to the matters of interest, of import, of concern to the American people.

I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent before we go into executive session to have printed in the RECORD two documents. One is an editorial that appeared in the Chicago Tribune, written by Eduardo M. Penalver, who was a Supreme Court clerk for Justice John Paul Stevens.

I further ask unanimous consent to have printed in the RECORD a letter written to Majority Leader Frist, dated today, from a number of Hispanic leaders from around the Nation, with the final paragraph:

> We want more representation for our community in the courts, but not at such a high price. We accept liberal and conservative thinkers among us, but Mr. Estrada is much more than a conservative, he is an ideologue. We cannot support the confirmation of an ideologue to such an important position in our society. The cost is too high. We urge you and the members of the Senate to oppose Mr. Estrada's confirmation.

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

[From the Chicago Tribune, Mar. 4, 2003]

ARE ESTRADA'S OPPONENTS ANTI-LATINO?

(By Eduardo M. Penalver)

No merit to argument that to oppose Estrada's nomination is to oppose interests of Latinos.

The fight over the nomination of Miguel Estrada to the influential Washington, D.C.-based federal appeals court has lifted the veil on the riddle that lies at the heart of the Latino identity: What exactly does it mean to be a ''Latino''?

Republican politicians have struggled to paint Estrada's opponents as anti-Latino. They have been joined by a handful of the Latino organizations supporting Estrada's nomination. And then there's the national TV ad, sponsored by Estrada supporters, that depicts a brown boy seeking work and confronting a shop owner who apparently does not want to hire a Latino. The ad not-so-subtly suggests that Estrada's opponents are like the bigot in the store.

I count myself among those who—for ideological reasons—firmly oppose Estrada's nomination. But I am also Latino. And while the Republican moralizing is hard to swallow from the party that in the last decade has given us such ''Latino-friendly'' faces as U.S. Rep. Tom Tancredo (R-Colo.) and former California Gov. Pete Wilson, it still seems worth asking whether there is some inconsistency between being Latino and opposing the first Latino to be nominated to the D.C. federal circuit.

To answer that question, we have to first decide what it means to be a Latino. This is no easy task. Although we have learned to call ourselves Latino or Hispanic, those of us of Latin-American ancestry have often questioned the propriety of being grouped under a unitary label.

After all, it is not immediately clear what my Cuban-American family, which lived in relative privilege in Cuba and was embraced by the United States as victims of communist tyranny during the Cold War, shares with Mexican farmworkers in California's central valley or the El Salvadoran woman who cleans my office, both of whom likely come from extreme poverty and who have been greeted in this country with exploitation and disdain.

Still, I have always believed (or perhaps hoped) that being a Latino, like being an African-American, had some substantive, perhaps even political content. In discussing the Estrada nomination with other Latinos, particularly those who support the Estrada nomination, however, I have struggled to articulate what that content might be.

Estrada has been criticized by some (both Latinos and non-Latinos) for being insufficiently Latino because his family in Honduras was not poor. By that definition, however, virtually none of the Cubans who arrived in the United States in the first years after the revolution would qualify as authentically Latino. Estrada has also been criticized for being too conservative.

But the voting patterns of Latinos (and not of just Cuban-Americans) are far too mixed to impose such a simplistic political litmus test on Latino authenticity. Moreover, as a devout member of the Federalist Society, Estrada's most conservative, and—in my opinion—troubling, views likely relate to his understanding of the proper role of the national government in the federal system, an issue on which few Latinos who are not lawyers have much of an ax to grind.

Despite the definitional difficulties, those of us who call ourselves Latino at a minimum must share a commitment to the notion that being Latino has some significance.

That significance may be rooted in the fact that, despite our obvious diversity, we are perceived by the Anglo majority to fall within a single group and to possess a common set of stereotypical traits, and that, as a result of the way we are perceived, we share an experience of discrimination in this country. It is possible—though I do not think it to be the case—that being Latino means little more than that. But if it does not even mean that much (or that little), why would we ever even use the term and why would we waste our time forming organizations around such a meaningless notion?

I believe that this minimal shared belief provides a principled basis for opposing the Estrada nomination from a distinctively Latino point of view. In addition, I believe that this shared belief suggests that those Latino organizations that have endorsed the Estrada nomination have betrayed the very ideals on which they were founded.

From this minimalist Latino perspective, it is not decisive whether Estrada is rich or poor or liberal or conservative. What matters is that Estrada has never said or done anything to indicate that he views himself as belonging to, or having something to contribute to or gain from, this Latino (or Hispanic or Latin American) community we have chosen for ourselves. Indeed, by all accounts, he thinks racial and ethnic categories are irrelevant, even harmful.

Miguel Estrada is not less Latino because he comes from a professional Honduran family or because he is a hard-line conservative. But he is certainly less worthy of Latino support because he is against the notion that a Latino identity is a concept with any meaning or value. As a result, organizations whose founding principles revolve around the opposite belief have no business endorsing his nomination to a U.S. Court of Appeals.

If Estrada did believe that his Latino identity had some significance, I would probably still oppose him—perhaps because my ideological commitments are more important to me than my desire to see a Latino on the D.C. circuit. But even under those circumstances, given the typical conservative denial that race or ethnicity should ever matter, his Republican supporters' attempt to manipulate ethnic loyalties for the sake of their ideological crusade would still seem particularly cynical and offensive.

Nevertheless, the notion that his presence on the federal appeals court would be good for Latinos would be entitled to more weight. Given Estrada's apparent beliefs that Latino identity is irrelevant, however, there is not the least bit of merit to the argument that to oppose Estrada's nomination is to oppose the interests of the Latino community. To the contrary, those of us in the Latino community who oppose Estrada's nomination are simply giving him what he has always asked for: to be treated as an individual and not as the member of a group.

MARCH 5, 2003.

Majority Leader BILL FRIST,
U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER FRIST: We write you today on the nomination of Miguel Estrada to the D.C. Circuit of Appeals. We are all Latino/Hispanic/Chicano professors researching, writing, and teaching in colleges and universities throughout the country. We come from a world, not too dissimilar from the other worlds in our society, where not only are Latinos under represented in our rank of professors, but we are also under represented among the students and worse yet among the Presidents and Deans of our institutions. Nevertheless, we believe in studying old ideas, developing and exchanging new ideas, and training the next generation of thinkers to explore and improve the world around them, however they choose to do so.

We have followed with extreme interest the Senate's review and debate on the nomination of Mr. Estrada. For many in our broader society, they may be confused as to whether Mr. Estrada should be supported or not; however, we are not. We stand united in our opposition to the confirmation of Mr. Estrada to the D.C. Circuit Court of Appeals.

We recognize and congratulate Mr. Estrada on his professional accomplishments. So few Hispanics have had the privileges that he has had to serve as a Supreme Court clerk, to serve in the Solicitor General's Office of the Department of Justice or to reach the level of partner at a major law firm in this country. At the end of the day, however, the question we ask is whether Mr. Estrada would be a fair judge? We conclude that he would not be.

He evaded questions from the Senate. That does not give us confidence that he would be a fair and open-minded judge if he feels he has to hide how he approaches the law. His past record, although limited, also provides some disturbing insight into how he would rule as a judge. We see that he would not be a supporter of affirmative action at the very colleges and universities where we teach where Latinos are sorely under represented and under served. A major problem facing Chicanos and other Hispanics is the issue of racial profiling; again, Mr. Estrada downplays its existence. We question whether he has a commitment to protecting civil rights of Latinos.

We want more representation from our community in the courts, but not at such a high price. We accept liberal and conservative thinkers among us, but Mr. Estrada is much more than a conservative, he is an ideologue. We cannot support the confirmation of the ideologue to such an important position in our society. The cost is too high. We urge you and the members of the Senate to oppose Mr. Estrada's confirmation.

Sincerely,

Leonard Valverde, Professor, Educational Leadership & Policy Study, Arizona State University, Tempe, AZ.

Dorinda Moreno, Napa Community College, Ohlone Jr. College, SF State University, Concord, CA.

Duane Campbell, Bilingual/Multicultural Education, CSU Sacramento, Sacramento, CA.

Gary Urdiales, Youth Development Specialist, Lanier High School.

Ian Haney-Lopez, Professor of Law, U.C. Berkeley, Berkeley, CA.

Jesus Nieto, Associate Professor, School of Teacher Education, San Diego State University, San Diego, CA.

Jose Anazagasty-Rodriguez, Department of Comparative American Cultures, Washington State University, Pullman, WA.

Lorenzo Cano, Associate Director, Center for Mexican, American Studies, University of Houston, Houston, TX.

Rquel Rubio-Goldsmith, LLM, Mexican American Studies and Research Center, University of Arisona, Tucson, AZ.

Julio Bernal, Assistant Professor of Entomology, Texas A&M Unbiversity, College Stanton, TX.

Luis Moreno, CSU Northridge, Northridge, CA.

Lisa Garcia Bedolla, Department of Political Science, University of California, Irvine, Irvine, CA.

Richard Griego, Professor Emeritus of Mathematics, Director of Chicano Studies, University of New Mexico, Albuquerque, NM.

Roberto Lovato, Founding Member of Central American Studies, CSU Northridge, Northridge, CA.

Loui Olivas, Assistant VP Academic Affairs, Arizona State University, Tempe, AZ.

Roxane Royalty, MA, Youth Development Specialist, Lanier High School, San Antonio, TX.

Ignacio Garcia, Brigham Young University, Provo, Utah.

Ernesto Virgil, Writer, Activist and Historian, Denver, CO.

Maria Teresa Marquez, University of New Mexico, Albuquerque, NM.

William de la Torre, Department of Educational Leadership & Policy Studies, CSU Northridge, Northridge, CA.

Serigo Romero, Sociology, University of Oregon, Eugene, Oregon.

Jorge Mariscal, Department of literature, University of California, San Diego, La Jolla, CA.

Dolores Delgado-Campbell, History, American River College, Sacramento, CA.

Miguel Paredes, CSU Northridge, Los Angeles, CA.

Ralph de Unamuno, UCLA, Los Angeles, CA.

Amanda Espinosa-Aguilar, Washington State University, Pullman, WA.

Ruben Davalos, Assistant Professor, Public Administration, Emeritus Graduate Center for Public Policy/Administration, CSU Long Beach, Long Beach, CA.

Reynaldo Anaya Valencia, A.B., A.M., J.D., Professor of Law, St. Mary's University School of Law, San Antonio, TX.

Robert Vazquez, CEO, LaRed Latina, The University of Nevada at Las Vegas, Las Vegas, Nevada.

Angelo Falcon, Senior Policy Executive, Puerto Rican Legal Defense and Education Fund (PRLDEF), New York, NY.

Antoinette Sedillo Lopez, Associate Dean for Clinical Affairs, University of New Mexico, Albuquerque, NM.

Carlos Munoz, Professor Emeritus, University of California, Berkeley, CA.

Albert Camarillo, Professor of History, Stanford University.

Gloria Valencia-Weber, Professor, University of New Mexico School of Law, Albuquerque, NM.

Jorge Mariscal, Department of Literature, University of California, San Diego, La Jolla, CA.

Jose Roberto Juarez, Professor of Law, St. Mary's University School of Law, San Antonio, TX.

Ana Cecilia Zentella, Professor, Ethnic Studies, University of California at San Diego, La Jolla, CA.

Adolfo Bermeo, Associate Vice Provost For Student Diversity, UCLA, Los Angeles, CA.

Carmen Gonzalez, Professor, Seattle University School of Law, Seattle, WA.

David Cruz, Professor of Law, USC Law School, Los Angeles, CA.

Dr. Guadalupe San Miguel, History Department, University of Houston.

Dionicio Valdes, Department of Chicano Studies, University of Minnesota, Minneapolis, Minnesota.

Enrique Buelna, Chicano Studies Department, CSU Northridge, Northridge, CA.

Dr. Anna Sampaio, Ph.D., Assistant Professor Dept. of Political Science, University of Colorado, Denver, CO.

Dr. Victor Rodriguez, Ph.D., Associate Professor, Chicano & Latino Studies Dept., CSU Long Beach, Long Beach, CA.

Dr. Ana Juarez Ph.D., Assistant Professor, STSU, San Marcos, TX.

Dr. Antonia Castaneda, Ph.D., Associate Professor of History, St. Mary's University, San Antonio, TX.

Dr. Estevan Flores, Ph.D., Executive Director, University of Colorado, Denver, CO.

Dr. Jorge Huerta, Ph.D., Chancellor's Associates Professor of Theatre, University of California, San Diego, La Jolla, CA.

Dr. Leticia Flores, Ph.D., Psychology Department, Southwest Texas State University, San Marcos, TX.

Dr. Gloria Contreras, Ph.D., Professor, Dept. of Teacher Education, University of North Texas, Denton, TX.

Dr. Jose Centeno, Ph.D., Dept. of Speech, Communication Sciences, & Theatre, St. John's University, Jamaica, NY.

Dr. Ayse Yonder, Ph.D., Associate Professor and Chair Pratt Institute, Graduate Center For Planning and the Environment, Brooklyn, NY.

Dr. Roberto Calderon, Ph.D., Department of History, University of North Texas, Denton, TX.

Dr. Vivian Tseng, Ph.D., Department of Psychology, CSU Northridge, Northridge, CA.

Dr. Mario Gonzales, Ph.D., Assistant Professor of Anthropology, Southwestern University, Georgetown, TX.

Dr. Ray Leal, Ph.D., Department of Criminal Justice, St. Mary's University, San Antonio, TX.

Dr. Rebecca Blum-Martinez, Ph.D., College of Education, University of New Mexico, Albuquerque, NM.

Dr. Domenico Maceri, Ph.D., Professor of Spanish, Allan Hancock College, Santa Maria, CA.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. REID. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally among the two sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Madam President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The pending question is the Estrada nomination. The Senator has 12 minutes under his control.

Mr. LEAHY. I thank the distinguished Presiding Officer.

Madam President, the Senate Judiciary Committee is meeting. I spoke to our distinguished chairman, Senator HATCH, who is still there, and, by mutual agreement, I have come to the Chamber to speak now, and then he will, of course, have his time preserved.

Before I start, I thank both the Democratic leader and the assistant leader, Senator REID, for their efforts to safeguard our Constitution and to protect the special role of the Senate in ensuring that our Federal courts have judges who will fairly interpret the Constitution and laws passed by Congress. We pass these statutes for the sake of all Americans, not just for Republicans, not just for Democrats—all Americans. I also thank all the Democratic Senators who have spoken on the floor or who have joined together to preserve the integrity of the confirmation process.

What is at stake in this nomination is a lifetime appointment to the second highest court in the country. Most of the decisions issued by the DC Circuit in the nearly 1,400 appeals filed per year are final because the Supreme Court now takes fewer than 100 cases from all over the country. Our DC Circuit has special jurisdiction over cases involving the rights of working Americans, as well as the laws and regulations intended to protect our environment, safe workplaces, and other important Federal regulatory responsibilities. This is a court where privacy rights will either be retained or lost, and where thousands of individuals will have their final appeal in matters that affect their financial future, their health, their lives, and their liberty, as well as the lives of their children and generations to come.

If a nominee's record or responses raises doubts or concerns, these are matters for thorough scrutiny by the Senate, which is entrusted to review all of the information and materials relevant to a nominee's fairness and experience. No one should be rewarded for stonewalling the Senate and the American people. Our freedoms are the fruit of too much sacrifice to fail to assure ourselves that the judges we confirm will be fair judges to all people and in all matters. No one should have a lifetime appointment as a gift because they stonewalled the Senate.

It is unfortunate that the White House and some Republicans have insisted on this confrontation rather than working with us to provide the needed information so we could proceed to an up-or-down vote.

Some on the Republican side are having too much fun playing politics, seeking to pack our courts with ideologues or leveling baseless charges of bigotry, to work with us to resolve the impasse over this nomination by providing requested information and proceeding to a fair vote.

I was disappointed that Mr. BENNETT, the distinguished Senator from Utah, in his honest colloquy with the distinguished Senator from Nevada, Mr. REID, and me on February 12, which pointed to a solution, was never allowed to go forward by hard-liners on the other side. I am disappointed all my efforts, and those of Senator DASCHLE and Senator REID, have been rejected by the White House. The letter that Senator DASCHLE sent to the President on February 11 pointed the way to resolving this matter. The responses we got showed me that they would rather engage in politics at the White House.

The Republican majority is wedded to partisan talking points that are light on facts but heavy on rhetoric. There has often been an absence of fair and substantive debate and a prevalence of name calling that has offended many. At the outset of this debate, I called for an apology for remarks calling Democrats ''anti-Hispanic'' and I urged debate on the merits. Unfortunately, the Republican name calling continued, and those attacks were extended to include members of the Congressional Hispanic Caucus, some of the highest and most respected Hispanic elected officials in the Nation, and other Hispanic organizations and leaders that oppose this nomination. That is extremely disappointing.

Our sincere concerns have been distorted and then dismissed. So in these closing moments before the cloture vote, let me puncture some of the Republican myths about this nomination and this process.

First, Republicans rely on a letter from former Solicitors General stating a policy preference that did not acknowledge past precedent. Republicans claimed, in fact, that our request for memos written by this judicial nominee was unprecedented. That is false. And, during the course of this debate, even the administration had to concede their claim was false.

The smoking gun was a letter from the Reagan Department of Justice asking the Judiciary Committee to return similar memos written to the Solicitor General by lower level attorneys that had been provided ''to respond fully to the Committee's request and to expedite the confirmation process.'' This was done in another nomination but refused in this one. In fact, buried in the current administration's rejection of Senator DASCHLE's good-faith effort to resolve this impasse was the belated concession that other administrations had produced Solicitor General Office work papers and other legal memos in other nominations.

But notwithstanding having admitted that, they misstated that precedent. They continued to misstate the precedent, claiming incorrectly that disclosures were predicated on allegations of misconduct by those past

nominees. But past letters and records prove that the Senate requested, and the Reagan administration provided, internal documents such as Justice Department legal memos to and from William Rehnquist relating to civil rights and civil liberties, appeal recommendations by other attorneys to Robert Bork in civil rights cases as well as other internal legal or policy memos he wrote, and a wide range of civil rights memos in Brad Reynold's nomination for a short-term appointment at the Justice Department. These were requested due to the Senators' interest in examining those writings and better understanding the nominees' views and approach to interpreting the laws as executive branch employees. The Senate's interest in examining those documents was not predicated on allegations of misconduct, and that interest was not diminished in any way by the opportunity to review other writings. Justice Rehnquist had written judicial opinions and dissents for 15 years, and Judge Bork had served for 6 years on the bench.

The real double standard here is that the President selected Mr. Estrada based in large part on his work for 4½ years in the Solicitor General's Office, as well as for his ideological views. But then, having been picked because of his ideological views, the administration said the Senate may not find out what those views are. The administration also sought to deny access to the type of legal memos that had been provided in the past. The administration said the Senate could not examine Mr. Estrada's written work from that office making recommendations of what the law is or should be, even though these papers would shed the most light on his unvarnished views. They asserted that the Senate should not consider the very ideology it took into account in selecting a 39-year-old, with no academic writings as a lawyer or judicial opinions that would provide insights into his views, for a lifetime seat on the country's second highest court.

This is a nominee well known for having very passionate views about judicial decisions and legal policy, well known for being outspoken, but he has refused to share his views with the very people charged with evaluating his nomination. There seems to be a perversion of values to require the Senate to stumble in the dark about his views, when he shares his views quite freely with others—certainly with insiders and people in the administration, and he has been selected for the privilege of this high office and for a lifetime position based on those same views that they want to keep hidden from the Senate. We are not asking him to pledge how he would rule but we cannot let a new bar be set that one cannot share views with the Senate without reading briefs, listening to oral arguments, conferring with colleagues and doing independent research. I think any concerned citizen or first year law student could mention a Supreme Court decision from the past 200 years that may trouble him or her, but Mr. Estrada refused to answer even this question, among many, many others.

This points to a second myth: That Mr. Estrada cannot answer questions about his views without violating judicial ethics. However, as Justice Scalia—one of President Bush's favorite Supreme Court Justices—wrote for a majority of the court just last summer, ''Even if it were possible to select judges who do not have preconceived views on legal issues, it would hardly be desirable to do so. 'Proof that a Justice's mind at the time he joined the Court was complete tabula rasa in the area of constitutional adjudication would be evidence of lack of qualification, not lack of bias.'" *Republican Party of Minnesota* v. *White*, 122 S. Ct. 2528 (2002). This quote is from the majority opinion in a case about whether judicial candidates could share their views. This is a case that the Republican Party took all the way to the Supreme Court and won. Prior to this decision there may have been some ambiguity for judicial candidates about whether they could share their views, but this decision last year by Justice Scalia makes clear that judicial ethics do not prevent sharing of views.

Third, Republicans have claimed that this debate on a judicial nomination was unprecedented. That is false as well. Republicans not only filibustered the Supreme Court nomination of Abe Fortas, they filibustered the nominations of Judge Stephen Breyer, Judge Rosemary Barkett, Judge H. Lee Sarokin, Judge Richard Paez and Judge Marsha Berson, among others. The truth is that filibusters and cloture votes on nominations and legislative matters and extended debate on judicial nominations, including circuit court nominations, have become more and more common through Republican actions. Of course, when they are in the majority, Republicans have more successfully defeated judicial nominees by refusing to proceed on them and then not publicly explaining their actions, and by allowing holds by one or a handful of Republicans to determine a nominee's fate, preferring to act in secret under the cloak of anonymity.

The nomination of Judge Paez, a Mexican American nominated to the Ninth Circuit, illustrates quite clearly that the last filibuster of a circuit court nominee occurred on the Republican watch during the last administration. Judge Paez was first nominated in 1996 and Republicans refused to allow him an up or down vote on the floor of the Senate until he was finally confirmed in 2000, after his nomination had been pending for more than 1,500 days. In fact, his nomination had waited on the floor for an up or down vote for more than 20 months, 20 times longer than Mr. Estrada's nomination. After Republicans lost a cloture vote on March 8, 2000, they moved ''to indefinitely postpone'' his nomination. Chairman Hatch noted that such a motion was unprecedented following a cloture vote to end what he then acknowledged was a ''filibuster'' of Judge Paez's nomination. Despite his concerns, 31 Republicans—many of whom have been on this floor demanding an immediate up or down vote on Mr. Estrada's nomination and claiming that delaying a vote is unconstitutional—voted to postpone, in essence, forever a vote on Judge Paez's circuit court nomination. I think this recent example punctures the Republican myths about floor votes and filibusters.

Fourth, Republicans claim that the debate on this nomination has held up other business of the Senate, blaming Democrats. That is false. The truth is that Republicans objected to turning to the economic stimulus package and funding for first responders when Senator DASCHLE sought that action last week. Instead, Republicans have been focused on ensuring a lifetime job for one man rather than addressing the need to stimulate the creation of good jobs for many Americans. During the course of this debate, Democrats have willingly proceeded to confirming a number of other judicial nominees of this President—including a Hispanic nominee to the district court in California—passing the omnibus appropriations bill, passing short-term continuing resolutions to fund the government, passing the Hatch-Leahy PROTECT Act against child pornography, and now debating the Moscow treaty. The reason the Senate has not done more is because Republicans have not asked the Senate to turn to such matters as Senator BIDEN's bill to grant asylum to Iraqi scientists and other bills.

Fifth, Republicans have tried to create the impression that those who oppose this nomination are anti-Hispanic. That is false and they know it. The members of the Congressional Hispanic Caucus are not anti-Hispanic, nor are the Mexican American Legal Defense and Education Fund, the Puerto Rican Legal Defense and Education Fund, the Latino labor leaders, the Southwest Voter Registration and Education Project, the California Chapter of the League of United Latin American Citizens (LULAC), the 75 Latino professors, the 15 former presidents of the Hispanic National Bar Association, the AFL-CIO, the Sierra Club, Dolores Huerta—the cofounder of the United Farm Workers of America—Mario Obledo, Professor Paul Bender or the hundreds of other Americans who called or written in opposition to this nomination.

Democratic Senators are not anti-Hispanic. This charge is as baseless now as it was when my religion, and the religion of other Democratic members on the Senate Judiciary Committee, was attacked by some of the Republican leadership. We ought to understand that people do not have these biases, baseless biases, that are being ascribed by some in their zeal to win at

any cost, just as we should not be attacking each other's religion. Democratic Senators have pressed for the confirmation of many Hispanics over the past ten years, including the confirmation of Judge Paez, Judge Sonia Sotomayor, Judge Julio Fuentes, Judge Kim Wardlaw, and Judge Jose Cabranes, just to name a few of the other Hispanics appointed to the circuit courts by Democratic or Republican presidents, in addition to Judge Hilda Tagle, Judge James Otero, and Judge Jose Linares, just to name a few of the Hispanic district court nominees over these years. In fact, Democratic Senators also pressed for Senate confirmation of Enrique Moreno, Jose Rangel, and Christine Arguello, who had been nominated to the circuit courts, and for many other outstanding judicial candidates on which the Republican Senate majority refused to proceed when they were nominated or renominated by President Clinton. Baseless Republican charges of bias prompted LULAC, an organization that initially endorsed the Estrada nomination, to disassociate itself from Republican statements.

I urge the White House and Senate Republicans to end the political warfare and join with us in good faith to make sure the information that is needed to review this nomination is provided so that the Senate may conclude its consideration of this nomination. I urge the White House, as I have for more than two years, to work with us and, quoting from the column published yesterday by Thomas Mann of the Brookings Institute, submit ''a more balanced ticket of judicial nominee and engag[e] in genuine negotiations and compromise with both parties in Congress.'' The President promised to be a uniter not a divider, but he has continued to send us judicial nominations that divide our nation and, in this case, he has even managed to divide Hispanics across the country, unlike any of the prior judicial nominees of both Democratic and Republican Presidents.

Madam President, I do not see others seeking the floor except for Senator SCHUMER. I ask unanimous consent that he be allowed 3 minutes.

Mr. REID. Madam President, reserving the right to object, I want to say on behalf of all the Senators on this side of the aisle how much we support the ranking member of the Judiciary Committee, what a difficult job he has had, and what a tremendous job he has done. Senator LEAHY has set an example for how a Senator should act. He has been a statesman through this and other battles. Speaking on behalf of Senator DASCHLE and for me, I am sure every Democratic Senator, we can't say enough that is good. I will let the RECORD rest on the fact that we are totally supportive of what you have done and how you have handled this, and we are proud of what you have done.

If there is no one here, I certainly ask unanimous consent that Senator SCHUMER be allowed to speak until someone shows up for the Republican side.

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

The Senator from New York.

Mr. SCHUMER. Madam President, let me add my accolades to our colleague and leader of the Judiciary Committee, Senator LEAHY, who has done a terrific job. I thank Senator LEAHY as well as Senator DASCHLE and Senator REID for the remarkable unity in the Democratic caucus when, frankly, some of us felt we had to do something here and didn't really think it would come to fruition.

Let me say the vote today boils down to one issue more than any other: Should the Senate have any role in the selection of judges to the Federal bench? It is that simple. It boils down to the simple fact that there has been an attempt here to obliterate the advise and consent process which the Founding Fathers regarded as one of the most important in the Constitution.

This is not an argument about one man. This is not an argument about any particular issue. This is not even an argument about something I believe strongly, whether somebody's views should be taken into account before that person is appointed as a Federal judge.

What has happened in the last several months has made a mockery of the advise and consent process.

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

Mr. SCHUMER. I am happy to yield.

Mr. REID. Would the Senator agree with the statement made by 75 Hispanic leaders around the country in a letter stating as follows:

> We want more representation from our community in the courts, but not at such a high price. We accept liberal and conservative thinkers among us, but Mr. Estrada is much more than a conservative, he is an ideologue. We cannot support the confirmation of an ideologue to such an important position in our society. The cost is too high. We urge you and the members of the Senate to oppose Mr. Estrada's confirmation.

Does the Senator from New York agree with that sentence?

Mr. SCHUMER. I thank my colleague for asking the question. My view is yes. I don't want ideologues on the court, whether they be far right or far left. What ideologues tend to do is make law and not interpret the law. The bottom line is there are many people who know Mr. Estrada who say he is a mainstream conservative and he is not an ideologue who will try to bend the law to the direction of his beliefs; there are many others who say he is an ideologue who will bend the law to the direction of his beliefs.

Going back to my first point, we have no way of ascertaining that one way or the other because Mr. Estrada has refused to answer in any kind of elucidating and forthright way questions that were asked of him throughout 9 hours of hearings, which I chaired, and because the only other place we can find what his views are is in his work papers at the Solicitor General's Office, which are being withheld even though there is no privilege. And those papers have not been withheld by any other nominees who have sought to be justices and garner other positions in the Government.

Unless we wish to make the Senate simply a detective agency to find some useful indiscretion and eliminate a nomination or oppose a nomination, for that reason, then we should oppose Mr. Estrada.

I say to my colleagues that the position of being on the Court of Appeals in the DC Circuit is one of the most important positions in the Government. Many might argue that those judges have more power than individual Senators. Can you imagine if we ran for reelection and we said we refused to answer questions about our views? Can you imagine how the public would react? They would say, whatever your views are, you have an obligation to tell us if you want to achieve a high office.

If you read the papers of the Founding Fathers, the advise and consent process was the very way that views of nominees were to be ascertained. In fact, as Senator KENNEDY elucidated in the Chamber the other day, for a long time the Constitutional Convention wanted the Senate to choose the judges but believed that the ability to choose would be too disparate, and instead they came to the decision that the President should choose them.

But nowhere is it believed that the Senate should be a rubberstamp. Nowhere is it believed that the Senate should simply be a detective agency to find out if someone did something wrong. Our job is to figure out what kind of judge Mr. Estrada would be. We know he is a very bright man. That has never been disputed. We know he has a story of advancement. That has not disputed. But far more important than either of those things, do we know what his views are on the first amendment or the commerce clause? Do we know how he would approach cases that affect the environment, or workers' rights to organize, where the District of Columbia Circuit Court of Appeals is paramount? We don't want him to tell us how he would rule on a specific case, but the American people are certainly entitled to the views of this man in terms of how he would be a judge.

Some on the other side say it is simply good enough for any nominee to say, I will follow the law. If that were the case, we wouldn't be here; we wouldn't need the advise and consent process; the debate in Constitution Hall about how to choose judges would have been totally overruled.

This is a historic moment in a very real sense. It is a moment when we are going to see if a third branch of Government—the one unelected branch of

Government, which has awesome power—is going to be responsible to the people. To simply have Presidents choose judges is not what this country needs nor what the Founding Fathers intended, yet we are getting to that point right now.

I urge my colleagues. I want to join my plea with Senator LEAHY's. We have tried on this side. I have tried to understand. The Presidents are going to get their way almost all of the time. I have voted for 100 of the 106 judges who came before us. I daresay their philosophical views about government and all of these issues are quite different from mine. But as long as they are not out of the mainstream, as long as they won't approach being judges from an ideological point of view where they are making law rather than interpreting law, they deserve to be on the bench, if they have the other qualifications. We have no way of knowing right now. The American people have no way of knowing what kind of judge Mr. Estrada will be in terms of his views.

For that reason, reluctantly, but firm in the conviction that we are right, we must oppose the nomination of Miguel Estrada, or at least oppose his moving forward until we get the kind of information that is necessary to determine what kind of judge he will be that is necessary in terms of the precepts of what the Founding Fathers outlined for this country.

I yield the floor.

Mr. LEAHY. Mr. President, some Republicans have stated that only two or a handful of editorials or op-eds support Democrats in their concerns about Mr. Miguel Estrada's nomination to the second highest court in the country. I would like to set the record straight by listing the 55 editorials and op-eds to date that express concerns about this nomination.

Here is a list of the 22 editorials published to date expressing concerns about the Estrada nomination for a lifetime appointment to the D.C. Circuit:

Straight Answers Would End Estrada Confirmation Delay, (Daytona Beach News-Journal, 4/5/2003)

(''As conservatives scream foul, they should remember that the vacancy Estrada would fill exists because Republicans blocked two of President Clinton's nominees. Neither was a liberal ideologue. . . . [Estrada] has no judicial experience. His views are unpublished since law school. He has little experience in administrative law, none in environmental law, although those areas make up the bulk of the D.C. Court's docket.'')

Partisan Warfare, (Rutland Daily Herald, 2/24/2003)

(''It is [the Senators'] duty to advise and consent on judicial, nominees, and Estrada has given them no basis for deciding whether to consent. . . . [F]or the Senate to merely rubber stamp the nominees sent their way by the White House would be for the Senate to surrender its constitutional role as a check on the excesses of the executive.'')

Stealth Nominees Should Be Held Back, (The Post-standard (Syracuse), 1/30/2003)

(''Estrada helped George W. Bush win the presidency after the disputed vote in Florida. At the Justice Department, he wrote memos and opinions for the U.S. solicitor general. he is a member of the arch-conservative Federalist Society and reportedly mirrors Supreme Court Justice Antonin Scalia's hard-right views.'')

Weighing Miguel Estrada, (Staten Island (NY) Advance, 2/25/2003)

''(Presidents have long sought to extend their party's political influence by packing the courts, to the extent possible, with ideological soul mates. A good Senate grilling and some foot-dragging are about the only tools available to lessen the chance that those ideologues most capable of mischief don't make it through the process to become permanently ensconced on the bench. Mr. Estrada wouldn't be up for nomination at all if the Republicans hadn't seen to it that two of President Clinton's nominees were rejected. . . . [H]e should not be allowed to ascend to the federal bench until we know who and what he is. All he needs to do is speak up and put himself on the record.'')

Arkansas Times Editorial, (Arkansas Times, 2/21/2003)

(''Like Thomas, Miguel Estrada is a member of a minority group who would not have been nominated if he were not also an extremist. He arrogantly refused to discuss his views with the Senate Judiciary Committee, and the administration blocked the release of records pertaining to his government work that could shed light on his biases.'')

Judicial Power Trip, (The Oregonian, 3/3/2003)

(''Democrats mustn't cave on this. The fairness and credibility of the nation's courts depend on senators' finding a reasonable compromise. Moderates within the president's party should also reconsider their lockstep loyalty.'')

Partisanship Is A Democratic Duty, (Minnesota Daily Editorial 2/18/03)

(''Estrada's filibuster is not merely an expression of partisan politics, it is a crucial link to maintaining the viability of the Constitution.'')

Rush To Judges, (Boston Globe Editorial, 2/15/03)

(''It's crucial to evaluate candidates based on their merits and the needs of the country. Given that the electorate was divided in 2000, it's clear that the country is a politically centrist place that should have mainstream judges, especially since many of these nominees could affect the next several decades of legal life in the United States.'')

Keep Talking About Miguel Estrada, (New York Times editorial, 2/13/03)

(''The Bush administration has shown no interest in working with Senate Democrats to select nominees who could be approved by consensus, and has dug in its heels on its most controversial choices. . . . Mr. Estrada embodies the White House's scorn for the Senate's role'')

Editorial: Battling over Federal Courts, (Milwaukee Journal Sentinel, 2/27/2003)

(''Bush is filling vacancies left open by the Republicans' refusal to act on Clinton's nominees.'')

Answers, Please: Nominee Estrada Refuses to Disclose Judicial Views, Philosophies to the Senate, (Omaha World-Herald Editorial, 2/13/03)

(''Most judicial candidates won't, and shouldn't, give their personal views on a broad-brush basis. . . . But Estrada . . . went beyond that—refusing to discuss well-known prior cases because, he said, he had no first-hand knowledge. Judicial philosophy is important as senators consider an appointment to the court that has been called the second most important in the land after the Supreme Court.'')

Straight Answers Would End Estrada Confirmation Delay, (Daytona Beach News-Journal Editorial, Mar. 5, 2003)

(''This fight isn't over his ethnicity. It's not about his resume. It's about Bush's hard-nosed political machinations, which thrust a nominee with no judicial record but a bad case of lockjaw at Senate Democrats on the gamble that other right-wing judicial appointees could be sneaked through the confirmation process during the distraction. The strategy worked at first but has since backfired.'')

Evasive Estrada: Democrats Are Right To Balk at bush's Uncooperative Choice for a Key Appellate Judgeship, (Newsday Editorial, 2/13/03)

(''With so little to go on, Democrats in the Senate are right to balk at rubber-stamping Estrada's nomination.'')

The Argument About Estrada, (Dallas Fort Worth Star Telegram, 2/13/2003)

(''President Bush has prolonged the animosity. His nominees for appellate court posts have included legal theorists and lower court judges whose positions have raised legitimate concerns aside from the political squabbling. Sen. Orin Hatch of Utah, now the Judiciary Committee chairman, promised to improve the process when Republicans took control of the Senate. His ''improvement'' was to schedule three appellate court nominees for a single condensed hearing even though he knew that Democrats wanted to question all of them at length.'')

Judicial Alarm: Without More Answers, Nominee Deserves Filibuster, (Detroit Free Press Editorial, 2/11/03)

(''Judges require evidence before they render verdicts. Senate Democrats are equally entitled to more evidence of Estrada's fitness before giving him the green light for the second highest court in the land—and positioning him for the U.S. Supreme Court.'')

Streamrolling Judicial Nominees, (The New York Times Editorial, 2/6/03)

(''[T]he federal courts are too important for the Senate to give short shrift to its constitutional role of advice and consent. . . . [T]he administration should [not] be allowed to act without scrutiny, and pack the courts with new judges who hold views that are out of whack with those of the vast majority of Americans.'')

More Judicial Games From GOP, (Berkshire Eagle Editorial, 2/1/03)

(''Senate Democrats . . . should not be bullied into approving unqualified nominees and they shouldn't hesitate to filibuster poor nominations if necessary.'')

An Unacceptable Nominee, (New York Times Editorial, 1/29/03)

(''Senators have a constitutional duty to weigh the qualifications of nominees for the federal judiciary. But they cannot perform this duty when the White House sends them candidates whose record is a black hole. . . . The very absence of a paper trail on matters like abortion and civil liberties may be one reason the administration chose him. It is also a compelling—indeed necessary—reason to reject him.'')

Bush's Full-Court Press, (L.A. Times Editorial, 1/13/03)

(''The Republican Party has long tried to have it both ways on Race: ardently courting minority votes while winking at party stalwarts who consistently fight policies to establish fairness and opportunity for minorities. [M]any [of Bush's nominees], including Texas Supreme Court Justice Priscilla Owen, lawyers Miguel Estrada and Jay S. Bybee . . . share a disdain for workers' rights, civil liberties guarantees and abortion rights. Their confirmations would be no less a disservice to the American people than that of Pickering. . . . '')

A Fair Hearing (St. Petersburg Times, 9/30/2002)

(''At the age of 41 [Estrada] has limited work experience and has not been a judge before, yet he is up for one of the most important seats on the federal bench. His views on appeal, certiorari and friend of the court recommendations would provide insight into the way he interprets the law and the rigor of his legal analysis.'')

Picking Judges; Democrats Must Brace to Resist Bush and GOP's Ideological Crusade, (Post-Standard Editorial (Syracuse, NY), 11/20/02)

(''. . . An upcoming test will focus on nominee Miguel Estrada, a bright, relatively young lawyer who worked on Bush's successful Supreme Court case in the 2000 election. He is rumored to be in line for the next vacancy on the U.S. Supreme Court. While Estrada has no record as a judge, he has a long resume as an ideologically drive, partisan conservative. . .'')

The Courts' Wrong Turn, (Daytona Beach News-Journal Editorial, Nov. 12, 2002)

(''The last thing Democrats should do is whimper off and let the slim majority have its way. Forty-seven senators out of 100 is a minority by definition only. It is in fact a solid block that Democrats can use—if they live up to their mandate as an opposition party—to slow down the rightward drift of the U.S. Supreme Court and the federal judiciary as a whole.'')

Here is a list of the 33 op-eds to date expressing concerns about Estrada's nomination for a lifetime appointment to the second highest court in the country:

Estrada Tactics Show Bush Arrogance, (Arizona Daily Star, 3/1/2003)

(''Nominees now come with an ideological stamp that preordains their votes on important social issues. Bush has brazenly crusaded to stack the federal bench with conservatives who will tilt the law rightward far into the future.'')

Don't Let Mum Be the Word for Estrada, By Tisha R. Tallman and Charles T. Lester Jr., (Atlanta Journal and Constitution, 3/6/2003)

(''It is also extremely hypocritical coming from Republican senators who blocked several Hispanic judicial nominees from even getting a hearing or a vote during the Clinton administration. Clinton nominee Richard Paez was forced to wait for four years; others, such as Enrique Moreno (Harvard Law School 1982) and Jorge Rangel (Harvard Law School 1973), never even had a committee hearing. Where was the outcry from Estrada's friends during that blockade against good Hispanic lawyers and judges? Under the Constitution, the Senate has a very important role in confirming a president's nominees for lifetime jobs as federal judges. It is an essential part of our constitutional system of checks and balances. When you have a White House that refuses to cooperate with senators of both parties and resists any efforts to reach agreement on a compromise plan for appointing more mainstream moderate judicial nominees, senators must take a stand.'')

Estrada Caught in 'Poisonous' War Based on Ideology, By Thomas E. Mann, (Roll Call, 3/5/2003)

(''The only way to break this cycle of escalation is for Bush to take pre-emptive action by submitting a more balanced ticket of judicial nominees and engaging in genuine negotiation and compromise with both parties in Congress. That seems most unlikely.'')

Are Estrada's Opponents Anti-Latino?, By Eduardo M. Penalver, (Chicago Tribune 3/4/2003)

'''Republican politicians have struggled to paint Estrada's opponents as anti-Latino. . . . [T]here is not the least bit of merit to the argument that to oppose Estrada's nomination is to oppose the interests of the Latino community.'')

Time for a Bigger Audience: Bench Nominees Who Tell the White House Their Views Should Tell the Senate, Too, By Alan B. Morrison, (Legal Times, 3/3/2003)

(''[N]ominees should be obliged to tell the Senate whatever they have already told the White House and Department of Justice during the vetting process. That's only fair. And it's also legal, as a very recent Supreme Court case indicates.'').

Justice Should Be Blind, Not A Mystery, By Nick Huggler, (The Daily Barameter, 3/2/03)

(''[T]he Democratic filibuster is not only justified, but crucial, to ensure that Miguel Estrada is the man he says he is and is not just a wild card shuffled into the deck. . . . It's all about trying to stack the federal judiciary with hard right-wingers and picking a Latino because Bush thought it would be more palatable to senators and groups concerned about who this guy might be and what he might do as a judge.'')

Estrada Tactics Show Bush Arrogance, By Marianne Means, (Arizona Daily Star, 3/1/03)

(''The court to which Estrada has been nominated is one of the most influential in the country and is seen as a stepping stone to the high court. There is no special case to be made for Estrada beyond the president's insistence that the Senate approved anybody he wants. Estrada is smart, but so are hundreds of other lawyers. He has never been a judge or a law professor. He refuses to express his views on important legal issues, hiding extremist opinions he was known to hold in prior legal posts. . . . If the Democrats don't hold firm on this, their political goose will be cooked if Bush gets to pick a Supreme Court justice.'')

Here's What Less Experience Gets You, By Michael J. Gerhardt, (The Washington Post, 3/2/03)

(''[N]o one is entitled to be a federal judge simply because he or she overcame adversity, attended a fine law school and collected some solid work experience. Senators have the legitimate authority to weigh the judgement of a nominee who, if confirmed, will for years be entrusted with the final word on many of the important regulatory and constitutional questions that routinely come before the Nation's second-most powerful court.'')

No Free Pass To The Bench, By O. Ricardo Pimentel, (Arizona Republic, 3/2/03)

(''For the Bush administration, this isn't about trying to get diversity on the court. That would be affirmative action, a points system, a racial preference and a big no-no, according to Bush. it's all about trying to stack the federal judiciary with hard right-wingers and picking a Latino because Bush thought it would be more palatable to senators and groups concerned about who this guy might be and what he might do as a judge.'')

Bush's Court Appointments: Key To Stealth Attack on Environment, (Daytona Beach News-Journal, 3/2/2003)

(''The nomination of Miguel Estrada to a lifetime seat on the U.S. Court of Appeals for the D.C. Circuit. . . . a stealth candidate who could roll back major environmental and public health safeguards. The difference party affiliation and ideology have made in D.C. Circuit decisions, coupled with the Bush administration's eagerness to unravel environmental protection, should worry anyone who cares about public health and the environment.'').

Circuit Breaker: If You're Worried About Conservative Control of the Federal Judiciary Keep Your Eyes on the District of Columbia, By Chris Mooney, (The American Prospect, 3/1/2003)

(''[G]iven the importance of the D.C. Circuit, those appointed to the court should, at the very least, receive more attention than judges named to other federal appellate courts.'')

A Defense of the Estrada Filibuster: A Judicial Nominee That the Senate Cannot Judge, By Kevan R. Johnson, (Findlaw.com, 2/27/2003)

(''In the face of this stonewalling, a filibuster is entirely appropriate. Indeed, it's fitting. Using a procedural tool against a nominee who thwarts minimal confirmation procedures, is only right. If Estrada wants the Democrats to stop talking, he should offer to start. As a nominee, that's what's required of him.'')

Informed Consent of Judgeships, By Jon S. Corzine, (The Star-ledger (Newark) 2/26/03)

(''This is about the White House asking the Senate to toss aside its constitutional duty to take the measure of a judicial nominee and make an informed decision about the knowledge and character of a person asked to sit on the nation's second-most important court.'')

Close Look at Estrada Reveals an Ideologue, By Teresa Leger de Fernandez, (Albuquerque Journal, 2/26/02)

(''[W]here Estrada's views are known, he has proven himself to be an idologue who has such strong personal views against recognizing fundamental constitutional and civil rights that he could not serve as a fair an impartial judge. . . . Defeating Estrada's nomination would not send a message to Hispanics that ''only a certain kind of Hispanic need apply.'' On the contrary, it would send the message that everyone in America is judged by the same standard. If you can not be fair and protect the basic constitutional rights of the common person, you do not deserve to sit in a judicial appointment.''

The Estrada Facade: Behind The Starched Nominee, By Philip Klint, (Tom Paine.com, 2/26/03)

(''[W]hen White House counsel Alberto Ganzales appears on Fox network and warns that the Democrats will lost the support of the Latino community because of their filibuster, he insults the hard-working Hispanic men and women who have seen first-hand the effects of President Bush's ''compassion conservatism,'' and who will likely see through the attractive packaging to the ugly politicking that loom behind Miguel Estrada's starched-shirt stroll down Nomination Street U.S.A.'')

Benching Congress: The Rising Power Of The Judiciary, By Chris Mooney, (Tom Paine.com, 2/25/03)

(''In the past decade we have witnessed an unprecedented push among conservative judges to invalidate acts of Congress on the basis of a radical reinterpretation of the constitutional relationship between the states and the federal government. . . . Why shouldn't Senators try to wrest some of that power back? They can start with Miguel Estrada.'')

Republicans' Phony Fight for Estrada, By Craig Hines, (Houston Chronicle, 2/25/03)

(''[T]he Democrats' opposition is not wholly about payback. It is about enough time to spotlight how Estrada fits into President Bush's manifest determination to remake the federal courts into flying squadrons of ideological buzz bombers ready to drop their payloads on the Constitution . . .''.'')

Estrada Would Destroy Hard-Fought Victories, By Dolores C. Herta, (The Oregonian, 2/24/03)

(''[J]udges who would wipe out our hard-fought legal victories—no matter where they were born or what color their skin—are not role models for our children . . . Members of the Congressional Hispanic Caucus met with Miguel Estrada and came away convinced that he would harm our community as a federal judge.'')

Estrada Fight's True Victor? Democracy, By Jay Bookman, Deputy Editor, (Atlanta Journal-Constitution, 2/24/03)

(''What's going on in Washington is a wonderful thing, absolutely necessary and absolutely healthy. We are seeing the U.S. Constitution at work, producing a struggle between two branches of government—Congress and the president—that in the end should have a moderating influence on the third major branch.'')

The Democrats and Mr. Estrada, By Robert Ritter, (Washington Post, 2/23/03)

(''The Feb. 18 editorial ''Just Vote,'' which criticized Senate Democrats' tactics in trying to derail the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit, was misguided. It is impossible for a senator to properly give ''advice and consent'' without information pertinent to Mr. Estrada, which has not been provided by either the nominee or the White House. For this reason alone, the nomination should be defeated.'')

Stealth Attack On Environmental Court Decisions, By Doug Kendall & Phillip Clapp, (Bangor Daily News, 2/21/03)

(''The difference party affiliation and ideology have made in D.C. Circuit decisions, coupled with the Bush administration's eagerness to unravel environmental protection, should worry anyone who cares about public health and the environment.'')

They Started It, By E. J. Dionne Jr., (Washington Post, 2/21/03)

(''It's not good enough to say that the way out of this politicized process is for Democrats to ignore the past and cave in to the Republicans. To do that would be to reward a determined conservative effort to control the courts for a generation.'')

Symmetry in Judicial Nominations, By Al Hunt, (Wall Street Journal, 2/20/03)

(''[A]s former Clinton Solicitor General Walter Dellinger declares, 'Whatever factor a President may properly consider, senators, should also consider.' Since ideology clearly is the guiding force behind the slate of Bush circuit court nominees, it's perfectly appropriate for Senate Democrats to use the same standard.'')

How the Miguel Estrada Nomination Illustrates Our Out-of-Control Confirmation Process, And What We Can Do to Improve the System, By Edward Lazarus, (FindLaw.com, 2/20/03)

(''The President, as the first mover in the nomination and confirmation process, started the problem. He is therefore more culpable in creating the current stalemate, and accordingly should back down.'')

Judicial Extremism: a German Antidote, By Bruce Ackerman, (L.A. Times, 2/19/03)

(''[T]he Democrats should make it clear that they will filibuster any nominee to the U.S. Supreme Court of similar youth and inexperience to [to Estrada's]. They should insist on justices with the maturity and record of moderation needed to keep the court within the mainstream of American constitutional values.'')

Latino Would Set Back Latinos, (LatinoLA Forum, 2/11/2003)

(''Individuals appointed to the federal bench, a lifetime appointment, must meet basic requirements such as honesty, open-mindedness, integrity, character and temperament.... Estrada is an ideologue who hides his views and who is so lacking in experience, we have little choice but to oppose the nomination.'')

Estrada's Omertà, By Michael Kinsley, (Washington Post and Slate, 2/13–14/03)

(''Obviously, Estrada's real reason for evasiveness is the fear that if some senators knew what his views are, they would vote against him....[But] Hiding your views doesn't make them go away.'')

Stealth Attack On Environmental Court Decisions, By Doug Kendall & Phillip Clapp, (Providence Journal, 02/27/2003)

(''The difference party affiliation and ideology have made in D.C. Circuit decisions, coupled with the Bush administration's eagerness to unravel environmental protection, should worry anyone who cares about public health and the environment.'')

Dems Must Stop Judge Picks, By Judy Ettenhofer, (The Capital Times, 2/10/03)

(''[R]eproductive choice is by no means the only right at risk if all of Bush's right-wing judicial nominees are confirmed. At a time when the president seems intent on dismantling federal environmental laws, we need judges who will not bow to corporate polluters. At a time when the rights of immigrants are under attack...we need judges who will rule with fairness and justice as their standards, not conservative or religious ideology.'')

Blind About Justices, By Robert F. Jakubowicz, (The Berkshire Eagle Thursday, 2/6/2003)

(''[S]enators who do not try to find out the views of judicial nominees which will color their opinions as future judges are neither performing their constitutional duty nor serving the best interests of their constituents.'')

Latino Would Set Back Latinos, By Antonio Hernandez, (The Los Angeles Times, 2/5/03)

(''Individuals appointed to the federal bench, a lifetime appointment, must meet basic requirements such as honesty, open-mindedness, integrity, character and temperament....Estrada is an ideologue who hides his views and who is so lacking in experience, we have little choice but to oppose the nomination.'')

Justice Estrada—an Oxymoron?, By Matt Bivens, (The Nation, 2/4/03)

(''Estrada's unwillingness to come clean is indeed reason enough to reject him.'')

Torpedo Judicial Activist (Arizona Daily Star, 2/3/03)

(''[T]here is no way that Miguel Estrada, a Washington, D.C. lawyer, should win nomination to the U.S. Court of Appeals. Estrada, just one of the judge-activists that President George W. Bush plans to appoint to the federal bench.'')

Don't Let Miguel Estrada On The Bench, (The Hartford Courant, 9/27/2002)

(''President Bush's nomination of...Miguel Estrada...is not about diversifying the federal bench. It is about courting the Latino vote and moving a conservative agenda.'')

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The majority leader is recognized.

Mr. FRIST. Madam President, I wish to at this point to use my leader time.

Madam President, the debate on the Miguel Estrada nomination began February 5, just over a month ago. During that debate, lasting nearly 100 hours, I have sought unanimous consent on 17 separate occasions to bring the nomination to a vote. Regrettably, those requests for consent have been denied—again, on 17 separate occasions.

The Democrats have chosen to filibuster this outstanding nominee, who, as we all know, is a Hispanic immigrant who came to this country not speaking English but, through hard work, dedication, and the virtue of great capacity of study, achieved academic excellence. His peers, the American Bar Association, affirm his high qualifications.

We know a majority in this body will vote to confirm Miguel Estrada if given the opportunity to do what really is our only request, and that is to have an up-or-down vote on this nominee. Yet the minority, even after the extended time of well over a month and nearly 100 hours of factual discussion on the floor, and despite his obvious credentials, the respect he has among his peers, his academic qualifications, his arguments before the Supreme Court, has blocked this simple up-or-down vote on this confirmation.

My friends on the other side of the aisle—and we have heard it again and again—say we are really filibustering because we don't have enough information; we want more information. That is one of the reasons I have tried to be as patient, as reasonable as possible to give that time so that information could be exchanged before resorting to the vote we will undertake in a few minutes. They say they wanted more information, and that is fine. We want to have the appropriate information in order to make a decision in terms of an up-or-down vote. But, repeatedly, this nominee has said: I am available and I am ready, willing, and available to come by your office to discuss with you if there are further questions you might have.

I suggest my colleagues who really feel—putting politics aside—they don't have enough information, pick up the phone and call the nominee and have him come by your office and visit and ask those questions, and then give us an up-or-down vote.

We are about to vote on cloture. I hope it succeeds the first time. That is right. That is just. That is responsible. But if we need to, we will vote on cloture again and again.

Let me be clear. The majority will press for an up-or-down vote on this nominee until Miguel Estrada is confirmed. The fight for justice is just beginning.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

By unanimous consent the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) is necessarily absent.

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

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 40 Ex.]

YEAS—55

Alexander	Dole	Murkowski
Allard	Domenici	Nelson (FL)
Allen	Ensign	Nelson (NE)
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Chafee	Hatch	Specter
Chambliss	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Kyl	Talent
Collins	Lott	Thomas
Cornyn	Lugar	Voinovich
Craig	McCain	Warner
Crapo	McConnell	
DeWine	Miller	

NAYS—44

Akaka	Dorgan	Leahy
Baucus	Durbin	Levin
Bayh	Edwards	Lieberman
Biden	Feingold	Lincoln
Bingaman	Feinstein	Mikulski
Boxer	Harkin	Murray
Byrd	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kerry	Schumer
Daschle	Kohl	Stabenow
Dayton	Landrieu	Wyden
Dodd	Lautenberg	

NOT VOTING—1

Graham (FL)

The PRESIDING OFFICER. On this question, the yeas are 55, the nays are 44. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BINGAMAN. Mr. President, I would like to take a few moments to discuss the recent cloture vote in relation to the nomination of Miguel Estrada to the Court of Appeals for the DC Circuit.

The Constitution provides that the President shall nominate candidates for the Federal bench and the Senate shall give advice and consent regarding those candidates. We cannot yet proceed to a vote on this nominee because we take this constitutional obligation—not right, but obligation—seriously. An up-or-down vote on this nominee is premature, because we have yet to get disclosure of critical information regarding this nominee.

I believe that it is our obligation to ensure that—to the best of our knowledge—each judicial nominee is capable of setting aside extreme views that he or she may hold when interpreting the law and deciding cases. We must do our best to ensure that the person will be a fair and impartial judge.

Miguel Estrada may very well be able to do that. But before we can make that determination, we have a right to full disclosure of information that will assist us in ascertaining that this is the case. We have a right to expect the nomineee to be forthcoming in answering our questions, and we have a right to expect the administration to be cooperative in providing any information that is relevant to making our decision. The advice and consent process is not a rubber stamp but a meaningful process.

Mr. Estrada is not a sitting judge and has not published any legal articles. Written judicial decisions and published legal writings often provide us with the evidence that we need to determine whether a nominee will objectively enforce the laws and the Constitution. We have neither here to guide us.

Added to this, we have a situation where a person in the Solicitor General's Office who had direct supervisory authority over the nominee when he worked there, Mr. Paul Bender, has stated that he does not believe Mr. Estrada can be trusted to decide cases without being clouded by his extreme views. He said that Mr. Estrada was so ''ideologically driven that he couldn't be trusted to state the law in a fair, neutral way . . . Miguel is smart and charming, but he is a right-wing ideologue.''

Now this is just one man's opinion and certainly should not be dispositive, but it certainly gives us cause for concern and an even stronger desire to have access to all available information regarding Mr. Estrada's judgment and skills. We could judge for ourselves whether there is any basis for Mr. Bender's assessment of Mr. Estrada by reviewing the work that he did while working at the Solicitor General's Office. If we had the ability to do so, we could judge for ourselves whether the nominee objectively presented the facts and the law while working in that capacity, which would be a good indication of his ability to do so as a judge.

To this end, my colleagues on the Judiciary Committee sought access to the memoranda written by Mr. Estrada to his superiors at the Solicitor General's Office on questions such as whether the United States government should appeal an adverse ruling to the Supreme Court or whether it should file an amicus brief in a case that the Supreme Court has decided to hear. The administration has categorically refused to provide these documents, despite the fact that it is accepted practices to make these types of documents available to the Senate in the context of a nomination inquiry.

Initially, the administration refused to provide any of these work samples, incorrectly stating that it was the practice of the executive branch to do so. When my colleagues were able to point out that in every prior case where similar work samples were requested they were provided, the administration claimed that were not officially provided but ''leaked'' to Congress. When my colleagues were able to demonstrate that in every prior case where similar documents were requested, the Department of Justice officially released them to Congress after an exhaustive search, the administration claimed similar documents were released previously only in order to clear up an allegation of wrongdoing, but again my colleagues on the Judiciary Committee demonstrated that this simply was not true. Prior precedent clearly demonstrates a policy of cooperation with respect to previous requests.

The administration continues to refuse to provide any of the work products from the Solicitor General's Office despite the fact that there is no legal basis for their refusal and despite the fact that similar information was disclosed in every other instance that it was requested. We cannot help but be left with the feeling that there is something to hide in this case.

We also might be able to make a judgment regarding the nominees's ability to be a fair judge through questioning the nominee regarding his judicial philosophy and regarding his analysis of previously decided cases. These questions are commonly asked of judicial nominees in order to examine whether the nominee's views are outside the mainstream and whether he can set his or her personal views aside in analyzing cases. When my colleagues on the Judiciary Committee pursued this practice, Mr. Estrada refused to provide meaningful answers to their questions. I have carefully reviewed the transcript from that hearing and am quite frankly amazed at Mr.

Estrada's refusal to answer questions that many prior judicial nominees—both those nominated by Democratic and Republican Presidents—have answered as a matter of course.

As I have mentioned before, this refusal is particularly perplexing, given that this same individual admitted that he asked similar questions of candidates for a clerkship with Justice Kennedy in order to ''ascertain whether there are any strongly felt views that would keep that person from being a good law clerk to the Justice.'' This is exactly what my colleagues on the Judiciary Committee sought to do with respect to Mr. Estrada. If this type of information is relevant to the process of hiring a Supreme Court law clerk, isn't it infinitely more important to the process of appointing an appellate judge—someone who has a lifetime appointment to the bench?

It may be the case, that if this information were to be made available, I would support Mr. Estrada. I have voted in favor of 100 of the 103 nominees that President Bush has sent forward to the Senate since he took office. In many of these cases, I did not agree with the nominee's views on many issues. Nevertheless, I had enough information to determine that they were not out of the mainstream of American jurisprudence. I believe we have the right to have access to the information that we need to make that judgment on this nominee.

It is unfortunate that before I finish that I feel I must respond to the allegations of some that the debate surrounding this particular nominee relates to his ethnicity. This is a preposterous notion. It is a smoke and mirrors argument designed to cloud the legitimate debate about the nominee's qualifications for the bench.

To infer—or to outright state as has been the case—that my colleagues would be motivated by the fact that Mr. Estrada is Hispanic is outrageous. One need only look to recent history to see just how wrongheaded that notion is. During the last Democratic administration, over 30 Hispanics were nominated for judgeships. I supported all of them. Unfortunately, approximately one-third of them were not confirmed—and some didn't even get the courtesy of a hearing—due to opposition from some of my Republican colleagues. It was, in fact, during the last Democratic administration that the first Latina to serve at the district court level was confirmed. She continues to serve in my State.

By contrast, this administration has nominated a total of eight Hispanics. Six of them have already been confirmed and are now serving on the bench and the other nominee is expected to move ahead as soon as the necessary paperwork is in order. That leaves only Mr. Estrada, and I have stated the reasons I feel it is inappropriate to go forward with his nomination.

The debate in this case is about preserving the Senate's constitutional role in judicial nominations. It transcends this particular nomination because if we were to proceed to a vote after this nominee has refused to answer routine questions about his views and his judicial philosophy, and after the administration has refused to respond to a routine request for samples of this nominee's work product, we would essentially be conceding that the Senate's role in judicial nominations is that of providing a rubber stamp to the President's nominations. This is clearly not the role envisioned by the Framers of our Constitution.

MOSCOW TREATY

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now resume consideration of the Moscow Treaty and that Senator FEINSTEIN be recognized in order to offer an amendment. I would simply add the chairman is tied up in a committee hearing, but I know he would want the Senator from California to go ahead.

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

The clerk will report.

The legislative clerk read as follows:

Resolution of Ratification to Accompany Treaty Document 107–8, Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 251

(Purpose: To provide an additional declaration)

Mrs. FEINSTEIN. I send an amendment to the desk on behalf of Senators LEAHY, WYDEN, HARKIN, and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. LEAHY, Mr. WYDEN, and Mr. HARKIN, proposes an amendment numbered 251.

Mrs. FEINSTEIN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of section 3, add the following new declaration:

(7) STAND-DOWN FROM ALERT STATUS OF FORCES COVERED BY TREATY.—Noting that the Administration has stated that ''[t]he first planned step in reducing U.S. operationally deployed strategic nuclear warheads will be to retire 50 Peacekeeper ICBMs, remove four Trident Submarines from strategic service, and no longer maintain the ability to return the B-1 to nuclear service,'' the Senate—

(A) encourages the President, within 180 days after the exchange of instruments of ratification of the Treaty, to initiate in a safe and verifiable manner a bilateral stand-down from alert status of all United States and Russian Federation nuclear weapons systems that will no longer be operationally deployed under the Treaty, but which the United States and the Russian Federation may keep operationally deployed under the Treaty until December 31, 2012; and

(B) expects a representative of the executive branch of the Government to offer regular briefings to the Committee on Foreign Relations and the Committee on Armed Services of the Senate regarding—

(i) the alert status of the nuclear forces of the United States and the Russian Federation;

(ii) any determination of the President to order a stand-down of the alert status of United States nuclear forces; and

(iii) any progress in establishing cooperative measures with the Russian Federation to effect a stand-down of the alert status of Russian Federation nuclear forces.

Mrs. FEINSTEIN. Mr. President, I rise today to offer this amendment. I recognize that the leadership is not accepting amendments. I accept that. I am a supporter of the treaty, and I am happy to cast my vote for it.

But there is one significant omission from this treaty, and I want to point out that omission. That omission is that we have literally thousands of nuclear missiles on hair trigger alert. The Russian Federation has thousands of nuclear missiles on hair trigger alert. This treaty does not take that into consideration and does not urge or does not certify a reduction of the alert status of these missiles. I believe if we fail to address this issue, we risk the lives of millions of people over what may turn out to be a simple miscalculation.

People hearing me might say, how can that possibly happen? I would like to explain how it can happen.

On the morning of January 25, 1995, the Russian military initially interpreted the launch of a U.S. weather rocket from Norway as a possible nuclear attack on the Russian Federation. That is just 8 years ago. Thankfully, the true nature of the launch became known and a catastrophic mistake was averted. Nevertheless, then-President Yeltsin and his advisers had only minutes to decide whether the launch of a weather rocket was a surprise attack because Russia, like the United States, maintained and continues to maintain thousands of nuclear weapons on high alert status, ready to be launched at a moment's notice.

This was not the only instance in which both countries have come close to the unthinkable. On at least two occasions in the United States and at least one occasion in Russia, false alarms could have led to the accidental launch of nuclear weapons.

Today, Russia and the United States are entering into a new era of relations. We do so with the advent of this treaty. A deliberate nuclear strike by either side is unthinkable. In fact, the administration states the brevity of the Moscow Treaty and the lack of verification, timetables, and a list of specific weapons to be destroyed, is due to the fact that Russia and the United States are no longer strategic competitors but today we are strategic allies. So fear and suspicion have been replaced by trust, cooperation, and friendship.

It is surprising, then, that the United States and Russia continue to maintain their nuclear arsenals on this high

alert status. It is surprising the Moscow Treaty, a symbol of the new relationship, in the words of the administration, does not address this issue. In the past, President Bush has recognized the dangers of high alert status and the need to reevaluate our nuclear weapons. As a candidate, he stated in a speech on May 23, 2000:

> Keeping so many weapons on high alert may create unacceptable risks of accidental or unauthorized launch.

Experts on nuclear weapons issues have expressed similar concerns. In his testimony on the Moscow Treaty before the Senate Foreign Relations Committee, former Senator Sam Nunn stated that the alert status:

> . . . may well be more important to stability and security than the actual number of nuclear weapons.

He likened the issue to two families who have agreed to reduce the number of high-powered automatic weapons aimed at each other in several years' time but in the meantime decide to keep the weapons loaded with a finger on the trigger.

Former Secretary of Defense William Perry testified that the Moscow Treaty's failure to address the alert status of the United States and Russia's nuclear weapons represented a significant missed opportunity. He concurred with retired Air Force GEN Eugene Habiger, former commander in chief of the U.S. Strategic Command, who recommended that the United States take a first step by immediately standing down all nuclear weapons systems that will not be operationally deployed under the Moscow Treaty.

If you will note, the amendment I have sent to the desk does not say this should be unilateral, on our part only; it says a bilateral reduction of alert status of operational nuclear weapons deployed today.

I believe we should take the words of the general, of the very respected Senator Nunn, and former Defense Secretary Bill Perry and take some action. A miscalculation, in Senator Nunn's scenario, would result in the loss of a few lives from these automatic weapons in a family feud situation, but a miscalculation between Russia and the United States could result in the loss of millions of lives. De-alerting will give the leaders of the United States and Russia sufficient time to evaluate fully a situation before making a decision on a nuclear response in a matter of minutes or seconds, and it would greatly reduce the possibility of an accidental nuclear launch due to false alarm and miscalculation.

The amendment I sent to the desk encourages the President, within 180 days of exchange of instruments and ratification, to initiate in a safe and verifiable manner a stand-down from alert status of all nuclear and Russian nuclear weapons systems that will not be operationally deployed under the treaty.

In other words, the treaty calls for removing the operational deployment. But in the meantime all these missiles remain on high alert status—hair trigger alert status.

The amendment would urge the President to call on the Russian Federation to reciprocate in kind, and the amendment asks that a representative of the executive branch of the Government offer regular briefings to the Committee on Armed Services and the Committee on Foreign Relations of the Senate on three specific topics: First, the alert status of the nuclear forces of the United States and Russia; second, any determination of the President to order a standdown of the alert status on the U.S. nuclear forces; third, any progress in establishing cooperative measures with Russia to effect a standdown of Russia's nuclear forces.

There is a precedent for de-alerting our nuclear weapons and prompting the Russians to do likewise. In 1991, as the Soviet Union began to crumble, then-President Bush ordered a unilateral standdown of the U.S. strategic bombers and de-alerted some missiles scheduled for deactivation under the START treaty. Soviet President Gorbachev at that time reciprocated with similar measures, and the world breathed a little easier during those turbulent times. So there is precedent for their de-alerting missiles. And I believe that this Moscow Treaty, which is based on friendship, trust, and cooperation, necessitates an increased de-alerting status of the literally thousands of nuclear weapons that remain in their silos on a hair trigger alert.

The amendment is simple and straightforward. We can take it very easily. I very much regret that we are in a no-amendment scenario. What I hope to do and my cosponsors hope to do is enter into a colloquy in the RECORD indicating support for this measure and, second, we will draft a letter and try to get as many signatures from other Senators as we can.

I believe this treaty, which should be ratified by this Senate today, has this significant oversight. I believe that to leave these missiles on hair trigger alert status when we enter into this treaty really downgrades the treaty. If we truly trust, if we truly want to be cooperative, and if we truly are friends, friends don't aim loaded guns at each other with the triggers pulled back.

I am hopeful that the administration would respond and begin a discussion between President Putin and President Bush to see if we cannot reach a bilateral de-alerting of the literally—probably more than—10,000 missiles that will remain with nuclear warheads on hair trigger alert.

AMENDMENT NO. 251 WITHDRAWN

I ask unanimous consent that the amendment be withdrawn.

I yield the floor.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Mr. President, I take the opportunity to make some comments regarding the ratification of the Moscow Treaty. I do it with some reservation. I think the treaty is both a ''good news'' and ''bad news'' story.

Right now, roughly speaking, the United States and Russia each deploy 6,000 nuclear warheads. The treaty would require the U.S. and Russia to reduce these levels to 1,700 to 2,200 ''operationally'' deployed strategic nuclear weapons on each side by December 2012.

The good news is that this treaty is a positive step—long overdue, but a positive step nonetheless. Over 10 years ago, in January of 1992, when U.S.-Russian relations were the warmest in years, President Yeltsin of Russia proposed that the U.S. and Russia reach a strategic arms control agreement that set the levels at 2,000–2,500 in a START II agreement.

If former President Bush had agreed back then, we could be close to the levels today that the Moscow Treaty envisions for 10 years from now.

At the time former President Yeltsin made his proposal for deep reductions, Defense Department officials, especially Defense Secretary CHENEY—now our Vice President—opposed them.

As a result, the START II agreement, signed in January 1993, only limited the number of strategic nuclear warheads to 3,000 to 3,500 on each side. And due to wrangling over national missile defense the START II agreement never entered into force.

So I am glad to see that the administration and Vice President CHENEY now support cuts to levels first proposed by President Yeltsin in January 1992. This support for stronger strategic arms control steps is long overdue but welcome.

A second chance to achieve greater reductions came 6 years ago in 1997. President Clinton agreed with President Yeltsin at Helsinki that a future START III agreement would entail reductions to 2,000–2,500 strategic warheads on each side. Most likely, the START III agreement would have overlapped with the START II agreement, finishing implementation at the end of December 2007.

The START III levels of 2,000 to 2,500 are essentially the same as those embodied in the Moscow Treaty. The START III would have counted several hundred warheads on systems in overhaul; the Moscow Treaty will not.

Unfortunately, because START II never entered into force, START III negotiations never began. In addition, after 1994, our Republican colleagues deliberately made it more difficult to make progress on reducing strategic nuclear arms.

Starting with the fiscal year 1995 Defense authorization bill, a provision was regularly added forbidding the President from reducing U.S. strategic forces below the START I levels of 6,000 strategic nuclear warheads. In time for this treaty, this provision has been repealed.

So I am pleased to see that my Republican colleagues now support cuts to the levels envisioned by President Clinton and President Yeltsin in March 1997. It is a welcome change of heart, even though it is long overdue.

The bad news, however, as many have noted, is that the treaty is but a modest step forward. Many have argued it has several major shortcomings.

First, the 10-year implementation period is too long and includes no benchmarks for progress or verification measures. Theoretically, as the treaty now stands, both sides could wait until the last moment to make their reductions, right before the treaty expires.

Second, only some of the warheads removed from missiles and bombers will be dismantled. The rest would merely be put into storage, where they could be redeployed. Thus, there will not be a real reduction in the United States or Russian strategic nuclear arsenals. Moreover, the security of thousands of stored weapons will remain a matter of major concern, especially during this era of heightened terrorism.

Third, the treaty could have reduced the strategic arsenals of the United States and Russia even further.

Fourth, the treaty does not cover the thousands of small tactical nuclear weapons that are a major concern for theft by terrorist groups. And they are weapons of great power, great destructive capability.

Since this treaty is so long overdue, and such a modest accomplishment, we must work hard through the Bilateral Implementation Commission to improve it in the coming years. We also need to take steps beyond the scope of this treaty to reduce our nuclear arsenals even more.

So I strongly endorse the call in the Foreign Relations Committee Resolution of Ratification for the President to ''accelerate'' U.S. strategic force reductions so they can be achieved before December 31, 2012. We should aim to accomplish this by the end of 2007.

We should also seek to dismantle the 4,000 or so warheads that will be removed from launchers—not just put them in storage. Otherwise, this treaty is more of a nuclear ''shell game'' than a true disarmament measure. Warheads taken off missiles today could be put back tomorrow.

We should begin new discussions to reach new lower levels of strategic nuclear weapons. I strongly support the Resolution of Ratification's call for the President to continue reductions in strategic nuclear warheads. President Putin wanted each side to decrease to levels of 1,500 warheads. There isn't any reason we can't reduce to levels of 1,000 to 1,500 in the next 5 to 10 years.

There are other problems relating to tactical nuclear weapons and transparency and security of nuclear arsenals that need to be addressed and that many have touched upon today. The Senate needs to be active in addressing these questions. I look forward to seeing the reports required by the Resolution of Ratification so we can monitor the progress of the treaty and act accordingly.

We have waited too long for this treaty. We cannot let the long implementation time of the treaty sweep these important questions from our agenda for the next 10 years.

With the assumption that the Senate will remain active on these questions and the administration will follow through with the provisions of the Resolution of Ratification, I give my reluctant advice and consent to this treaty and look back and see how much more we could have accomplished. Nevertheless, let's get on with what we have in front of us and start reducing the size of the nuclear forces out there.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I wanted to come to the floor just to give our colleagues a brief report on the status with regard to amendments to the treaty legislation. Senator BYRD has indicated he wishes to offer an amendment. Senator CONRAD has an amendment. Senator FEINGOLD may have an amendment. We are trying to verify whether he still intends to offer it. And then Senator LEVIN has an amendment.

I had indicated to the distinguished majority leader that we felt we could accommodate these amendments today and vote on final passage tonight. He has indicated that if that were the case there would be no votes tomorrow.

I hope our colleagues can accommodate that schedule to come over and offer their amendments, and perhaps we can even agree to a timeframe within which these amendments can be considered. We have been in a quorum call now for about an hour. Obviously, if we want to finish at a reasonable hour today, it would be very helpful if our colleagues could come to the floor to offer their amendments. We will have to do it sometime today. It seems to me the sooner we get on with this debate, the sooner we can offer those amendments and the sooner we can complete our work and do so in a way that will accommodate other schedules which I know Senators have tonight and tomorrow.

I make that report. I make that plea. I hope our colleagues can allow us to finish our work on this legislation so that we can move on to other matters.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Democratic leader for his thoughtful comments. I encourage amendments to be offered as soon as possible and that we be prepared to debate those amendments and work with both leaders to finalize actions on the Moscow Treaty today. I appreciate very much the specific amendments that are out there. I hope we can identify those amendments and work with the offerers of the amendments.

Mr. President, while I have the floor, I would simply indicate that the Moscow Treaty before the Senate today is very important for several reasons. Some of these were outlined by Senator BIDEN, myself, and others yesterday.

But let me reiterate the fact that this treaty arose from a very important meeting that President Bush had with President Putin of Russia last May. During the course of that time, both leaders identified the fact that both countries were in the process of thinking through how to reduce the number of nuclear warheads that are still on missiles aimed at each other. These leaders identified thousands of such warheads and the dangers of leaving things where they were. Our President has indicated that he had already reached a determination with his advisers. It would be in our best interests, if necessary, to unilaterally change our situation; that is, to think through carefully how many warheads the United States needs to defend itself against all potential adversaries and to move to that number. That would save a great deal of expense for the taxpayers in perpetuity—every year that these warheads were no longer required. Furthermore, and more obviously, it would relieve the anxiety of people all over the world who see the cold war still manifested in a very large number of nuclear weapons on missiles that could convey them.

The Russians have had the same idea. They have budget stringencies that are much more severe than our own. Therefore, the two leaders came to a conclusion that an agreement was useful, and, furthermore, it would illustrate what both characterized as a new relationship between Russia and the United States in a very visible and tangible way.

Some advisers of both President Bush and President Putin may have believed all of this might be done without a treaty; that is, both countries simply taking action would seem to be in the self-interest of the two countries. Others clearly believed it would be best to codify this in as simple an agreement as possible. The Moscow Treaty was the product of that effort. It is a short treaty, as many have pointed out.

As I mentioned yesterday, many of the critics believe it is far too short;

that it should have covered a great number of areas in much greater detail, including verification procedures and a number of aspects that have been part and parcel of previous arms control agreements between Russia and the United States, and/or the United States and other parties. Nevertheless, the treaty that was adopted does speak clearly to the aim by the year 2012. Both of our countries will, in fact, have reduced the number of warheads that are viable vehicles of destruction from a level of roughly 6,000 apiece now to somewhere in the 1,700-to-2,200 range.

We will do this on our own schedules, and we will have the protocols of START before us through 2009 and the cooperative threat reduction activity—at least the very visible form of cooperative activity and verification—through that means.

I mention all of that because some Senators have asked both on the floor and off the floor, Is this important to President Bush now? Why is the Moscow Treaty coming up at this particular moment?

I would respond to those questions by saying from the very first meeting the President had with Senator BIDEN, then-chairman of the Foreign Relations Committee, and me, he encouraged us to move as rapidly as prudent. And we have done so. We pledged to the President that day that hearings would be held. In fact, they were held last year. They were extensive. We have mentioned that hearings were held also in the Armed Services Committee and there were behind-closed-door hearings in the Intelligence Committee, and that both of the other committees shared with the Senate Foreign Relations Committee the product of those hearings.

Senators have been on the floor of the Senate as members of those committees and have already testified to the efficacy and the importance of the treaty.

This is the first period of time available on the calendar of the Senate. The majority leader has given this time to our committee with the full cooperation of Senator DASCHLE and Democratic leaders of the Senate. I treasure that fact because I think it is important and it is keeping the faith not only with our President but with the relationship that our President and President Putin have been attempting to forge.

I would simply point out that we have just concluded in the Senate Foreign Relations Committee another extensive hearing on North Korea. There we talked about the importance of a relationship between Russia and the United States. That is a very important relationship. The United States is counting upon Russian friends to be forthcoming with regard to their understanding of the risks that are involved in the Korean peninsula, the risk to Russia, the risk to the United States, and the risk with regard to nuclear weapons throughout the world in which Russia and the United States have perhaps the greatest responsibility and the greatest stake.

The Moscow Treaty is timely with regard to dialog and diplomacy with the United States and Russia with regard to North Korea. Many hope it may be relevant still with regard to our dialog on the question of Iraq and Resolution 1441 at the United Nations or its successor.

I mention those aspects not with prediction but simply with the relevancy and the timeliness of this debate. I think it is important for us to proceed, if we can, to have a successful conclusion of the debate and a vote on the Moscow Treaty today.

The distinguished Democratic leader has indicated that he perceives this as in the best interests of the Senate. I know our leader feels the same. I simply invite Senators to come to the floor to come forward with their amendments, and we will try to proceed.

I finally add, both Senator BIDEN and I indicated yesterday it would be our hope that amendments would not be adopted to the text of the treaty or its annexes at this point. We believe passage by the Duma, as well as passage by the Senate, in a timely manner is very important.

We understand there are many Senators who wish the treaty had been longer, more extensive, more intrusive with regard to Russian procedures as well as our own, but we have attempted to achieve a great deal. We have much further to go as we negotiate with our Russian friends. Therefore, I hope Senators will not call for bridges that are too far on this treaty and thus jeopardize both its passage here and its implementation by both countries.

I thank the Chair and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECESS

Mr. LUGAR. Mr. President, I am advised there will not be speakers offering amendments for some time, therefore, I ask unanimous consent that the Senate stand in recess until 2 p.m.

There being no objection, the Senate, at 12:59 p.m., recessed until 2:00 p.m. and reassembled when called to order by the Presiding Officer (Mr. ALEXANDER).

MOSCOW TREATY—Continued

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I believe we are considering the Moscow Treaty.

The PRESIDING OFFICER. The Senator is correct.

Mr. CRAIG. I ask unanimous consent to speak as in morning business for no longer than 10 minutes.

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

Mr. CRAIG. I see my chairman here. I want to make sure it is OK with him. It is.

(The remarks of Mr. CRAIG are printed in today's RECORD under ''Morning Business.'')

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

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

AMENDMENT NO. 252

Mr. LEVIN. Mr. President, in a few moments, I will send an amendment to the desk. Before I do so, I will make some general comments on the Moscow Treaty which is before the Senate.

I first wish to congratulate and commend our good friends from Indiana and Delaware for their great work on this treaty. As on so many other issues, they have worked together well in the national interest. The document which is before us, as well as the Resolution of Ratification, represents a lot of significant work on their part. I applaud them for it.

The treaty before us is a modest but a positive step in the United States-Russia relationship. It is particularly important we have this treaty. At some point it was suggested the agreement not be in the form of a treaty. As a matter of fact, the administration finally decided—I think wisely so, and I believe with the support of the chairman and ranking member of the Foreign Relations Committee—that we have a legally binding treaty rather than relying on unilateral steps that are not binding on future administrations and can be easily changed.

Having a treaty ensures that the Senate is going to be able to fulfill its constitutional role, giving due consideration of any treaty and providing advice and consent before ratification.

I view this treaty as a starting point for further nuclear arms reductions and a useful boost to our new and developing and evolving relationship with Russia. There is much more work to be done to continue to improve our mutual security with Russia, and that work includes further reducing our reliance on nuclear weapons, reducing nuclear proliferation dangers, and improving confidence, transparency, and cooperation with Russia on nuclear weapon matters.

This treaty, while important, is also somewhat unusual. Its central obligation is that both nations will reduce their operationally deployed strategic nuclear warheads to a level between

1,700 and 2,200 some 10 years from now. There are no gradual steps. It is just at a moment in time, 10 years from now, that level of between 1,700 and 2,200 must be reached. It could be a reduction in the operationally deployed strategic nuclear warheads for a very brief period, providing 10 years from the date of ratification that level is reached, and then the treaty expires.

Contrary to numerous media reports, this treaty does not require reductions in nuclear warhead stockpiles or delivery systems. In fact, it does not require the elimination of a single warhead. Under this treaty, both sides can simply remove warheads from land-based or submarine-based missiles and from bombers. Both sides are free to keep every warhead so removed and to store these warheads indefinitely for possible redeployment. The only limitations that will bind the United States and Russia are the limitations on nuclear weapon delivery systems under START I, and that is at least until 2009.

After December 5, 2009, when the START I treaty is scheduled to expire, it is not clear what will happen. At least in the case of START I, the delivery systems must be destroyed.

As the Senate fulfills its constitutionally mandated role in the treaty process and considers whether to provide its advice and consent to the ratification of the Moscow Treaty, there are a number of questions about the proper role of the Senate in the treaty-making process. These are questions to which I know our managers—our chairman and ranking member of the Foreign Relations Committee—have given a great deal of time, attention, and thought, and many others in the Senate have as well.

Some of these questions are as follows:

Do we want to agree to ratify a treaty if the executive branch does not clearly commit itself to submitting a substantive change in that treaty as an amendment to the Senate for its advice and consent? And do we want to approve a treaty where there is doubt that the executive branch could extend or withdraw from the treaty without even notifying or consulting with the Senate, without that guarantee, that commitment being written into a Resolution of Ratification?

These are highly significant questions that apply to the treaty-making power and to the advice and consent power of the United States. I want to address those issues in the amendments that I have to offer this afternoon.

The first amendment deals specifically with the question of whether the Resolution of Ratification should provide that the Senate must be notified and consulted prior to the withdrawal from that treaty or the agreement to extend that treaty by the President of the United States.

Article 4, paragraph 2 of the treaty states that this treaty shall remain in force until December 31, 2012, and may be extended by agreement of the parties or superseded earlier by a subsequent agreement.

Paragraph 3 of article 4 states:

> Each Party, in exercising its national sovereignty, may withdraw from this Treaty upon three months written notice to the other Party.

These are somewhat unusual provisions, as are the administration's statements about them. Previously, extending a treaty was considered something that would require Senate advice and consent.

In the seminal study written in 2001 by the Congressional Research Service for the Foreign Relations Committee called ''Treaties and Other International Agreements: The Role of the United States Senate,'' the issue of extending treaties is clearly presented:

> Modifying and extending an international agreement amount to the making of a new agreement that should be done by the same method as the original agreement. For treaties, this means with the advice and the consent of the Senate.

In its article-by-article analysis of the Moscow Treaty, the administration asserts that ''Extension of the Treaty is not automatic and must be done by agreement of the parties.''

The article-by-article analysis continues, with the administration writing:

> Since such an extension is authorized by Treaty, it would constitute an agreement pursuant to the Treaty and would accordingly not be subject to Senate advice and consent.

That is the extension issue.

On the matter of treaty withdrawal, the administration's article-by-article analysis states:

> Unlike some other arms control agreements, this withdrawal clause is not tied to a party's determination that extraordinary circumstances jeopardizing its supreme national interests exist. Rather, the Moscow Treaty includes a more general formulation that allows greater flexibility for each party to respond to unforeseen circumstances.

So the withdrawal clause permits either party to withdraw from the treaty for any reason short of a supreme national interest.

The Resolution of Ratification addresses this issue of withdrawal or extension with a declaration numbered 6, which:

> Urges the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of article IV of the treaty.

So the resolution before us, and before my amendment is considered, simply urges the President—it is precatory language that says, Mr. President, we urge you, whether it is you or your successor, to consult with the Senate prior to taking the actions relevant to paragraphs 2 or 3, the extension or the withdrawal from a treaty.

The declaration urges the President to consult with the Senate, but it does not protect the interests of the Senate because it is not binding. A President—this President or his successor—could simply decide to extend or withdraw from this treaty without notice or consultation with the Senate.

The U.S. should not either enter into a treaty or withdraw from a treaty lightly and either action—either entering into a treaty, withdrawing from a treaty, or extending a treaty's operations—should be done only with the involvement of the Senate. We have to give our advice and consent to permit ratification in the first place.

We, the Members of this Senate, have the responsibility to assure that involvement. That constitutional responsibility rests in our hands, and we should not leave that constitutional mandate and responsibility up to the discretion of the executive branch. We want the executive branch to consult, and we are going to urge them to consult in a Resolution of Ratification. The question is whether we are going to require that resolution. Barring some circumstances, which I will describe in a minute, we are going to require a chief executive to consult with this body, to give us notice, and to consult, not to seek ratification—that is a second-degree amendment which my friend from Wisconsin will be offering in a moment—but the proposal in my amendment is that we simply require there be notice and consultation of the Senate before there is withdrawal from a treaty which we have ratified, or extension of a treaty which we have ratified. That is the least we can do. That is a middle course, short of saying we have to ratify an extension or withdrawal, which I think is also an appropriate course of action which has been much debated over the years. Short of that, which it seems to me is a matter which is going to be of some debate between the executive and legislative branch, I think a middle course, which we all ought to be able to agree upon, is that a Resolution of Ratification require there be notice to the Senate so we can exercise whatever action we decide to take at that point—no guarantee that we would have to ratify it before it actually occurs but assurance we will be given notice and an opportunity to give our advice, or take whatever action we want, prior to the withdrawal from a treaty or prior to the life of the treaty being extended.

The amendment I am going to be offering is very straightforward. I do not know if this amendment is at the desk. If not, I will send it on behalf of myself, Senator FEINGOLD, and Senator AKAKA, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Michigan [Mr. LEVIN], for himself, Mr. FEINGOLD, and Mr. AKAKA, proposes an amendment numbered 252.

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

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

The amendment is as follows:

(Purpose: To provide an additional condition requiring notice and consultations prior to withdrawal from, or extension of, the Treaty)

At the end of section 2, add the following new condition:

(3) NOTICE AND CONSULTATIONS PRIOR TO WITHDRAWAL OR EXTENSION.—(A) Prior to taking any action relevant to paragraphs 2 or 3 of Article IV of the Treaty, and except as provided in subparagraph (B), the President shall—

(i) provide not less than 60 days advance notice of such action to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(ii) consult with the Senate on such action.

(B) The President may waive a requirement in subparagraph (A) if the President—

(i) determines that national security needs prevent the President from meeting the requirement; and

(ii) submits to the committees of the Senate referred to in subparagraph (A) a written notice of the waiver, including a description of the national security needs and the reasons justifying the waiver.

In section 3, strike declaration (6).

Mr. LEVIN. I will explain it at this point. This amendment is straightforward. It says that prior to taking any action to extend or withdraw from this treaty, the President shall provide not less than 60 days' notice to the Senate and shall consult with the Senate.

Now, what happens if there is some national security need which prevents the President from providing such notice or consultation? The amendment foresees that possibility and has a waiver provision in case there is some unforeseen national security need that would prevent the President from immediately requiring to notify and consult with the Senate. So there is considerable flexibility given to the President if it is needed for national security reasons.

There has been a lot written about whether or not the Senate must actually ratify a withdrawal from a treaty. There has been much debate on that subject. In a Congressional Research treatise on treaties, written in 1993 and then republished more recently with the same language, this is what the Research Service says about the issue of withdrawal from a treaty and the Senate role in that process, that the U.S. Constitution is silent with respect to the power to terminate treaties. The matter is not discussed in the debates of the Constitutional Convention in Philadelphia. Briefly:

> While the Constitution tells us who can make treaties, the President shall have the power, by and with the advice and consent of the Senate, to make treaties.

It does not say who can unmake them. As a consequence of the Constitution's silence in this regard, there has been some confusion of doctrine upon this point and a variety in practice.

A little later on in this study, the Congressional Research Service says the same: Whether the President alone can terminate a treaty's domestic effect remains an open question. As a practical matter, however, the President may exercise this power since the courts have held that they are conclusively bound by an executive determination with regard to whether a treaty is still in effect. The same result may apply to a congressional termination, particularly if it is regarded as a declaration of war.

So according to the Congressional Research Service, the issue of whether the President alone can terminate a treaty is an open question. This amendment does not intend to resolve that question. A second-degree amendment, however, will be offered which will address that issue. My amendment does not. My amendment simply says—and it seems to me this is a very modest amount of protection for the Senate's constitutional responsibility in the treaty-making process—unless there is some national security reason why you cannot give notice to the Senate that you are intending to withdraw or extend the treaty, give us 60 days' notice so we can take whatever action we deem is appropriate, so we can give consultation and advice on the question of withdrawal or extension. It does not prevent the administration from extending or withdrawing from the treaty. It does not—''it'' being my amendment—require Senate approval of extension, even though that is the policy and practice to date often as elaborated by that study.

It does not require Senate approval of withdrawal from a treaty. It simply says the President shall notify and consult with the Senate before extending or withdrawing from the treaty.

This amendment is consistent with what the Foreign Relations Committee wrote in its report about the treaty relative to the issue of consultation on arms control treaties. It is a very thorough report. The committee that we have before us, on page 22, says the following:

> The Senate and this committee have an institutional interest in the close observation of arms control negotiations and the successful implementation of resulting agreements. Past administrations have recognized that consultations with the Senate prior to taking actions relating to assigning, amending, or withdrawing from such agreements may avert serious disagreements.

On the specific question of withdrawal, the committee report says: Should it become necessary for a party to withdraw from the treaty, article 4 provides for 3 months' notice of such a decision. Events can well occur between submissions of the annual report required in condition 2 that would warrant informing and consulting with the Senate. In any circumstance, the Senate would desire notification and consultation.

So the parties, the two countries involved, must give each other 3 months' notice prior to the withdrawal. But relative to the Senate, the report simply says the Senate would desire notification and consultation.

I could not agree more with that statement: ''desire.'' But it is not enough to say we desire a consultation. If we are going to protect the constitutional responsibilities of this body, we must assure our constitutional responsibility and the operation of treaties is going to be protected and our role under the Constitution is, in fact, honored—not just honored in the breach but in the actual life of the treaty. I believe this is the minimum we should do.

We should write into our Resolution of Ratification a requirement in the absence of some national security reason that the President, whoever the President might be at the time, do give us the notice and give us the opportunity to take whatever action or consult as we deem might be appropriate relative to the issue of withdrawal or extension of this treaty prior to the administration making that decision giving that notice to the other party to this treaty.

The amendment is consistent with what the administration says it is willing to do. Secretary Powell stated: While it is the President who withdraws from treaties, the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee, prior to announcing any such action.

That is a welcome statement of intent. We should incorporate that assurance. We should enshrine that assurance. We should embody that assurance. Intentions and administrations change. The obligation of this body to the Constitution endures. It is a solemn responsibility. It does not change. The intention of the President or a new President with new intentions changes. Language of the Constitution, relative to what this body's responsibility is relevant to treaties, is unchanging.

This amendment simply requires notification and consultation which Secretary Powell and the committee indicate they want and would expect would happen. It simply assures that, in fact, in the absence of some national security need, which is unexpected, which would permit a waiver of the notice requiring that a President would notify this body before withdrawal or extension of a treaty would occur.

The committee report concludes that: Declaration (6), while not binding on the President, is a formal request that the executive branch maintain the consultation policy enunciated in the Secretary of State's answer to the question—which I gave above that the administration intends to discuss. That is what the committee report says Declaration (6) provides, which is in the Resolution of Ratification. It is a request to the executive branch. That is not strong enough in terms of our obligations to the Constitution and to our responsibility relative to the treaty-making power.

If we want to really assure what we are requesting is, in fact, part of the operation of this treaty, we should include in this Resolution of Ratification a condition which my amendment offers, which is that the President would

do what the committee said it really wants and really desires and really urges, to use the words of the report, and that is to notify, consult with the Senate prior to taking action to withdraw from or extend a treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 253 TO AMENDMENT NO. 252

Mr. FEINGOLD. I compliment the Senator from Michigan for his tremendous leadership on this issue.

I rise today to add my thoughts to the debate on the first arms control treaty between the United States and Russia during the 21st century, and to offer an amendment that will reaffirm the role of the Senate in the treaty extension and withdrawal process.

When the Senate adopts this resolution of ratification, as I expect that it will be a wide margin, the Moscow Treaty will be on its way to becoming the law of the land, and the Senate will have fulfilled its constitutional responsibility to provide advice and consent to its ratification.

As a member of the Foreign Relations Committee, I believe that we covered a lot of ground in the series of hearings that the Committee had to examine this brief, 3-page document last year, and that we explored a number of the concerns that I and a number of members of the Committee and of the Senate have regarding the issues of compliance and verification, the lack of a timetable for the reductions required by the treaty, the fact that this treaty does not require that any nuclear warheads actually be destroyed, and a number of other important issues.

I continue to be troubled by the language contained in article IV of the Moscow Treaty regarding the process by which one of the Parties may withdraw from this treaty. I am concerned that either of the Parties would be able to withdraw with only 3 months' written notice and without a reason. And unlike other arms control treaties, the Moscow Treaty does not require that the Parties cite ''supreme national interest'' upon announcing withdrawal. In fact, this concept is not even mentioned in article IV.

As my colleagues may recall, I found the President's decision to unilaterally withdraw the United States from the 1972 Anti-Ballistic Missile Treaty last year troubling on both policy and constitutional grounds. I discussed this issue at some length with Secretaries Powell and Rumsfeld during the Foreign Relations Committee's hearings on this treaty last year, and I am troubled by the administration's contention that consultation with and approval by the Senate would not be required to withdraw from the Moscow Treaty.

I agree with the Senator from Michigan. The Senate has a constitutional role to play in treaty withdrawal, and I am concerned that the administration is not taking seriously our role in this process.

While I recognize that Declaration (6) in the resolution before the Senate today urges the President to consult with this body prior to withdrawing from the Moscow Treaty, I am concerned that there is no specific requirement for such consultation.

So, Mr. President, I send a second-degree amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 253 to amendment No. 252.

Mr. FEINGOLD. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the condition)

At the end of the proposed condition, add the following:

(C) Prior to taking any action relevant to paragraphs 2 or 3 of Article IV of the Treaty, the President shall obtain the approval of two thirds of the Senators present.

Mr. FEINGOLD. Mr. President, the second-degree amendment that I offer today would add to the underlying Levin amendment a provision that would require the President to obtain the approval of two-thirds of the Senate before withdrawing from or extending this treaty.

Mr. President, Article II, Section 2 of the Constitution states that the President ''shall have the Power, by and with the Advice and Consent of the Senate, to make Treaties, provided that two thirds of the Senators present concur. . . .''

The Senator from Michigan pointed out in his remarks that the Constitution is silent on the process by which the United States can withdraw from a treaty, and the record in the Congress and the executive branch is mixed. However, I believe and I think many others believe the intent of the Framers as explained by Thomas Jefferson is clear. In section 52 of Jefferson's Manual, he writes:

Treaties are legislative acts. A treaty is the law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation.

Article II, Section 3 of the Constitution states that the President shall:

take Care that the laws be faithfully executed. . . .

Jefferson continues:

Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded. This was accordingly the process adopted in the case of France in 1798.

It is worth noting, that four signers of the Constitution were serving in Congress when this first treaty termination occurred—by an Act of Congress—in 1798, just 11 years after the Constitutional Convention.

It is clear to me, as it was to Thomas Jefferson, that the Senate has a constitutional role to play in terminating treaties. Since the advice and consent of the Senate is required to enter into a treaty, this body should at a minimum be consulted before the President makes the decision to withdraw this country from a treaty, and especially from a treaty of this magnitude.

As Jefferson noted, a treaty is equal with a law. A law cannot be declared to be repealed by the President alone. Only an Act of Congress can repeal a law. Action by the Senate or the Congress should be required to terminate a treaty. Anything less could tip the scale dangerously in favor of the executive branch.

That said, I recognize it is unlikely that my amendment would be adopted, or that the President would agree to move forward with this process if my amendment were included in this resolution of ratification, but I very much thought we ought to make this point on the floor of this body that is charged by the Constitution with this responsibility. It is a responsibility which I believe was intended by the Founders, that we act specifically with a two-thirds vote to withdraw from a treaty.

AMENDMENT NO. 253 TO AMENDMENT NO. 252, WITHDRAWN

In light of the reality here, I now withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. FEINGOLD. Mr. President, I regret that this Treaty will move forward without a requirement for a Senate vote on its abrogation or extension, but I do express my support for the amendment offered by the Senator from Michigan, Mr. LEVIN, of which I am pleased to be a cosponsor. I also want to thank the Senator for his work on this important issue.

The Levin amendment is consistent with my view that the Senate should—at a minimum—be consulted if the President decides to withdraw from or extend this treaty in the future. I believe that this is a step in the right direction, and I urge my colleagues to support the Levin amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Michigan. I do so reluctantly because of my high regard for the Senator and his work on arms control, which has been indefatigable. His wisdom I respect.

As a rule, we are on the same side. I, however, wish to oppose the amendment for the reasons I will relate in this testimony. I read, in my opening statement yesterday, words that the Foreign Relations Committee addressed to this issue in the Resolution of Ratification. The Senator has referenced that fact.

It was drafted by us in an attempt to address concerns put forward by the Senator from Michigan, the Senator from Wisconsin, and others regarding the treaty's withdrawal clause contained in article 4.

Our text is based on Secretary Powell's commitment to consult with the Senate should the President consider the utilization of the withdrawal provision.

It is worth repeating, especially in light of the amendment offered today, the answer Secretary Powell submitted for the record on the issue of treaty withdrawal. The Foreign Relations Committee asked the Secretary:

> What role will the Congress have in any decision to withdraw from this treaty?
>
> Will the administration agree to at least consult closely with this committee—

That is the Foreign Relations Committee—

> before making any such decision?

The Secretary responded:

> While it is the President who withdraws from treaties, the administration intends to discuss any need to withdraw from the treaty with the Congress, to include the Senate Foreign Relations Committee prior to announcing any such action.

This was a carefully considered answer of Secretary Powell for the record.

Past Senate consideration of this issue has resulted in the view that one of the bases on which a President may terminate a treaty without congressional participation is when a decision to withdraw is taken in conformity with the provisions of the treaty. The Moscow Treaty, as it stands, provides for this.

I am aware of Senators' concerns and arguments about the need to insert the Senate into the process. Many of the arguments we have heard about withdrawal stem from President Bush's decision to withdraw from the ABM Treaty. That decision was taken in full compliance with the terms of the ABM Treaty. The President made no secret about his desire to do so, and Congress held innumerable hearings and public statements about the need to take the action.

I am sympathetic to arguments from Senators regarding the need to maintain Senate prerogatives. The process governing termination and withdrawal is a point of constitutional debate. Although the Constitution assigns a specific role for the Senate in the treaty ratification process, it is silent on the issue of treaty termination. Furthermore, nothing in the Constitution restricts the President from terminating or withdrawing from a treaty on his own authority.

Presidents have consistently terminated advice and consent treaties on their own authority since 1980. Twenty-three of the thirty treaties terminated during this period were bilateral; seven of these treaties were multilateral, all of them terminated by the President.

Prior to 1980, Senator Barry Goldwater of Arizona challenged President Carter's termination of the Mutual Defense Treaty with Taiwan. Senator Goldwater's challenge failed and the treaty was terminated.

The White House legal adviser has long argued that the President is the principal spokesman of the Nation in foreign affairs, and restrictions on that power have been strictly construed. Given the absence of a textual basis conferring the termination power on another branch or an established practice derogating from the President's termination power, it is difficult to envision such a role for the Senate.

Proponents of a senatorial role in this process will often respond by suggesting that the President cannot, on his own authority, terminate a treaty because it is the law of the land. Again, the White House suggests this is a fallacy. A terminated treaty no longer has effect in much the same way that a provision of a law or treaty found by the courts to be unconstitutional no longer has effect. However, in neither case is the law repealed.

Historically, there is evidence of only one instance in which the Senate sought by a resolution of advice and consent to limit the President's constitutional power to terminate a treaty. The first condition to the 1919 proposed resolution of advice and consent to ratification of the Versailles Treaty would have provided:

> Notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States.

On that occasion, the Vice President of the United States, Thomas Marshall, addressing the Senate before the vote, called the condition an unconstitutional limitation on the President's powers, a view with which a number of leading scholars of the day concurred. The resolution failed to receive the required two-thirds vote and the question has remained moot for the better part of a century—I might say, until today.

Beyond the legal issues that underlie this debate, some have expressed concern that article 4 differs from previous arms control agreements in that it only requires 3 months' notice and permits withdrawal based upon issues related to national sovereignty. Critics point out the START treaty allows the parties to withdraw after giving 6 months' notice, and only ''if it decides that extraordinary events related to the subject of this Treaty have jeopardized its supreme interest.''

The withdrawal clause is reflective of the changed nature of our relationship with Russia, not a desire to rob the Senate of its role in the treaty-making process. As the administration's article-by-article analysis sent to the Senate with the treaty states—this is the analysis by the administration as it submits the treaty:

> Unlike some other arms control agreements, the withdrawal clause is not tied to a Party's determination that extraordinary circumstances jeopardizing its supreme national interests exist. Rather, the Moscow Treaty includes a more general formulation that allows greater flexibility for each Party to respond to unforeseen circumstances.

Indeed, as we have related in this debate, the Moscow Treaty arose from a desire on the part of the United States unilaterally to destroy its nuclear weapons and likewise a similar desire by the Russians. Finding these coincident interests, they have joined in this treaty; nevertheless, there is no timetable. Some critics have pointed out that the nature of this treaty is substantially different. It is one that comes from the volition of the two without specific verification procedures.

I do not view the withdrawal provisions as a weakness in the treaty. Instead, I believe it is another manifestation of the improved U.S.-Russian relationship. It should also be pointed out that our bilateral relationship provides us with some confidence that the time and reasons for withdrawal would not necessarily relate to the agreement. As the Secretary of State told the Committee: ''The Moscow Treaty's formulation for withdrawal reflects the likelihood that a decision to withdraw would be prompted by causes unrelated either to the Treaty or to our bilateral relationship. We believe this formulation more appropriately reflects our much-improved strategic relationship with Russia.''

In sum Mr. President, I was hopeful that our resolution of ratification would have resolved this issue. For the benefit of the Senate let me again read the text of our resolution of ratification.

> Given the Senate's continuing interest in the Treaty and in continuing strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate urges the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 or Article IV of the Treaty.

This text was negotiated closely with Administration officials with the goal of striking a compromise that would preserve Senate prerogatives while not infringing upon the power provided to the President by the Constitution. I believe we succeeded in doing so.

For these reasons, I oppose the amendment, and I urge my colleagues to do so as well.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by saying I agree with the Senator from Michigan as well as my colleague from Wisconsin in that I believe—and, as the old joke goes, I have history to prove it—that the Senate has in the treaty power in the treaty clause of the U.S. Constitution an equal responsibility with the President of the United States.

As the old joke goes, if you want to learn a subject, teach it. For the last 10 years, I have been teaching a three-credit course at the Widener University Law School on Saturday mornings on separation of powers issues. In one of

the three parts of the course, ''What is treaty power? And who has what authority under the Constitution?'' I come down clearly on the side that the Senate has the authority to insist that any extension, or withdrawal, for that matter, from a treaty be confirmed by the Senate. We have a right to do that, I believe. But it is an open constitutional question.

I will, unless we are ready to go to a second amendment, be happy to take a few minutes and go through what I believe to be constitutional law and history on this point.

Let me cut through that for a moment and go to the place where I think it is not worth the fight on this particular treaty. I believe this treaty is so open ended and so, in some sense, amorphous and rests so much upon not merely the goodwill—I assume goodwill on the part of the administration—but on the intensity with which the administration believes this treaty should come to fruition that a provision that marginally increases the substance of the possibility of a substantive outcome which I support—which is getting down to 1,700 or below 2,200—that to jeopardize this treaty that rests on an awful lot on good faith over a genuinely serious constitutional fight which I think someday has to be resolved, that it is not worth the candle on this treaty and may in fact in turn, if we were to prevail—and I don't think we have the votes to prevail, but if we did prevail on this—would be sufficient in my view for this administration to not pursue through the treaty mechanism this agreement.

I want to remind everybody, the administration made it clear from the outset that they did not want a treaty. They did not want to have to come back to us with this treaty.

Because of the steadfastness of Senator Helms, we agreed on the principle that we would insist that any agreement—we knew it was being negotiated in Moscow—be brought back before the Senate.

So my concern is that this agreement, which the administration unilaterally and bilaterally supports—that is, with the Russians or without the Russians, and they don't really much care what we think about it anyway, whether it be in terms of a treaty—that they would be prepared to walk away from this over a genuine, legitimate, significant, constitutional issue and debate.

White House Counsel in this administration and in Democratic administrations who have suggested that Senator FEINGOLD, Senator LEVIN, and I are wrong about the prerogative of the Senate, I suggest, would be inclined to say to the President: You are going to do this anyway unilaterally—that is, move down to these ranges—you have said you are going to do it anyway; the treaty is so loose, it doesn't bind you much at all anyway; forget the treaty; just proceed on this course, and don't sign onto this principle on this fight.

I was asked by the press how I could not be willing to go to the wall on this issue since I was the guy who went to the wall that resulted in the so-called Biden condition on interpretation of treaties, which was initially added to the INF Treaty in 1988. There was a simple reason. There was a lot more at stake in that treaty in terms of the substantive impact upon the strategic balance and doctrine. We also had a circumstance where the administration very much wanted that treaty. And it was an opportunity to set in law, in principle, the principles of treaty interpretation.

So it was worth the fight, the stakes were high enough, and the administration was not likely to reject the underlying treaty if it passed, which it did. That is the practical distinction I would make.

But let me speak just another 5 minutes or so to the constitutional side of this argument. Although it is not specified in the Constitution, I believe there is a concurrent power both the President and the Senate have; and that is, the power with regard to the termination of a treaty.

Our history for over 200 years of practice is, though, decidedly mixed. At various times in our history, the Congress has directed or authorized the President to terminate a treaty.

On a few occasions, the Senate alone has done that, terminated a treaty. The President has terminated a treaty without prior congressional authorization but then received subsequent approval by the Congress and the Senate. And the President has terminated treaties unilaterally.

For example, Presidents have done so with several commercial treaties in the first half of the 20th century. President Lyndon Johnson gave notice of his intent to have the United States withdraw from a multilateral treaty on international aviation known as the Warsaw Convention. Although this notice was subsequently withdrawn, the Foreign Relations Committee held hearings on the treaty at issue, and did not challenge President Johnson's power to withdraw from it.

More recently, President Carter unilaterally terminated the Mutual Defense Treaty with Taiwan in connection with diplomatic recognition of the People's Republic of China. President Carter also gave notice of the termination of several other treaties, most related to immigration. President Clinton withdrew from multilateral agreements, including our membership in the United Nations's Industrial Development Organization.

The question of who has the power to terminate a treaty has never been definitively resolved by the Supreme Court. President Carter's decision to terminate the Taiwan Treaty was challenged by several of our Republican colleagues, and that case reached the Supreme Court. The Supreme Court decision, though, does not provide much legal precedent, though perhaps it gives us some guidance as to how the Court might rule today.

In Goldwater v. Carter—that was the case about withdrawing from the Taiwan Treaty, when we recognized the People's Republic of China—the Supreme Court vacated a decision of the Court of Appeals of the District of Columbia Circuit, a decision which had affirmed the President's power to unilaterally terminate a treaty.

By vacating the lower court ruling, though, no legal precedent was left to stand. The Supreme Court decision commanded no majority. Four Justices invoked what I know my colleagues on the floor and the Presiding Officer fully understand; they invoked what is called the Political Question Doctrine and thereby decreed the case not a matter for the courts.

The fifth Justice held the case should not be before the Supreme Court because it was not ripe for judicial review.

The only Justice who addressed the merits of the case, Justice Brennan, held for the President's power in that case because he thought termination of the treaty with Taiwan was an act that necessarily flowed from the recognition of the People's Republic of China. He argued further that recognition power is clearly held by the President within the Constitution.

The leading scholarly authority on the subject, the Restatement of Foreign Relations Law, of which the noted scholar, Columbia Law Professor Lou Henkin was a chief reporter, states: ''The President has authority unilaterally to suspend or terminate'' a treaty ''in accordance with its terms, or to make the determination that would justify . . . terminating or suspending an agreement because of its violation by another party or because of supervening events.'' The Restatement concludes that this power of the President is based upon his constitutional power to conduct foreign relations.''

The Restatement concedes, however, that the Senate has concurrent authority, and it could circumscribe the President's power by conditioning its consent—which is what I understood in the withdrawn amendment by my friend from Wisconsin—by conditioning its consent to that treaty on a requirement that the termination clause only be exercised with the consent of the Senate, which I happen to think we have the power to do as well.

But without turning this into a seminar—which all of my colleagues understand this full well; I am not educating anybody on this floor as to something they do not already know—without going into any more of it, I believe the Senate has concurrent power it could exercise.

I believe there will come a treaty which is of such consequence that the Senate will determine it must exercise that power. But whether it is wise to do so as is done in the Levin-Feingold amendment is another matter, in my view.

In closing, I think Senators LEVIN and FEINGOLD raise important legal and substantive concerns. I think it would prompt, in this case—because it goes, in a sense, beyond this treaty the precedent we would be establishing—I think it would prompt—and obviously I don't know—strong executive branch opposition, and all done at this point to make a legal point. No matter how much I agree with it, it is to make a legal point that does not substantively have much impact here. I think it is really better made for a treaty of more substance and consequence than this one.

Let me make it real clear what I mean by that. I do not want to belittle this treaty. I do not mean to imply it is of no value. But I think, quite frankly, if we are to go to the point to take this to the wall, and we were to pass this amendment—and I realize it has been changed now; it is not as consequential as both the Senators would have liked, because the Feingold provision has been withdrawn, and as much as I would like it if we were going to set down a principle here, I think the consequence of its passage, if it resulted in this administration walking away from this treaty, would do much more harm than any possible good could be done by our adopting this amendment.

The point made by the chairman is we are no worse off constitutionally on this unresolved, substantive issue because of the language unanimously added in the committee. So essentially what we are saying here—what I am saying here, and I think the chairman—and I am not suggesting he should associate himself with my remarks as to what the President's and the Senate's power is—but we are basically saying we have agreed to fight this fight another day on another treaty at another time.

How do you define in treaty language what ''consult'' means? In declaration 6, we use the term ''consult,'' but it needs much less specificity there because it is even more vague. So I think you build in confusion, difficult to define, in even adding the Levin language.

This is an uncomfortable position for me to be in, both intellectually and politically, to be not supporting this amendment. I want my colleagues to understand why. I want to make it clear, even though I agreed with the chairman that I would not, as the ranking member, support amendments beyond what we had agreed to in order to get this done, I want to make it clear to my Democratic colleagues, I am not in any way asking anyone to be bound by that. I am not trying to speak for the Democrats on that issue. I am giving my best advice as to how I think, for what it is worth, we can enhance the prospect that we really will, through this treaty, accomplish a momentum that relates to reducing the number of nuclear weapons each side has at its disposal.

And ultimately, hopefully by the provisions we have in some of the declarations, we will not stop at this treaty. We will not stop at this methodology. We will try to move on to everything, including tactical weapons at some point down the road.

That is my reasoning, for what it is worth. I am not going to support even the less constitutionally controversial provision of the Levin-Feingold amendment for the reasons I have stated.

I pledge to my colleagues, assuming I am around and assuming we have the opportunity, God willing, to be able to establish this principle on a really significant agreement that we make, a mutual agreement or multilateral agreement with other parties in the world that promotes everything from arms reduction to our interest, this fight has to be made at some point. I just don't think it is worth the candle on this at this moment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Let me thank my colleagues for their comments. Some of what they say frankly amazes me and startles me.

How the administration could possibly walk away from this treaty because a Resolution of Ratification contains the requirement that they give us 60 days' notice before withdrawing, when in fact they say they are intending to give us that notice, amazes me. The administration has represented to the Senate by Secretary Powell that it is their intention to discuss any need to withdraw from the treaty with the Congress. That is their intention.

How it can be suggested they are going to walk away from a treaty which simply puts into our ratification resolution and embodies what they intend to do, anyway, is a complete mystery to me. It raises the question, are they serious about that intention? Can't we take them seriously? Can't we assure ourselves that maybe the next administration, because it might not have the same intention, should be bound by us? Do we have to leave this requirement to give notice of withdrawal from a treaty up to the absolute discretion of an executive branch? That is not protecting the constitutional role and requirement and obligation and responsibility of the Senate.

The question was raised by my dear friend from Delaware about what the word ''consult'' means in the amendment. It means the same thing as in the language which the Foreign Relations Committee has given us. In declaration 6 of the resolution, it says the Senate urges the President to consult with the Senate. We define ''consult'' in the way the Foreign Relations Committee defines it.

Mr. BIDEN. If the Senator will yield.

Mr. LEVIN. I am happy to.

Mr. BIDEN. The difference is the declaration is not binding.

Mr. LEVIN. That is the important difference. But the word is the same word.

Mr. BIDEN. It is the same word, but the need for precision in a nonbinding declaration is a lot less important, in a judicial sense, than it is in a binding provision. That is the only point I was making.

Mr. LEVIN. The important fact is it is not binding.

Mr. BIDEN. Yes.

Mr. LEVIN. That is what it comes down to. This is not an issue as to who has the power to withdraw from a treaty. Both the Senator from Indiana and the Senator from Delaware make arguments about that issue. That is not resolved in this amendment. Both of their remarks address that issue, as did my remarks. I am the first one to acknowledge that as a matter of fact the Constitution is silent with respect to the power to terminate treaties. That is the quote I used before that came from the Congressional Research Service. The Constitution is silent. There has not been a resolution of this issue.

There is the Goldwater case that can be interpreted as the Senator from Delaware did. We do not resolve that issue in this amendment. This amendment does not remove from the President, nor does it purport to remove from the President, the power to terminate or extend a treaty. That issue is a major constitutional issue.

I cannot believe, and I did not hear that either of our colleagues suggested, that there is a constitutional problem with my amendment because my amendment does not require the President to get the advice and consent of the Senate to withdraw from the treaty. My amendment simply says: Before you exercise your right to withdraw, give 60 days' notice to the Senate. I don't think there is the slightest constitutional infirmity in simply providing what the President says he intends to do and what the committee says is desirable be done in the language of the committee ratification resolution, that we urge a formal request that the executive branch consult with the Senate of the United States.

There is no constitutional issue with my amendment. With the Senator from Wisconsin's second-degree amendment, which has been withdrawn, there was a very serious constitutional issue, one which we could spend days on in the Senate, as to whether or not we can require in a ratification resolution that the President obtain our consent to the withdrawal from a treaty. That is a major, massive constitutional issue. That one has resonated around the country for a couple hundred years. That was not going to be resolved in this Resolution of Ratification. I hope some day it is resolved in a lengthy debate.

But what I am proposing is simply the most modest step to give some protection to the obligation and responsibility of this institution relative to treaty-making power, which is that we just be given notice, 60 days' notice, and consultation prior to a decision of

the President to withdraw from a treaty.

I have not heard today, and I don't believe that there is, a serious argument that my amendment raises constitutional issues. As a matter of fact, almost by definition, it cannot, since the President says he is intending to consult with us and since the committee says it is desirable that he do so.

I have not heard that argument. Again, I don't believe it could be a serious argument, that we could simply not do what this amendment does, which is to require that there be 60 days' notice and consultation.

But how the suggestion could be made that the President would walk away from this treaty if the Resolution of Ratification contains language that embodies what the intention of the administration is to do anyway, and what the committee is urging the administration to do anyway, is a complete mystery to me. That one befuddles me—the idea that this administration, which has proposed and signed this treaty, would walk away from the treaty if the Senate says in a ratification resolution that the administration will give us the same notice that the administration says it intends to give us. That one, it seems to me, is not a credible argument.

So there is going to be disagreement as to whether or not the Senate has the power to put in a ratification resolution a provision that the President must, before extension or withdrawal, get the approval of the Senate. If that were part of my amendment, I could understand why there would be a massive debate over that issue—mainly between the White House, which I think would say no way, and many Members of the Senate would say that is the only way we can protect the constitutional obligation of the Senate. But that is not this amendment. That was the Feingold amendment, which was withdrawn.

This amendment walks a middle road and says we want to get a commitment in this resolution that we be given the notice and consultation which the administration says it intends to give us. It cannot bind future administrations. This administration—I don't have any doubt—intends to do what it says it intends to do. Secretary Powell says he intends to give notice. I take him at his word. He is an honorable man. But administrations come and go and intentions change with future administrations. That is the relevance of this amendment—to put in our ratification resolution what the committee says is desirable, and what the committee says it urges the administration to do, and what the administration says it intends to do, and about which I have not heard a constitutional argument, for good reason, because here we are not limiting the power of the President to withdraw from a treaty.

The President has the same power to withdraw from a treaty before or after my amendment is defeated or accepted. That power doesn't change. What changes, however, with this amendment, would be to say that the Senate, as part of its treaty obligation and responsibility, wants to be informed prior to the withdrawal from or extension of a treaty that the executive branch enters into.

That is, again, a summary of the amendment. I hope, even though obviously the leaders of the Foreign Relations Committee oppose this for the reasons they give—and I don't think there are two Members of the Senate for whom I have greater respect than these two Members. We have worked together on these issues. Senator LUGAR, Senator BIDEN, and I have worked together on so many issues over the years that I have lost count. My respect and regard for them is boundless. But I think this is an issue of important principle that the Senate should address—whether or not we want to be given notice before a President withdraws from this treaty that we are about to ratify, hopefully.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, again, I will simply say that in our Resolution of Ratification—and this is what we have before the Senate now:

> Given the Senate's continuing interest in the treaty and in continuing strategic offensive reductions to the lowest possible levels consistent with national security requirements and the alliance obligation of the United States, the Senate urges the President to consult with the Senate prior to taking action relevant to paragraphs 2 or 3 of article 4 of the treaty.

It seems to me the language is clear. We have spelled it out. In addition, we have had testimony and have queried Secretary Powell regarding his interpretation of the role of the Congress, and he has assured us that there would be consultation.

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

Mr. LUGAR. Yes.

Mr. LEVIN. This is a procedural inquiry. We are trying to determine—to assist a colleague who has an urgent, unusual need—if we can set a time on this amendment at 4:05; would that be amenable? I hate to interrupt my friend.

Mr. LUGAR. Yes, that would be very satisfactory. In fact, I even will propose a time sooner than that if that is in the realm of the possible.

Mr. LEVIN. That is what is difficult. The earlier we are able to set a time, the earlier we will be able to vote. If we set it 10 minutes from now, it would have to be 4:15 instead of 4:05.

Mr. LUGAR. Let me make a proposal and, in fact, offer a unanimous consent at this time to that effect.

I ask unanimous consent that the vote in relation to the Levin amendment No. 252 occur at 4:05 today, and that the time until then be equally divided in the usual form; further, that no second-degree amendments be in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LUGAR. I thank the Senator from Michigan for that suggestion.

I will conclude by indicating that the Senator from Michigan and the Senator from Wisconsin proposed a serious constitutional issue. At the initiation of this debate, I indicated that this is not a settled law. I also argue that this is not the treaty on which to attempt to settle. There has been precedent—at least in terms of activity that both the distinguished Senator from Delaware and I have decided. I pointed out 30 treaties terminated by the President since 1980. This is a lot of treaties. That has been the regular practice.

I referred to a debate on this issue indicated in 1919 on the Versailles Treaty on which the Vice President of the United States addressed the Senate. The Senate did not come up with a two-thirds vote to change the fact that the Constitution is silent.

I accept the fact that the Senator from Michigan pointed out at some point in our history—and I think the Senator from Delaware made the same point—we may want to have this debate, but I hope not on this treaty at this time, given the assurance by the Secretary of State, and likewise by the committee, in our article 4 to this treaty.

For the benefit of Senators, there are about 26 minutes left and, essentially, we will leave it to the Chair how that should be divided.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I have a minor point, but the RECORD should be clarified. When I was referring to what my friend from Michigan said about the difference between the declaration and his condition—one being binding, one not—I referred to the word ''consult.'' It goes beyond that. The ambiguous language really is in the declaration. In his proposal is ''any action relevant'' to paragraphs 2 or 3 of article 4 of the treaty, which is the action relevant to the extension or withdrawal—that is the language that was taken by him, properly so, from the declaration, and that is the part that is ambiguous, not the word ''consult.''

At any rate, it is a distinction without a great difference.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair advises the Senator from Delaware does not control the time and cannot suggest the absence of a quorum. The Senators from Indiana and Michigan control time under the order.

Mr. LUGAR. I suggest the absence of a quorum equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 252, AS MODIFIED

Mr. LEVIN. Mr. President, I believe the yeas and nays have not been ordered. I modify my amendment by striking the word ''any'' on line 5 and striking the word ''relevant'' on line 5 and substituting the word ''pursuant'' for the word ''relevant'' on line 5. The modification is at the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 252), as modified, is as follows:

At the end of section 2, add the following new condition:

(3) NOTICE AND CONSULTATIONS PRIOR TO WITHDRAWAL OR EXTENSION.—(A) Prior to taking action pursuant to paragraphs 2 or 3 of Article IV of the Treaty, and except as provided in subparagraph (B), the President shall—

(i) provide not less than 60 days advance notice of such action to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(ii) consult with the Senate on such action.

(B) The President may waive a requirement in subparagrah (A) if the President—

(i) determines that national security needs prevent the President from meeting the requirement; and

(ii) submits to the committees of the Senate referred to in subparagraph (A) a written notice of the waiver, including a description of the national security needs and the reasons justifying the waiver.

In section 3, strike declaration (6).

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. LEVIN. Madam President, I ask unanimous consent Senator KENNEDY be added as a cosponsor to the amendment, and I ask for the yeas and nays.

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

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Florida (Mr. GRAHAM), and the Senator from Georgia (Mr. MILLER), are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. BYRD) would vote ''aye''.

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

The result was announced—yeas 44, nays 50, as follows:

[Rollcall Vote No. 41 Ex.]

YEAS—44

Akaka	Durbin	Levin
Baucus	Edwards	Lieberman
Bayh	Feingold	Lincoln
Bingaman	Feinstein	Mikulski
Boxer	Harkin	Murray
Breaux	Hollings	Nelson (NE)
Cantwell	Inouye	Pryor
Carper	Jeffords	Reed
Clinton	Johnson	Reid
Conrad	Kennedy	Rockefeller
Corzine	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dayton	Landrieu	Stabenow
Dodd	Lautenberg	Wyden
Dorgan	Leahy	

NAYS—50

Alexander	Crapo	McCain
Allard	DeWine	Murkowski
Allen	Dole	Nelson (FL)
Bennett	Ensign	Nickles
Biden	Enzi	Roberts
Bond	Fitzgerald	Santorum
Brownback	Frist	Sessions
Bunning	Graham (SC)	Shelby
Burns	Grassley	Snowe
Campbell	Gregg	Specter
Chafee	Hagel	Stevens
Chambliss	Hatch	Sununu
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Collins	Kyl	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	

NOT VOTING—6

Byrd	Graham (FL)	Miller
Domenici	McConnell	Smith

Mr. LUGAR. Madam President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 254

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA] proposes an amendment numbered 254.

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

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

The amendment is as follows:

(Purpose: To specify information to be included in the annual report on the role of Cooperative Threat Reduction and nonproliferation assistance under condition 1 in section 2)

At the end of the last sentence of condition 1 in section 2, strike the period and insert the following: '', and shall include—

''(A) an estimate of the funding levels required in the fiscal year following the year of the report to implement all Cooperative Threat Reduction programs and other nonproliferation programs relevant to the Treaty and ensure that nuclear weapons, materials, technology, and expertise in the Russian Federation are secure from theft and diversion; and

''(B) a description of any initiatives proposed by the President to address any matter covered by subparagraph (A) in order to improve the implementation or effectiveness of the Treaty.''.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, this amendment is the result of several hearings I chaired in the Governmental Affairs Subcommittee on International Security and Proliferation on the importance of Nunn-Lugar Cooperative Threat Reduction assistance to national security.

The collapse of the Soviet Union left stockpiles of nuclear weapons and materials vulnerable to theft and diversion. The Nunn-Lugar legislative initiative of 1991 established several threat reduction programs in the Departments of Defense and Energy to help dismantle weapons of mass destruction or improve their security. These programs, along with others in the State Department, are critical to preventing the proliferation of weapons of mass destruction or the diversion of material to terrorists.

U.S. nonproliferation activities have accomplished a great deal. With American assistance, all nuclear weapons have been removed from Ukraine, Kazakstan, and Belarus. Our nonproliferation programs also prevent the recruitment by terrorists or other countries of WMD scientists and engineers.

The CTR and other nonproliferation programs are making progress but face a new set of responsibilities in light of the Moscow Treaty. The Russian Federation intends to reduce and destroy various weapons systems with U.S. assistance under the CTR and other nonproliferation programs.

I strongly support language in the Moscow Treaty that directs the President to ''submit to Congress . . . a report and recommendations on how United States Cooperative Threat Reduction assistance to the Russian Federation can best contribute to enabling the Russian Federation to implement the Treaty efficiently. . . .''

In November 2001, President Bush and President Putin met to discuss historic cuts to the nuclear stockpiles in the U.S. and in Russia. This discussion led to the Moscow Treaty before us today.

After the first day of that summit, President Bush remarked that:

[o]ur highest priority is to keep terrorists from acquiring weapons of mass destruction . . . we will strengthen our efforts to cut off every possible source of biological, chemical, and nuclear weapons material and expertise.

The CTR and other nonproliferation programs are the primary means we have to prevent weapons, weapon-usable materials, and expertise in the Russian Federation from falling into the hands of terrorists. Secretary of State Powell said, in testimony before the Senate, that the CTR program will be used to ''make warhead storage facilities more secure. Such U.S. assistance will also increase the security of the Russian warheads made excess as provided in the Moscow Treaty.''

The goals of the CTR and other nonproliferation programs are vital to national security. Getting there will be difficult. We must provide these programs with the funding necessary to

accomplish their important and challenging task.

I have joined my friend and colleague, Senator LUGAR, in supporting adequate funding and high-level administration support for these programs for years. For this reason, my amendment would ensure funding estimates are included in this annual report on CTR contributions to Russian implementation of the Moscow Treaty. It is important that Congress know how the CTR and nonproliferation programs can be used to help the Russian Federation with its treaty obligations. It is equally important for Congress to know what these programs require to realize their full potential for enhancing security.

AMENDMENT NO. 254, WITHDRAWN

Madam President, I have had discussions with the distinguished chairman concerning my amendment. He has given me assurances that the intent of my amendment will be covered in the report mentioned in condition 1 and other reports already required by Congress. For this reason, I withdraw my amendment, and Senator LUGAR and I will enter into a colloquy on this issue.

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

The Senator from Indiana.

Mr. LUGAR. Madam President, I thank the distinguished Senator from Hawaii for his very important thoughts about threat reduction and about our mutual quest and support.

Mr. AKAKA. I thank my friend, the Senior Senator from Indiana, for this opportunity to discuss with him the Cooperative Threat Reduction and other non-proliferation programs and their importance to effective implementation of the Moscow Treaty.

I have chaired several hearings in the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services, and undertaken several studies, on the importance of the Nunn-Lugar Cooperative Threat Reduction. Because of this work it was my intent today to offer an amendment to the Moscow Treaty to expand the report on Cooperative Threat Reduction and non-proliferation programs contained in the recommended resolution of ratification by including funding requirements.

As my colleague knows, the collapse of the Soviet Union left stockpiles of nuclear weapons and materials vulnerable to theft and diversion. The Senate and the Nation have benefited from the Senior Senator's leadership in the Nunn-Lugar legislative initiative of 1991 that established threat reduction programs in the Departments of Defense and Energy to help dismantle weapons of mass destruction or improve their security. These programs, along with others in the State Department, are critical to preventing the proliferation of weapons of mass destruction or the diversion of material to terrorists.

My amendment would amend Condition One in the Resolution of Ratification so that the annual report on non-proliferation programs includes two important pieces of information. First, the report would include an estimate of funding levels necessary for the CTR and other non-proliferation programs relevant to the Treaty to ensure that nuclear weapons, materials, technology, and expertise in the Russian Federation are secure from theft and diversion. Second, the report would include a description of any initiatives proposed by the President for the CTR or other non-proliferation programs that will improve the implementation or effectiveness of the Treaty. I understand through my conversation with the chairman of the Foreign Relations Committee that, while he appreciates my concerns and reasons behind my amendment, it should not be included in the resolution before us.

U.S. non-proliferation activities have accomplished a great deal. With American assistance, all nuclear weapons have been removed from Ukraine, Kazakhstan, and Belarus. Our non-proliferation programs also prevent the recruitment by terrorists or other countries of WMD scientists and engineers.

Mr. LUGAR. I agree with my friend. The CTR and other non-proliferation programs are making progress but face a new set of responsibilities in light of the Moscow Treaty. The Russian Federation intends to reduce, destroy, and account for various weapons systems, materials, and expertise with U.S. assistance under the CTR and other non-proliferation programs. For this reason, the Foreign Relations Committee included Condition One to the Treaty to require the President to submit to Congress an annual report and recommendations on how Cooperative Threat Reduction assistance can best help the Russian Federation implement the Treaty efficiently and maintain the security and accurate accounting of its nuclear weapons and weapons-usable components and material.

Mr. AKAKA. I strongly support this language. The Committee Report on the Moscow Treaty states that this report will include ''the role of Cooperative Threat Reduction and non-proliferation assistance.'' Am I correct in my interpretation that the annual report will include the contribution of both the Department of Defense CTR program and other programs that are relevant to Treaty implementation and security and accounting of nuclear weapons and materials?

Mr. LUGAR. Yes, this report is intended to establish the rationale for all U.S. non-proliferation programs insofar as they can be used to help Russia dismantle weapons or assure the security of those weapons and of the fissile material in them. The report also will include the amount of CTR assistance that the Russian Federation will need to meet its obligations under the Treaty.

Mr. AKAKA. That is good to hear. I have joined with my friend in advocating for adequate funding and high-level administration support for these non-proliferation programs for years. For this reason, I was considering offering an amendment to include funding estimates needed to assist Russia meet its obligations under the Moscow Treaty. It is important that Congress know how the CTR and non-proliferation programs can be used to help the Russian Federation with its Treaty obligations and how best to fund these programs to meet Treaty obligations. Does my colleague believe it would be useful if such information was provided to Congress?

Mr. LUGAR. Yes, I agree that such information is useful. However I believe that this information already is provided as part of the overall CTR annual report to Congress by the Department of Defense and annual reports by other non-proliferation programs. Specifically, the CTR annual report contains funding levels for individual projects as well as five-year cost estimates.

I understand my colleague's concern that this report does not address Treaty-specific programs. The report required in the resolution of ratification could lay the groundwork for future cost and program requirements for non-proliferation that perhaps can be addressed in the Defense authorization bill.

Mr. AKAKA. As a member of the Senate Armed Services Committee, I look forward to the opportunity to work with you in defining the amount and extent of information we need to adequately fund and support these important programs. I also understand your desire to keep paperwork and reporting requirements to a minimum for the small but hardworking staff of the CTR program. Accurate and timely reporting of this information is crucial for proper congressional oversight of these programs. It is my hope that the administration understands my concerns.

In November 2001 President Bush remarked that ''[o]ur highest priority is to keep terrorists from acquiring weapons of mass destruction . . . we will strengthen our efforts to cut off every possible source of biological, chemical, and nuclear weapons material and expertise.'' I know my friend shares my respect for the CTR and other non-proliferation programs that are the primary means we have to prevent weapons, weapons-usable materials, and expertise in the Russian Federation from falling into the hands of terrorists.

The goals of the CTR and other non-proliferation programs are vital to national security. Getting there will be difficult. I know that by working together we can provide these programs with the funding necessary to accomplish their important and challenging task.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, I rise to express my support for the Strategic Offensive Reduction Treaty, otherwise known as the Moscow Treaty, which

was signed by President Bush and President Putin on May 24, 2002. This treaty is important because it signifies that Russia and the United States are committed to and cooperating on the reduction of nuclear weapons. It carries the weight of law and will remain in force for a decade. It is also important because it binds the United States and the Russian Federation to each reduce the number of operationally deployed strategic weapons to between 1,700 and 2,200 by the end of 2012.

Presently, the United States has approximately 6,000 nuclear weapons and the Russian Federation has almost 5,500 nuclear weapons. The Moscow Treaty is a step forward, reducing the danger of large numbers of operationally deployed nuclear weapons. This treaty is a good step, but it is only a small step. Much more must be done. Russia entered into negotiations seeking a legally binding document that would limit strategic nuclear warheads, and in their words ''provide transparency and predictability'' by containing definitions, and counting and elimination rules that resembled those in the START Treaties. Ultimately, Russia wanted to ensure that this process would be irreversible; in their words, that it would ensure the ''irreversibility of the reduction of nuclear forces.''

This administration, however, had different goals. Russia had to convince the United States to sign a legally binding document rather than a less formal exchange of letters. The United States rejected any limits and counting rules that would have required the elimination of delivery vehicles and warheads, stating that it wanted flexibility to reduce its forces at its own pace and to restore warheads to deployed forces if conditions warranted. So while this treaty changes the status of some operationally deployed warheads, it does not require the dismantling of a single weapon. Once this treaty is fully implemented, the United States will still have approximately 6,000 nuclear weapons. There will just be more weapons in storage. And similarly, the Russians could have approximately 5,500 nuclear weapons, but they would be nonoperational according to the lines of this treaty.

The treaty does not bind either party to any schedule for deactivation. It only requires that cuts be completed by December 31, 2012, the day the treaty expires. This means that either side can stop or even reverse the reduction process over the decade as long as both parties comply by the final date of the treaty.

The treaty does not specifically address the problems of tactical nuclear weapons or MIRV'd ICBMs. The number of Russian tactical nuclear weapons is believed to be between 8,000 and 15,000, while the United States has approximately 2,000. Russian tactical nuclear weapons are subject to fewer safeguards and are more prone to theft and proliferation. These are the proverbial suitcase weapons, often discussed in the press, which are the ones that are most mobile, most difficult to trace and detect. And the treaty does not deal with these weapons at all.

In addition, the Moscow Treaty effectively ends START II, which I will discuss in more detail later, which means that Russia will likely keep its weapons MIRV'd, meaning they will have multiple warheads on their weapons. Since MIRV'd weapons are fewer and more vulnerable, it increases the perceived need for a first strike.

Another shortcoming of the Moscow Treaty is that it includes no verification procedures. START I verification procedures will remain in place until 2009. But there was never agreement between the parties about which, if any, procedures could be used in the Moscow Treaty. Discussion of verification procedures is supposed to continue, but the administration recently stated: We have determined that specific additional transparency measures are not needed and will not be sought at this time.

I also believe the treaty withdrawal provisions are too lax. Parties can withdraw from the Moscow Treaty with 3-months notice without giving any reason. This means a party needs no compelling reason to stop complying with the terms of this treaty.

Finally, the terms of this treaty must be met by December 31, 2012, but that is the day the treaty expires. It is possible that it could be extended, but another agreement would have to be reached to do that. On the other hand, it could also lapse so the parties could raise the numbers of operationally deployed warheads above 2,200 on January 1, 2013. In effect, they could go through the term of the treaty without significant reductions, let the treaty lapse, and nothing would have been affected by the treaty. I hope certainly that doesn't happen.

I commend my colleagues on the Senate Foreign Relations Committee, Senator LUGAR and Senator BIDEN. They have done a remarkable job of adding some detail to the treaty.

The resolution we are considering today contains two important conditions. The first condition requires a report and recommendation on how cooperative threat reduction assistance to the Russian Federation can best contribute to the efficient implementation of the treaty and maintain the security and accurate accounting of Russia's nuclear weapons and materiel. As I will discuss in detail later, the CTR program is the most effective tool to counter proliferation, and we must do all we can to maintain it.

Secondly, the resolution requires an annual implementation report which will include, among other items, a listing of strategic nuclear weapons force levels for both parties, a detailed description on strategic offensive reductions planned by each party for the current year, and how these reductions will be achieved, verification and transparency measures taken or proposed by each party, and actions taken or proposed to improve the implementation and effectiveness of the treaty.

There are also several nonbinding declarations, most of which request reports to Congress and encourage the President to continue to work to reduce nuclear weapons. These conditions and declarations make the treaty more substantial and, I believe, more effective.

I will support this treaty strengthened by this resolution. I want to say to the administration, however, that this is simply not enough. The rise of rogue nations and rogue nonstate actors, has made the threat of proliferation even more urgent. One of the legacies of the cold war is the abundance of nuclear weapons and fissionable material that is no longer under the clear control of the Russian Federation or other former states of the Soviet Union. Moreover, many of these nuclear weapons are housed in nations which are struggling economically and are susceptible to offers from rogue actors to acquire these materials.

As Graham Allison of Harvard, former dean at the Kennedy School, stated:

> The single largest threat to American lives and liberties going forward for the next decade is terrorism, particularly terrorism with weapons of mass destruction. The one that I have been most concerned about is loose nukes.

We must do everything possible to counter proliferation through protection, containment, and interdiction. In 1991, former Senator Sam Nunn and Chairman RICHARD LUGAR recognized the risk presented by the proliferation of weapons of mass destruction. They created—history will record this—one of the most important initiatives that has been seen in this Senate, in this country in many years; that is, the counterproliferation program, the cooperative threat reduction program.

The programs they established in the Department of State, the Department of Energy, and the Department of Defense, have had significant success in preventing the proliferation of weapons of mass destruction. Through these programs, the United States has secured tons of nuclear materials in the former Soviet Union; helped deactivate, dismantle, or destroy thousands of Russian nuclear weapons and delivery systems; and helped provide employment for hundreds of Russian scientists and engineers with expertise in building nuclear, chemical, or biological weapons, who otherwise might be tempted to sell their expertise to unfriendly nations or terrorist organizations. This is an extraordinary accomplishment, but so much needs to be done in addition.

Even though only about $1 billion of the $400 billion defense budget is annually allocated to support these programs, they have been among the most successful of all nonproliferation efforts undertaken by this country.

Given the success of the programs, it is difficult to understand why securing adequate funding has been a significant challenge in the Bush administration.

I also want to add my voice to those of my many colleagues who believe the United States and the international community are capable of doing, and must do, much more in this regard. Let me quote once again from the expert, Senator LUGAR, who in his article in the December 2002 issue of Arms Control Today, said:

> It is critical that the United States lead in establishing a global coalition capable of exerting pressure on states to cooperate with the safeguarding, accounting, and (where possible) destruction of weapons and materials of mass destruction. Given that a war is being contemplated with Iraq over the question of their weapons programs, it is reasonable to ask why more is not being done on a global scale to control other proliferation risks.

I agree with the chairman. I also agree with his statement:

> We must not only accelerate dismantlement efforts in Russia, we must broaden our capability to address proliferation risks elsewhere and build a global coalition to support such efforts.

Clearly, undeniably, there is a lot of work to be done in these programs, not the least of which is to make up for time lost to these programs over the past 2 years.

The Bush administration put most of the nonproliferation programs on hold during fiscal year 2001, in order to conduct a review to determine the validity of the programs. Luckily, most of the programs survived the review, and some were even strengthened; but little progress was made as very little work was done during this yearlong review.

Then, at the completion of the review, the fiscal year 2002, and all previous years, funds for the Nunn-Lugar Cooperative Threat Reduction Program were frozen for over a year because the Bush administration failed to make the required certification to spend the money.

Just recently, these funds have been released as a result of waiver authority included in the fiscal year 2003 Defense Authorization Act. This is waiver authority that the Republicans in the other body wanted to severely restrict and limit to 1 year, but luckily, in the end, the Senate was able to prevail and provide an unrestricted waiver for 3 years.

These two events, the program review and the inability to certify, effectively stopped the Nunn-Lugar programs for approximately 2 years. The effectiveness of some of these programs has clearly been inhibited, if not damaged. The challenge now is to work to regain and then increase their effectiveness.

The sheer magnitude of the problem of proliferation dictates that we must find an international consensus and work through multilateral arrangements.

Despite the bureaucracy and delay that accompanies international cooperation, I believe it is necessary, especially in the area of arms control regimes, to have a multilateral approach.

A report by the Rand Corporation to the then-President-elect Bush pointed out:

> Without our democratic allies, many emerging global issues will likely prove to be beyond our ability to manage, but together with them, the United States will gain unparalleled ability to respond to tomorrow's demands and shape the future.

Regrettably, the Bush administration has demonstrated a distrust of international organizations.

Since President Bush took office, the administration has withdrawn from the ABM Treaty and walked away from meaningful negotiations concerning START II.

Indeed, in the preamble and article 2 of the Moscow Treaty, the first Strategic Arms Reduction Treaty is referred to as START, not START I. START II is evident only in its absence from this treaty.

Assistant Secretary of Defense J. D. Crouch has said:

> I think we have sort of moved beyond START II.

Many Russian officials have recognized what appears to be the inevitability of this and indicated they are considering START II dead—meaning that Russia is no longer obligated to eliminate its MIRV'd ICBMs.

We must recognize that in many areas, including arms control, the United States cannot go it alone, and we have to not only encourage but actively work to create an international coalition, particularly with respect to proliferation of these weapons and nuclear materials.

I am also concerned that recent actions by the United States seems to indicate that while we talk about nonproliferation in principle, in practice we seem to be somewhat ambivalent. This is exacerbated when it appears that the U.S. is increasing the importance of nuclear weapons in our defense policy.

While the nonproliferation programs were being held up, the administration was working on a new nuclear posture review that would put more emphasis on nuclear weapons. The December 2001 Nuclear Posture Review laid out a framework which includes maintaining the current size of the nuclear weapons stockpile, not reducing it; blurring the distinction between nuclear offensive strike and conventional offensive strike; introducing the notion that new nuclear weapons might be needed to meet changing security requirements; holding open the possibility of resuming nuclear weapons testing, either to develop nuclear weapons, or to maintain the current stockpile; supporting a robust nuclear weapons complex, not just to implement the stockpile stewardship program, but to manufacture hundreds of new plutonium pits per year, and to be able to design a new weapon if needed; and increase ''test readiness''—the level of readiness to conduct a nuclear weapons test, reducing that time period from 36 months to 18 months, essentially leaning further forward to the possibility of resuming nuclear tests. In addition, the Bush administration sought $15.5 million in its fiscal year 2003 request for a robust nuclear earth penetrator to use against hardened and deeply buried targets. This RNEP would modify an existing nuclear weapon with yields up to a megaton. Despite the fact that the fiscal year 2003 National Defense Authorization Act requires a report of the plan for this weapon before funds are released, there is an additional $15 million requested for this program in the fiscal year 2004 budget, indicating that the administration is still determined to try to develop this new variety of nuclear weapon.

There has also been a renewed interest in the development of small nuclear weapons. Even though there is clearly no military requirement for such a weapon, again in its fiscal year 2004 legislative proposal, the Department of Defense seeks the total repeal of a current ban on research and development that could lead to production of a low-yield nuclear weapon.

DOD states that this law, in their words, ''has negatively affected U.S. Government efforts to support the national strategy to counter weapons of mass destruction and undercuts efforts that could strengthen our ability to deter, or respond to, new or emerging threats.''

Frankly, this adds up to a very disturbing path of legitimizing the use of nuclear weapons in a world in which we are dramatically concerned with the possibility that Iraq is attempting to obtain nuclear weapons, a world in which the North Koreans are beginning to flaunt their ability to produce nuclear weapons, in which India and Pakistan are on the brink of conflict with nuclear weapons. The idea that we are lowering our own threshold to deploy, to use, to consider in our doctrine the use of nuclear weapons is, I think, an unfortunate and very dangerous approach. These continued efforts, both in the posture review, in requests for new weapons, in requests to investigate and do research on new types of nuclear weapons, and this legitimacy for the use of nuclear weapons, will have profound and detrimental consequences throughout the world.

It is extraordinarily difficult, if not impossible, to urge other nations to forswear the development and use of nuclear weapons if we are so routinely talking about the development and use of nuclear weapons. This is a very disturbing development.

We have to look at nonproliferation as part of our overall defense policy. Advocating new or usable nuclear weapons destroys, inhibits, and damages the credibility of the United States as we seek to restrain the development and deployment of nuclear weapons. I hope that message comes through in not only today's discussions, but in this treaty.

I am also concerned with another aspect of the current situation. We are talking about our approach to Iraq as a need to disarm Saddam before he acquires nuclear weapons. Yet we have moved rather gingerly and pushed over to the United Nations the problem of North Korea which is on the verge of beginning to operate its reprocessing facilities, with the capability of building nuclear devices within months, if not weeks.

I think this leads many people, and not just those who follow these policy debates but most ordinary Americans, to wonder what is the difference. Why is the situation in Iraq so compelling, even though there is little evidence that Saddam is on the verge of producing a nuclear weapon, that we engage in a military conflict, while, on the other hand, when there is glaring evidence of the ability of the North Koreans to produce such a weapon, we have moved this along into the category of not a crisis, something the U.N. can handle? That intellectual dilemma is puzzling many people throughout this country.

I believe there is a crisis in North Korea, and I believe it is a crisis that requires the prompt attention of the President. If one looks at the strategic vision we have to embrace, it can perhaps be divided into several major tasks.

The first is to preempt terrorists and, indeed, we saw this week an effective use of our military and intelligence forces and our allies in Pakistan. Then we have to interdict, contain, and stop the proliferation of weapons of mass destruction.

The North Koreans, in my mind, pose a much more difficult challenge to us than the Iraqis at the moment. Not only are they on the verge of producing a nuclear weapon because they have the nuclear material, they also have a history of selling anything to anyone because their major cash crop is selling weapons to anyone who will buy them.

We are here today to conclude a very small but a very important step forward with the support of the Moscow Treaty, but we have much more to do when it comes to particularly supporting efforts by our country in an international coalition to preempt, to interdict, to stop the proliferation of nuclear weapons and weapons of mass destruction, and I think to reexamine carefully and thoroughly the new emphasis we are putting on the development and use of nuclear weapons in our inventory.

I believe we will regret the day we give legitimacy to the potential use of nuclear weapons by any power, including the United States.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Massachusetts.

AMENDMENT NO. 255

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KERRY) proposes an amendment numbered 255.

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

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

The amendment is as follows:

(Purpose: To provide an additional condition)

At the end of section 2, add the following new condition:

(3) ANNUAL REPORTS ON MONITORING CAPABILITIES.—(A) Not later than 60 days after the exchange of the instruments of ratification of the Treaty, and annually thereafter on May 1, the President shall submit to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate an estimate, prepared by the Director of Central Intelligence, on the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty.

(B) Each estimate shall meet the requirements of a national intelligence estimate under section 103(b)(2)(A) of the National Security Act of 1947 (50 U.S.C. 403-3(b)(2)(A)), and shall include—

(i) an estimate, for each strategic nuclear weapons system of the Russian Federation, of the confidence of the United States, whether low, medium, or high, in the capability of the United States to monitor the deployed warheads on such system;

(ii) an assessment of the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty—

(I) under the verification measures of the verification regime under the Treaty on the Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty); and

(II) after the verification regime expires upon termination of the START Treaty; and

(iii) additional mechanisms to ensure United States monitoring of the compliance of the Russian Federation with the requirements of the Treaty, including—

(I) further agreements between the United States and the Russian Federation;

(II) mutual data exchanges between the United States and the Russian Federation;

(III) improvements in the transparency of strategic offensive reductions under the Treaty;

(IV) improvements to existing monitoring technologies; and

(V) other appropriate mechanisms.

(C) Each estimate shall be submitted in both classified and unclassified form.

Mr. KERRY. Mr. President, the Strategic Offensive Reduction Treaty that has been under consideration for a couple of days, also known as the Moscow Treaty, is, in my judgment, in the 18 years I have been here thinking about arms control and certainly as part of the debate in the Foreign Relations Committee and on the floor in the ratification of treaties, as flimsy a treaty as the Senate has ever considered. I believe its faults are many. At best, its defenders contend that it does no harm, but I find fault even in that assessment, and I find fault ultimately in this treaty.

The Moscow Treaty promises to reduce the deployed offensive weapons of the United States and Russia to a range of between 1,700 to 2,200 each by December 31, 2012. As far as the treaty goes, that is the highlight.

I think, under certain circumstances, one would certainly say that reducing its own number of deployed missiles is a worthy goal and something we want to achieve, but in the world we live in today, simply reducing their deployment, where they are sometimes under better control than they are going to be if they are not deployed, it may, in fact, be taking a dangerous situation and perhaps lending itself to the greater dangers of this particular moment of history.

In my assessment, regrettably, the treaty amounts to little more than a series of missed opportunities. Let me be precise about that point.

It does not mandate a reduction in total warheads. None must be dismantled. The treaty merely requires both parties to reduce the number of warheads in their operationally deployed arsenals. It provides no timetable for the planned reductions in deployed forces prior to the treaty's 2012 target date. It never requires the destruction of a single launcher.

In effect, the treaty allows each side to upload, download, and mix weapons in and out of storage. It contains no verification procedures, and the vast stockpiles of nuclear warheads in this country and in Russia remain unchanged.

Nuclear weapons, as we all know, are the legacy of the cold war, the most pressing single threat that we face today as we contemplate dealing with Saddam Hussein and as we wish we were dealing with North Korea. The most pressing threat, however, is really that nuclear weapons, or their lethal components, might fall into the hands of terrorists or irresponsible governments at the head of rogue regimes. This fact makes the provisions of this treaty even more troubling.

Instead of requiring the dismantlement of warheads or launchers, the treaty simply requires that on one day in 2012, the sides are to have no more than the 1,700 or 2,200 operationally deployed nuclear weapons. The remaining thousands of weapons will be held in reserve, stockpiled for some other unforeseen need, a need, I might say, in the context of the threats we are looking at in the year 2003 that is extraordinarily hard to explain, particularly when those stockpiled weapons become the risk of stolen, bartered, sold, or blackmailed materials. By their continued existence, they present a tempting target for thieves and for terrorists.

It is no secret that there are those who are eager to capitalize on a deadly market for weapons-usable nuclear materials. The GAO has documented numerous failed attempts to smuggle nuclear materials out of Russia. I say to

my colleagues that out of 20 of these incidents over the last decade, the materials involved in 13 of the 20 that we know about, and possibly as many as 15, were traced back to Russian sources.

I will tell my colleagues from my experience as a law enforcement official that if you know you caught 20 and you know you are operating with limited capacities to detect, anyone ought to be asking the question, How many did we miss and how many will we miss in the future?

The great security challenge of our day is to keep nuclear weapons out of the hands of those who would do us harm, but this treaty only expands the stockpile of nondeployed warheads in Russia, and in this country for that matter. It may advance some old cold war calculus for arms control, but it is not a part of a broader comprehensive approach to our nuclear relationship with Russia, particularly in the area of threat reduction, and there I think the treaty runs the risk of increasing the danger of nuclear theft by stockpiling thousands of warheads.

Obviously, it is the task of all of us to try to make the world more secure, not less secure. As I have said previously, we need to revitalize the Cooperative Threat Reduction Program by giving it the sustained leadership, attention, and funding it deserves.

Over the last decade, the United States has spent about $7.5 billion to deactivate 6,000 warheads and destroy thousands of delivery vehicles. Why would we spend $7.5 billion to deactivate and destroy and then bring a treaty to the floor of the Senate which does neither? We have to make good on our pledge of $10 billion over the next 10 years to the G–8 threat reduction partnership, and we need to encourage the good faith participation of our allies. But we know that even those efforts are not going to be enough.

In 2001, the bipartisan Baker-Cutler commission concluded that for our efforts to secure Russia's nuclear weapons materials and expertise to succeed, we will have to spend $30 billion over the next 10 years. That is a challenge we ought to be meeting as a primary goal prior even to the implementation of this treaty.

The treaty's supporters have noted that its brevity is important, as if the length of a treaty somehow constitutes a real accomplishment, and that provisions in it are a reflection of our new relationship with Russia.

My question is, if we are in a new environment with Russia, then why not include verification and transparency measures that reflect that new environment? The treaty does not mandate the dismantlement or destruction of warheads or launchers. Yet the provisions of this treaty turn upon themselves and the very logic underpinning the treaty as argued by its proponents. For instance, they argue, as Secretary Rumsfeld did before the Senate Foreign Relations Committee last summer, that no arms control treaty in the history of our country has ever required the destruction of warheads.

Well, if this treaty is based on the conclusion that we live in a different time, if this treaty is based on the conclusion that the cold war is really over, if this treaty is based on the conclusion that we have a new and better relationship with Russia and that we therefore can look to a new period, why then keep these warheads in storage for another day when the numbers we are reducing to under any SIOP or any warfighting plan we have ever seen are sufficient to destroy the world several times over? It simply does not make sense.

Why expand the stockpiles of stored nuclear warheads and materials when we know to a certainty, as the CIA tells us, we do not have the capacity today to safeguard those materials? Why would we do that when we are prepared to go to war against Iraq to prevent Iraq from illicitly receiving the very kinds of materials that we are about to encourage the capacity for others to seek out in the same way as we have seen others do in those 20 examples I cited a few moments ago?

The logic escapes anybody who stops to really think about what we are doing with this treaty. If we have really entered a new age and a new relationship with Russia—and I believe we have in fact—then neither Russia nor the United States should hedge on a commitment to real and meaningful arms reduction to an agreement that addresses in its very fabric the new and real threat of proliferation by theft or diversion. By doing so, we would send a signal to Saddam Hussein and to the rest of the world that we are not hedging our bets; that, in fact, we are serious and we are setting an example, and that the rest of the world is earning the justification for moving to disarm another nation for moving to nuclearization.

Those same supporters who say we need to hold on to vast stockpiles of nuclear warheads ironically argue that the profoundly changed nature of the relationship with Russia means we need not have negotiated verification regimes for this treaty.

There are still those in this country, as surely there are some in Russia, who continue to view our former cold war adversary with some measure of suspicion and distrust.

This treaty had the potential to deepen Russian-American cooperation and confidence building. If it had included verification measures, the treaty would have silenced skeptics of our new relationship by demonstrating mutual weapons reductions through inspection and verification. But, regrettably, it does not. Both sides understand that each has the potential to redeploy all of these weapons unless we can verify, at a minimum, their location. So by this feature alone, this treaty contains the seeds of future doubt and suspicion.

Verification ought to be a crucial aspect of our effort to secure nuclear weapons and materials, and if we cannot be certain that the numbers of deployed warheads have been reduced, we will not be certain of the magnitude of the challenge of securing those materials.

Since the height of the arms control negotiations, now almost two decades ago, the cry of many of my colleagues on the other side of this aisle—which I remember well for years as we tried to move through various arms control treaties—was appropriately, as Ronald Reagan said, ''trust but verify.''

This treaty exhibits a lot of trust but no verification. Accordingly, I am offering an amendment to help address the critical issue of verification. It is a very simple amendment, and it really ought not to present a problem to colleagues. If we are to have more confidence in this treaty, we should be working with the Russians now to achieve a viable regime to verify that reductions are indeed taking place on both sides and that they are taking place in a way that safeguards those materials. In the absence of any mutually agreed upon verification regime, we are left to rely on national means and methods to determine whether or not Russia is making the reductions promised on a reasonable schedule to meet the December 2012 target date.

My amendment adds a new condition to the Resolution of Ratification requiring an annual report prepared by the intelligence community on our ability to monitor Russia's compliance with the Moscow Treaty. For all those who have worried about trusting, verifying, and knowing what is happening, this is a very simple requirement, that we learn from our own intelligence community about our capacity to safeguard the interests of the United States of America. This national intelligence estimate must also provide an assessment of the ability of the United States to monitor compliance with the SORT treaty through the verification regime of the START I treaty and our ability to monitor compliance after the START I verification regime terminates in 2009.

Perhaps most notably, under my amendment the intelligence community is required to inform us of the mechanisms they need to verify treaty compliance with a high degree of confidence, including consideration of further agreements between the United States and the Russian Federation, mutual data exchanges between the two countries, improvements in the transparency of reductions that are called for in this treaty, technological improvements, and other appropriate mechanisms.

I have long viewed this treaty's lack of verification measures as a source of grave concern. I spoke out in the Foreign Relations Committee on each occasion that this treaty was considered. Last summer, when the Senate Foreign Relations Committee held hearings on

the treaty, I noted the huge contradiction in it, the lack of verification and accountability in the reduction, and the fear that these weapons or materials might fall into the hands of terrorists.

While I understand that we cannot mandate the dismantlement of warheads or the security of nuclear materials without renegotiating this treaty, it is critical we have an understanding, in order to protect the security interests of our country, of our own ability to monitor Russian compliance, where that ability might fall short and to understand a perspective on what we simply do not know. Without meaningful verification, there is a great deal that we will not know. And in this case, what we don't know can, indeed, hurt us in this dangerous world that we live in today.

Last month, I voted in committee to bring the treaty to the full Senate but not without reservation. At that time, I registered my serious concern about the treaty's lack of verification measures, about the lack of milestones or targets other than the 2012 date, and about the peculiarity of a treaty that expires on the very same day that it reaches its intended goal.

The amendment I offer today is intended to drive at the heart of the verification issue. I know several of my colleagues have offered or talked about other important fixes to address the shortcomings of this treaty, and I applaud their efforts, but at its heart this treaty represents a missed opportunity. It almost represents a treaty for the sake of a treaty without regard to the longer term security interests and strategic interests of the United States.

We missed an opportunity to help make the world safer for our children in the long term. We missed an opportunity to eliminate thousands of nuclear weapons for the long term, and not just to reduce deployed weapons for the short term. We missed an opportunity to advance American-Russian relations in a way that, in fact, builds a stronger foundation of trust between our two great countries.

By addressing the verification issue as envisioned in my amendment, I believe we can at least learn from our own intelligence community—which we ought to be willing to trust—what more needs to be done to provide the transparency and verification so essential to any agreement of this nature. If we are to make America safer, and we must, it will take more than cosmetic treaties that leave Russia's nuclear arsenal in place. As Ronald Reagan told the Nation, ''History has shown that peace will not come, nor will our freedoms be preserved, by good will alone.''

We have work still to be done to meet today's challenges, and I believe one of those challenges is to fix the Moscow Treaty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me respond to the distinguished Senator from Massachusetts by reviewing, once again, the origins of the Moscow Treaty. At the time that President Putin and President Bush met in May of last year, Russia had made the decision that the distinguished Minister of Defense of Russia, Sergei Ivanov, announced that the Russians would be destroying warheads in a matter of course, dismantling them from missiles. President Bush had indicated that as a matter of fact, unilaterally, the United States was prepared to do the same. For a variety of reasons—some economic, some safety—both countries had decided upon a course of action. When the two Presidents came together to formulate their joint announcement, the Moscow Treaty was formed.

As has been pointed out, first it was not clear that a treaty would be formulated, but ultimately both leaders decided that was the best course. That is why the treaty is simple. It, clearly, does not cover all of the objectives of arms control that can be covered in further negotiations, and many of us hope there will be further negotiations, not only in the nuclear area but in the biological area where in the course of this we have pointed out there is still a lack of transparency on the part of the Russians, as we perceive it at certain military facilities.

In the case of the amendment offered by the distinguished Senator from Massachusetts as a way of shoring up a treaty that he has criticized, let me say that the major verification procedure now in place is the Cooperative Threat Reduction Program, very specifically. At Surovatika, Senators and Members of the House have witnessed four missiles coming into that plant each month. They are destroyed. Clearly, the warheads have been separated from the missiles prior to that destruction. That four-a-month situation is going to continue unless for reasons of our own parliamentary procedure we stop the funding.

Clearly, you can verify the missiles. In my last visit to the site, I was accompanied by the governor of the territory, the mayors of various towns and radio stations in Russia. Why? Because this is a jobs issue. Russians employ people destroying missiles. Nothing very secret about it; they are swarming around. A television station from Indianapolis, channel 13, accompanied me on that occasion, took pictures of the entire process and put it on a remarkable documentary on Indianapolis television.

We need to catch up with where verification is in the world. It is on the ground, with Americans working in cooperative threat reduction with Russians.

The missiles that come in are interchangeable SS–17s, SS–18s, and SS–19s. We visited with plant officials about their further planning on SS–24s and 25s. This is the comprehensive scope of what we are talking about. These are, in fact, the missiles on which the warheads were located and from which they have been separated.

In a future treaty the United States and Russia may decide they wish to go much further with regard to the destruction of the warheads themselves. That point has been made by many Senators that the treaty does not call for the destruction of warheads. But, in fact, warheads are being destroyed by Russia and by the United States.

In terms of both of our countries, we have decided not to have transparency to the point that both nations are inspecting that process, but we are able to verify the results. I point out that the intelligence report that perhaps the Senator is calling for may be covered in large part by the cooperative threat reduction annual report to Congress. This one is for fiscal year 2002, a detailed summary not only of nuclear dismantlement and demolition but, likewise, anything we are doing in chemical and biological, too.

I admit there are areas, as I have said earlier, that we are not into yet, and we wish we were. My hope is we will be successful as two nations in seeing eye to eye on movement in that direction.

When it comes, however, to the verification of this Moscow Treaty, it flows from the fact that both nations of their own will want to destroy the missiles and separate the warheads and thus reduce the viability of these situations. We have indicated at our own time, at our own speed, we will do that. And the linchpin from the beginning, it seems to me, is the fact not only of the START requirements that do expire in 2009 but the Cooperative Threat Reduction Program on the ground which has no expiration unless Congress decides to terminate it. That is a different debate and a different set of decisions.

I am hopeful Senators will understand that. I appreciate the fervent plea for verifiability for all of us. As I say, I admit, I wish we had a better insight into the disposition of all of the warheads, but even here both Russians and Americans indicate in the fullness of time that these warheads have to be destroyed. In large part that is because sometimes the fuel components in them are unstable. They become a danger for the nation that is simply holding them.

This is not a sporting goods situation of inert matter on shelves. These, unfortunately, are far too living, viable, dynamic instruments. This is why we have worked with Russia on the fissile material that comes from the destruction of these warheads; to provide storage for that. It is a whole new set of problems.

Some arms control people have suggested that while the warhead is on the missile, you do not have the problem of fissile material that might get loose and be bought or sold. It is contained. That is still true while it is in the warhead. As it comes out of the warhead, a whole new set of problems is created—

of storage and of accountability. We are working with the Russians through our Department of Energy on these accountability projects, which are intense and vigorous.

For these reasons, I oppose the amendment of the distinguished Senator from Massachusetts. I hope other Senators will oppose it. It appears to me to be unnecessary. I would say, simply, other criticisms of the treaty are certainly a matter of the opinion of the Senator, but it was a modest treaty. It came from the volition and the will of both countries coming together at their own time, at their own speed, and with procedures that seem to me to offer an adequate amount of verifiability, much of it on the site and through the eyes of the Russian press, as well as our own.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, as the chairman of the committee knows, I have so much respect for him. We rarely have disagreements.

In essence, he sort of made my case just now. I have never argued about the destruction of some of the missiles that are going in. I talked about the warheads and fissionable material. Fissionable material is not in the missile; it is in the warhead. The distinguished chairman just said, I wish we had a better sense of the disposition of those warheads. I wish we had a better sense of the disposition of those warheads.

All I am asking for is that we ask our intelligence communities. Is the Senate scared of asking its own intelligence community for a report on our capacity to know where those materials are and what is happening? That is all I am asking.

On the floor of the Senate, I cannot go into what we have heard in private, in classified sessions. But this amendment is based on my knowledge of what our intelligence community is concerned about and what I believe we ought to be concerned about in this country. So as the chairman says, I wish we had a better sense of what is happening to those warheads.

If we are willing to go to war in Iraq because we think it is dangerous for that man to have nuclear warheads, and we know that 15 out of some 20 efforts to transfer this material has come from Russia, we better be concerned about these warheads. That is what this is about. That is precisely what involves the security of the people of the United States of America, and that is what this amendment is about.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LUGAR. Mr. President, I ask unanimous consent that the vote in relation to the Kerry amendment, No. 255, occur at 5:40 today, and the time until then be equally divided in the usual form, provided that no further second-degree amendment be in order to the amendment prior to the vote.

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

Mr. LUGAR. Mr. President, I add one final argument, and that is the actual text of the amendment of the distinguished Senator from Massachusetts requires these intelligence reports on the capability of the United States to monitor the compliance of the Russian Federation to the requirements of the treaty.

The treaty does not require insight into the warhead destruction. That is a desirable aim, and I have indicated in due course we may be able to negotiate that, but that is not a part of this treaty. Therefore, the report that is being asked for really asks for information that is not covered by the treaty.

I repeat, the information that is covered by the treaty, it seems to me, is really adequately monitored by the cooperative threat reduction personnel.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. I yield to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, I will be very brief. Let me, as we say in this body, associate myself with the remarks of my colleague and say it in a slightly different way. The Senator is asking us to have the intelligence community monitor something that there is no capacity to monitor because there is no provision in the treaty requiring the monitoring. It is a little bit like saying we would like the President to report to us, on a yearly basis, the cost of the destruction or dismantling or taking off of alert or removing from a silo every missile that is removed by the Russians.

That would be great, but it is not in the treaty. There is no provision.

Regarding the ultimate criticism, the primary criticism the Senator from Massachusetts makes of the treaty is accurate. There is not much to this treaty. There is not much to it. As I said in my very long opening statement, the administration, when they testified before the committee, said: Look, we were going to do this anyway. We were going to do this anyway. So we told the Russians, in effect paraphrasing the Secretary of State, we told the Russians if you want to come along, come along; if you don't, you don't.

The whole rationale of this administration is the bet that the cold war is over, it is truly and forever behind us. I hope they are right. This treaty affords few protections in the event of a heightened mistrust that develops, or a crisis. It doesn't have any protections. So we are not kidding each other, between now and 2012 the Russians could go out, if they were capable of doing it financially, and build 10,000 more nuclear weapons. They could dig 40,000 more holes for silos, if they had the money. There is nothing in this treaty that prevents that.

I know we are all railing against what the treaty should have been; what, if we personally were negotiating it, we would have done. But, unfortunately, I say to my friend from Massachusetts, he has a tough call the rest of us must make. If you don't like what is in it, and there is a great deal that is not in it that we would like to have in it, vote against it. Vote against it. But you can't fix something that is not broken, in effect—the treaty has no verification. It has no requirement the warheads be destroyed. There is no requirement they be accounted for. There is no requirement that there, in fact, be any progress shown until December 31, 2012.

If you view all of these deficiencies as fatal flaws, then vote no, just flat vote no because you cannot fix them. You cannot fix them. The only way I think we could fix them is if we get the administration and Russia and the United States on a positive track here. We have them on a track. The track is that upon which we have agreed. As Sam Nunn said, this is a good-faith treaty. That is the bottom line.

The reason I am for this treaty is failure to ratify it, I believe, will be read as bad faith. Ratifying it demonstrates good faith, and our hortatory language—the message we have sent personally in terms of each individual Senator speaking to the administration—the language in our declarations and conditions and the amendments on the floor makes it clear to the administration that there is clearly a majority of Members of the Senate who would like to see more done. We are not criticizing what has been done. We just would like more done.

I understand the frustration. Believe me. I understand the frustration. The greatest concern—and I think we have taken care of it—is if, in fact, the Russians do not have the engineering and/or financial capability of meeting the commitment they have made to reduce their deployed forces, we will help them. That is the best thing we can do. That is what we have done.

I suggest we should support this treaty and we should oppose this amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I appreciate the comments of the distinguished ranking Member. Let me be very clear. I am not asking for anything to be done here that isn't monitoring of this treaty. If you look on page 2 of my amendment, it says I am looking for "an estimate, for each strategic nuclear weapons system in the Russian Federation, of the confidence of the United States, whether low, medium, or high, in the capability of the United States to monitor the deployed warheads of such systems."

I am looking for ''an assessment of the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty.''

This is to make sure we can see that this treaty, as the minority ranking Member has called it, as limited as it is—I am trying to making sure we can comply and know that we have the ascertainment of our intelligence community with respect thereto.

That is precisely what my amendment does.

I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

The result was announced—yeas 45, nays 50, as follows:

[Rollcall Vote No. 42 Ex.]

YEAS—45

Akaka	Durbin	Levin
Baucus	Edwards	Lieberman
Bayh	Feingold	Lincoln
Bingaman	Feinstein	Mikulski
Boxer	Harkin	Murray
Breaux	Hollings	Nelson (FL)
Byrd	Inouye	Nelson (NE)
Cantwell	Jeffords	Pryor
Carper	Johnson	Reed
Clinton	Kennedy	Reid
Conrad	Kerry	Rockefeller
Corzine	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Stabenow
Dorgan	Leahy	Wyden

NAYS—50

Alexander	Crapo	Lugar
Allard	DeWine	McCain
Allen	Dodd	Murkowski
Bennett	Dole	Nickles
Biden	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Fitzgerald	Sessions
Bunning	Frist	Shelby
Burns	Graham (SC)	Snowe
Campbell	Grassley	Specter
Chafee	Gregg	Stevens
Chambliss	Hagel	Sununu
Cochran	Hatch	Talent
Coleman	Hutchison	Thomas
Collins	Inhofe	Voinovich
Cornyn	Kyl	Warner
Craig	Lott	

NOT VOTING—5

Domenici	McConnell	Smith
Graham (FL)	Miller	

The amendment (No. 255) was rejected.

Mr. LUGAR. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

AMENDMENT NO. 256

Mr. LEVIN. Mr. President, I expect to take just a few minutes. I will be offering an amendment and then having a colloquy. I send an amendment to the desk on behalf of myself, Senator DASCHLE, Senator AKAKA, and Senator NELSON of Florida.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for himself, Mr. AKAKA, Mr. DASCHLE, and Mr. NELSON of Florida, proposes an amendment numbered 256.

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

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

The amendment is as follows:

(Purpose: To provide an additional element in the annual implementation report)

In section 2, in paragraph (2)(F), strike ''; and'' and insert a semicolon.

In section 2, redesignate paragraph (2)(G) as paragraph 2(H).

In section 2, after paragraph (2)(F), insert the following new subparagraph:

(G) with respect to the strategic offensive reductions described pursuant to subparagraph (B) for a calendar year, a listing of—

(i) the total number of each type of strategic offensive nuclear warhead that will be in the nuclear weapons stockpile of the United States during the calendar year, and the total number of each type of strategic offensive nuclear weapon that will operationally deployed by the United States during the calendar year;

(ii) the number and type of nuclear warheads in the United States that are dismantled during the previous calendar year; and

(iii) to the extent possible, the total number of each type of strategic offensive nuclear warhead that will be in the nuclear weapons stockpile of the Russian Federation during the calendar year, and the total number of each type of strategic offensive nuclear weapon that will be operationally deployed by the Russian Federation during the calendar year.

Mr. LEVIN. Mr. President, condition 2 of the Resolution of Ratification requires the President to submit to the Committee on Foreign Relations and the Armed Services Committee an annual report that would include, among other things, the following: A, a listing of the strategic nuclear weapons force levels of the United States and a best estimate of the strategic nuclear weapons force levels of the Russian Federation as of December 31 of the preceding calendar year; B, a detailed description, to the extent possible, of strategic offensive reductions planned by each party for the current calendar year.

The purpose of this amendment is to clarify that those elements of the report should include certain important information on operationally deployed strategic nuclear warheads.

I have discussed this matter with Senators LUGAR and BIDEN, and I think we can address the issue satisfactorily with a colloquy between myself and Senators LUGAR and BIDEN.

My question of Senator LUGAR is the following: Will the committee urge the administration to include under the annual reporting requirements required by conditions 2(a) and 2(b), that the Committees on Foreign Relations and Armed Services would receive information on the following: During the calendar year of the report, the specific number and type of warheads that are planned to be no longer operationally deployed; secondly, during that current calendar year, the planned total size and makeup of the stockpile of strategic nuclear warheads by number and by type; and as to the past year, the report would then, hopefully, include and be urged to include by Senators LUGAR and BIDEN the total number and type of any warheads that were dismantled during the preceding calendar year?

Mr. LUGAR. Mr. President, I am pleased to respond to the distinguished Senator from Michigan. Our report does not require information on those warheads that are not operationally deployed. We would urge the administration to provide this information.

Mr. BIDEN. Mr. President, if I may respond to my colleague, I am not sure whether condition 2 requires the executive branch to list force reductions or force levels by warhead types. But I certainly think it is a good idea to do so, and I would urge the administration to do so.

In addition, I think the administration should make a decision on warhead dismantlement. Quite frankly, my support for ratification of this treaty is based in part on the administration's assurance before our committee that at least some warheads removed under the treaty will be destroyed or dismantled, and I fully expect the administration to live up to this. So I think the Senator is making a very valid point.

Mr. LEVIN. I thank both Senators for the assurance that they will urge the administration that the reporting provided for under the Resolution of Ratification would hopefully include the information I have just outlined.

AMENDMENT NO. 256, WITHDRAWN

Mr. President, I now withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

ALERT STATUS OF U.S. RUSSIAN NUCLEAR FORCES

Mrs. FEINSTEIN. Mr. President, I wish to ask the Senator from Delaware and the Senator from Indiana some questions about one of the issues that was raised during the hearings conducted by his committee on this treaty, and one of the questions not addressed by this treaty that I believe to be critical to reducing the danger of accidental or unauthorized nuclear war: the alert status of U.S. and Russian nuclear forces.

Like me, I know that they are concerned that the current alert status of

U.S. and Russian nuclear forces leaves open the possibility that, by continuing to maintain those nuclear forces that will not be operationally deployed under the Moscow Treaty on so-called hair trigger alert status, we increase the chances of an accidental or mistaken launch of nuclear weapons or, worse still, provide additional vulnerability to terrorist who might seek to hack into our nuclear command and control system and launch weapons.

I was pleased to note that the report of the Foreign Relations Committee on this treaty addresses the concerns that the alert status issue creates for crisis stability raised by former Senator Nunn, and the suggestion made by Gen. Eugene Habiger, the former Commander in Chief of U.S. Strategic Command that ''We may have to find a way to move more weapons off alert status''.

What are the views of the Senator from Delaware and the Senator from Indiana on this issue, and the desirability of moving nuclear weapons off alert status?

Mr. BIDEN. Mr. President, I think that the new relationship between the United States and Russia can only be improved by taking nuclear weapons off alert status. By giving decision makers more time to react to disturbing information, this would lower the risk of a nuclear war caused by one side's mistaken belief that the other was attacking it. I am especially impressed, moreover, by the fact that Gen. Eugene Habiger, former Commander in Chief of the U.S. Strategic Command feels that the time has come to do this. I would note, however, that General Habiger warned that existing specific de-alerting proposals were often not viable.

Mr. LUGAR. During our hearings on the treaty, a number of witnesses expressed concern about the alert status of U.S. strategic nuclear warheads. As the United States and Russia enter a new era of friendship and cooperation, we must take a close look at what we can do, in a safe and effective manner, to take nuclear weapons off alert status and prevent an accidental nuclear launch due to a false alarm or a miscalculation. I know our friend and former colleague Senator Sam Nunn expressed hope in our hearings that we might address the cold war-era nuclear postures of the United States and Russia as a critical next step following ratification of the Moscow Treaty.

Mrs. FEINSTEIN. In addition to recommending an ''immediate standdown'' in the alert status of the nuclear forces reduced under this treaty, it is my understanding that in his testimony, General Habiger also suggested that a system to take weapons off alert status in ways that make sense, are transparent, and do not compromise our security be designed by teams by people who actually build the weapons.

Given this commonsense recommendation—and the failure of the treaty to address this question—I would like to ask the Senator what action he would recommend the Senate take to make General Habiger's suggestion a reality? What measures, if any, does he plan to address this issue in an appropriate manner this Congress?

Mr. BIDEN. The Foreign Relations Committee's report encourages the President to establish a commission of weapon system experts to undertake the review that General Habiger proposed. It adds that if the President does not do so, Congress could usefully act on its own, either to establish such a commission or, perhaps, to commission the National Academy of Sciences to set up such a group.

Mr. LUGAR. The Senator from Delaware is correct, and while we have not determined precisely how to proceed, I expect that we will want to encourage action by the President before we move on our own. Such a measure could be offered as an amendment to major legislation such as the Department of State authorization bill.

I can say with confidence that Senator Biden and I are agreed that we should continue to pursue this initiative in ways that will provide productive results.

Mrs. FEINSTEIN. I thank the Senator from the Delaware and the Senator from Indiana for their leadership and hard work on this issue, and I look forward to continuing to work with him, on additional legislation, if need be, to pursue this initiative.

Mr. CONRAD. Mr. President, I rise to engage the distinguished leadership of the Foreign Relations Committee in a colloquy.

Mr. President, for the past several years I have been increasingly concerned about the ''loose nuke'' threat presented by the Russian Federation's arsenal of non-strategic or ''tactical'' nuclear warheads. Unlike strategic nuclear forces, intermediate range nuclear forces, or even conventional forces in Europe, tactical nuclear arms are not covered by any arms control treaty. There are no formal negotiated limits of any kind, no way to hold current and future Russian leaders to the unfulfilled promises of steep reductions made by former Soviet President Gorbachev and former Russian President Yeltsin more than a decade ago. In fact, we do not even have a good estimate of how many tactical warheads Russia has because the United States has no inspection rights. Unclassified estimates of the current Russian stockpile have ranged widely, from 7,000 warheads to 18,000 warheads—four to eleven times as many as the United States. I am very troubled by the insufficient security at Russian nuclear warhead storage facilities and al Qaida's known interest in acquiring these horrific weapons. Am I right to understand that my colleagues share this concern?

Mr. LUGAR. I share the concern voiced by the senior Senator from North Dakota on the potential proliferation threats posed by non-strategic nuclear weapons in Russia. As the Senator knows, the United States has voiced serious concerns about the safety and security of these dangerous weapons stored at multiple locations around Russia. I believe the Russian tactical nuclear weapons arsenal represents an area of concern and needs attention.

Mr. BIDEN. I agree with the Senator from North Dakota and the Chairman of the Foreign Relations Committee, Senator LUGAR. During hearings last year on the Treaty of Moscow now before the Senate, several of our distinguished witnesses mentioned Russia's tactical nuclear stockpile, including former Senator Nunn. The smaller size and greater number of these weapons puts them at higher risk for theft by, or illicit sale to, terror networks such as al-Qaida.

Mr. CONRAD. I thank my colleagues, who perhaps remember that in 1998 I authored legislation passed by Congress that identified Russia's tactical nuclear stockpile as a serious proliferation threat and called for United States pressure on Russia for real reductions. I was therefore disappointed that a requirement for Russian tactical warhead dismantlement and United States inspection rights were not part of the Treaty of Moscow. The disconnect between the ability of the United States to maintain current strategic force levels almost indefinitely, and Russia's inevitable strategic nuclear decline due to economic realities, gave our side enormous leverage that I believe we should have used to win Russian concessions on tactical nuclear arms. While I am encouraged that the resolution of ratification before us includes a declaration on accurate accounting and security, it does not mention Russian tactical nuclear reductions. I have prepared a corrective amendment and would welcome the support of the chairman and ranking member of the Foreign Relations Committee.

Mr. LUGAR. I thank the Senator from North Dakota for his work on this important issue and his thoughtful invitation. I would ask that the Senator from North Dakota withhold his amendment with the understanding that the Foreign Relations Committee will make a serious effort to elevate the matter of Russian tactical nuclear weapons to a top priority on our Nation's arms control and threat reduction agenda.

Mr. CONRAD. Would the chairman and ranking member be willing to hold hearings in the coming months focusing on the threats associated with Russia's tactical nuclear stockpile? Furthermore, would the chairman and ranking member be willing to join me in urging the President to develop a comprehensive plan to reduce the Russian tactical threat, including making Russian tactical warhead reductions a priority in our dealings with the Russian Federation?

Mr. LUGAR. The ranking member and I have plans to hold hearings on the continued proliferation challenges in Russia. Clearly the threat posed by tactical nuclear weapons would be an important topic to be discussed and investigated in that forum. I believe that tactical nuclear warhead reductions should be a top United States priority in our new relationship with Russia.

Mr. CONRAD. Would the chairman and ranking member consider sharing their views on the threats posed by the proliferation of tactical nuclear weapons with the administration? Might I propose a letter indicating our shared concerns and our hopes that this issue will be a high priority for the administration in future discussions with Russia?

Mr. LUGAR. I thank the Senator for his thoughts. This issue was raised repeatedly during our hearings on the Treaty. I am confident of the administration's efforts to engage Russia on this issue. I would be happy to reinforce the committee's views on these issues with the appropriate Administration officials.

Mr. BIDEN. Let me echo the comments on the chairman. After entry into force of the Moscow Treaty, getting a handle on Russian tactical nuclear weapons must be a top arms control and non-proliferation objective of the United States Government. I look forward to joining the chairman in holding hearings on this matter and in writing to the administration with the Senators from Indiana and North Dakota. A comprehensive approach to this problem, as the senior Senator from North Dakota suggests, is sorely needed.

Mr. CONRAD. I thank my colleagues for their concern about this clear and present ''loose nuke'' threat and for their supportive statements today. We cannot afford for this blind spot in our non-proliferation efforts to go uncorrected. With the assurances of the chairman and ranking member, I withdraw my amendment and yield the floor.

Mr. BURNS. Mr. President, the treaty between the United States of America and the Russian Federation on Strategic Offensive Reductions also known as the ''Moscow Treaty'' obligates each side to reduce the number of its strategic offensive nuclear warheads to a range of 1,700 to 2,200 by the end of 2012. This treaty is a good beginning and I congratulate the President for making a complete break with past arms control approaches by placing reliance on deterrence and missile defense. The enemies of American must clearly understand that they cannot attack or threaten us with impunity and that our Nation will have a national missile defense in place as soon as possible.

President Reagan coined the phrase ''trust but verify,'' This phrase could have no greater meaning than when it is applied to the Moscow Treaty.

I recently returned from Moscow where I was deeply impressed by the dramatic transformation underway in that huge country. While there is no doubt that Russia is on the track towards democracy and a free market economy, it is equally clear to me that the Russians are not at the stage where they can be given a blank check to implement the Moscow Treaty. Congress has authorized more then $4.7 billion for U.S. programs aimed at helping Russia and other newly independent states to reduce the threats from their weapons of mass production. The Moscow Treaty does not expressly deal with the Nunn-Lugar Cooperative Threat Reduction program but the objectives of the treaty cannot be achieved without extending this assistance to Russia. The only certainty about future costs to implement this treaty is that the costs are uncertain and that the uncertainty goes toward how much higher costs will be. According to a GAO report issued this week, ''. . . a pilot facility to destroy 14 percent of Russia's chemical weapons over an 11-year period would cost the United States almost $890 million—an increase of about $150 million from the estimate . . .'' Higher program cost uncertainty is compounded by Russia's apparent inability to pay for its agreed-upon share of project costs.

Another problem with an effective reduction of weapons of mass destruction is that Russia is not always willing to provide access to its sensitive national security sites. Access is essential to verify that the Parties are living up to their part of the agreement. According to the same GAO report, U.S. inspectors do not have access to the sites in Russia where 90 percent of the materials used in weapons of mass destruction are stored. Access issues largely revolve around trust, and, frankly, this treaty highlights the need for access; it does not solve the problem.

Despite its obvious incompleteness and inadequacies, the Moscow Treaty is a step in the right direction of reducing and limiting strategic nuclear warheads. Reliance on a START I verification regime as provided in the treaty is not, of course, satisfactory, but it can provide a block in the foundation for good faith implementation through a genuine verification scheme.

President Bush is headed in the right direction in working to build a constructive partnership with Russia. American does not fight wars with democracies. While a reduction in nuclear weapons is an important element on both sides in building the trust and mutual dependence needed for a stable, long-term relationship, I want to stress the importance of maintaining the Nuclear Triad. Our land-base missile systems, in particular, play an essential role in ensuring this Nation's security. With 200 Minuteman III missiles, Malmstrom Air Force Base, in my State of Montana has and will continue to play a critical role in our national security.

The Moscow Treaty deserves the advice and consent of the Senate so long as it is seen as the beginning and not the end of the long path we must follow to rid the earth of weapons of mass destruction and threats to our national security.

Mr. HATCH. Mr. President, it is one of those ironies of history that the U.S. Senate began debate on the ratification of the latest and historic arms control treaty on the day that historians mark as the 50th anniversary of death of Stalin. Whether, in fact, Stalin died on this day, or whether he had been poisoned a few days before, is a fact that, like so many others of Soviet history, is clouded with uncertainty. But it is a fact that he was one of the most brutal dictators of the 20th century and he died at a time when the Soviet Union was a global foe of the United States.

More interesting for this debate, Stalin's death in 1953 occurred at a time when our nations were just beginning a strategic competition that would see our nuclear stockpile grow to massive and frightening levels before we reached our first accommodations, nearly 20 years after Stalin's death.

Today, while we still have many cultural and political differences with the Russian state, we cooperate on more issues than we compete, and we do not compete under the threat of nuclear annihilation.

A decade ago, the Soviet Union went to the dustbin of history, and with it went an ideological enmity that locked us in a spiral of growing nuclear arsenals and the existential comfort of mutually assured destruction, a comfort that made sense to the strategic thinker, but left of lot of other people all over the world, including in our own societies, feeling quite insecure.

After President Nixon initiated an era of arms control agreements with the first Strategic Arms Limitation Treaty, or SALT, the pendulum began to swing the other way. And, as is often the case with historic pendulums, it far exceeded a sensible point. By the early 1980s, while strategic arms treaties had already reduced the aggregate megatonnage of our combined strategic arsenals, a school of arms control theology had been accepted that, as is often the case with the social science theology of the moment, threatened to overcome all rationale thinking on strategic issues. The answer to all arms control issues was always yet another treaty. Existing treaties were sacrosanct, with the wise old dictum so famously and wisely uttered by Bismarck in the 19th century ignored: ''At the bottom of all treaties is written in invisible ink, rebus sic stantibus''—Until circumstances change.

Circumstances did change. Technologies barely imaginable in the 1960s, when the first strategic treaties were contemplated, became commonplace in the 1980s. An era of self-enforced vulnerability to mutually assured destruction, enshrined in the 1972 Anti-Ballistic Missile Treaty, became anachronistic as physicists and engineers first

imagined missile defense and then a visionary president, Ronald Reagan, grasped its potential to defend societies against missiles armed with weapons of mass destruction. In doing so, President Reagan reflected a very American belief that know-how and new thinking can provide security to those who never felt secure under mutual assured destruction.

What bumpkins and dreamers, the conventional arms control theologians declaimed. Let us dismiss these simpletons and disparage their thinking as ''Star Wars,'' they said; as if the Strategic Defense Initiative had anything to do with stars or wars, but instead a more secure world here on earth.

Today, it would be inaccurate to state that we have developed missile defense to a functionally deployable state. But, we are closer to a functional stage than those who dismissed it out-of-hand ever imagined. They were wrong and, today, our challenges to perfecting missile defense are largely in engineering, no longer scientific. A grateful Nation has President Reagan to thank for being able to transcend the conventional wisdom and believe in American creativity and technology to move us into a new strategic era.

But the arms control lobby would not relent, or even reform, through the 1980s and 1990s. We had some good arms control agreements negotiated, signed and ratified—I supported the START treaties. We had some treaties that I believed did not enhance our security—and I voted against the Comprehensive Test Ban Treaty. While I have generally supported the idea that bilateral and verifiable reductions of the strategic arsenals of Russia and the U.S., preserving necessary strategic arsenals of Russia and the U.S., preserving necessary strategic force structures, was stabilizing and therefore in our interest, I have never believed that this world would be more secure if the U.S. handicapped its nuclear option.

Circumstances changed. Our global foe of 30 years ago is not our primary threat today. The mutual assured destruction doctrine that held the world in nuclear check for nearly 50 years became suspect, an old strategic doctrine of vulnerability. New threats and new, vicious substate actors became the threats that brought us grief and anxiety.

We saw technologies spread to a host of rogue nations, many of which hold explicitly antagonistic postures toward the U.S. In 1998, a congressionally mandated Commission To Assess the Ballistic Missile Threat to the United States, chaired by Donald Rumsfeld, brought to light the fact that, ''concerted effects by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the U.S., its deployed forces and its friends and allies.'' Further, the report concluded that ''the threat to the U.S. posed by these emerging capabilities is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the intelligence Community.'' Such clarity in assessment forced us to refocus the efforts of the Intelligence Community, and they responded.

But it also forced us to continued to challenge the conventional wisdom on arms control at the time, and that required that we face up to fact that we needed to proceed with our research and development of a missile defense capability, and that, if we were serious about this, we had to recognize that we would need to abandon the ABM Treaty.

One candidate for the 2000 presidential election shared the vision of President Reagan. He recognized that the ABM Treaty was not sacrosanct. In fact, he had read the test, which plainly allowed for the U.S. to withdraw. I don't know if President Bush knew the doctrine in international law of rebus sic stantibus, but President Bush certainly knew that the strategic situation had changed, and U.S. national security required that we not constrain our security for tomorrow by a concept from yesterday. Such an approach was to guarantee insecurity. And President Bush understood something fundamental about strategic doctrine: insecurity does not sustain stability.

President Bush told us all that the days of the ABM were limited. And the arms control lobby went, to make a bad pun, ballistic. Abandoning the ABM Treaty with Russia would herald a new era of unrestrained nuclear competition, as both sides would try to outbid the other's arsenal with enough weapons to overwhelm, they declared with certainty bread of doctrinaire conviction.

President Bush and his advisers didn't flinch in their thinking. But they did address the question: If the fear is that withdrawing from the ABM Treaty which we did—the U.S. withdrew from the Treaty on December 13, 2001 and the Treaty was effectively terminated 6 months later—then the U.S. will match our withdrawal from the ABM with a new proposal to lower the START II levels to historic new reductions.

And on March 24 of last year, the Russian Federation and the United States concluded the Treaty on Strategic Offensive Reductions, which will now be overwhelmingly passed as this body provides our advice and consent.

This is a historic moment for nuclear arms reduction. It is, more importantly and in my opinion, a historic moment in the evolution of arms control doctrine.

The treaty reduces operationally deployed warheads for both sides to a range of 1,700 to 2,200 by December 31, 2012. Today our arsenals are more than twice that level. The reductions are to be implemented based on the established START I verification regime and mechanism, which will be in place until 2009. The treaty allows for consultation and extension of verification mechanisms beyond that time.

The Treaty allows either party to ''determine for itself the composition and structure of its strategic offensive arms,'' meaning that we will be able to configure our triad according to the evolving needs of our nuclear posture review. The treaty does not link the objectives to our continued Cooperative Threat Reduction program, appropriately known as the Nunn-Lugar programs, recognizing all of the work the current chairman of Foreign Relations Committee and our former Democratic colleague have committed in their careers toward the cause of disarmament. I commend my colleagues on the Foreign Relations and Armed Services committees for engaging the administration in extensive discussions about continued support for this program. I strongly approve the administration's commitment to this program, and I will continue to support their budget for this.

Lord Palmerston said in the 19th century, ''We have no eternal allies and we have no perpetual enemies. Our interests are eternal and perpetual.'' Our interests evolve year-by-year, and the world remains a very hostile place. Russia competes with us geopolitically, but it does so in the Security Council, not in strategic arms.

It is in the interests of the world that our two arsenals be reduced, and it is in the interests of both of our countries that we reduce them with transparency, and flexibility.

These principles are enshrined in the Moscow Treaty. I commend the administration for concluding it with Russian administration, and I urge the Russian Duma to proceed with their own ratification, as I encourage my colleagues today to join me in support of this historic treaty.

Mrs. FEINSTEIN. Mr. President, I rise today to express my support for ratification of the Moscow Treaty which will require the United States and Russia to reduce the number of strategic nuclear warheads to 1,700 and 2,200 each by December 31, 2012. This treaty marks an important step forward in the relationship between the United States and Russia and reduces the dangers posed by strategic nuclear weapons. Nevertheless, I am concerned that the treaty does not go far enough and I believe its flaws must be addressed if we truly want to make the threat of nuclear war a thing of the past.

It should be pointed out that at one time the administration did not even want a treaty, preferring to reach a ''gentleman's agreement'' with Russia instead. I am pleased that President Bush changed course and recognized the value in committing the reduction of strategic nuclear warheads to a binding, legal document.

That document now before us is welcome but its brevity—all of three pages—indicates that certain issues were left out or swept aside.

First, the treaty does not actually require the United States or Russia to destroy any nuclear warhead. Either side may comply with the provisions of the treaty simply by ''deactivating'' the warhead and placing it in storage for possible redeployment. And, each side reserves the right to decide what exactly ''deactivation'' means.

This runs counter to the whole point of reducing the dangers of nuclear weapons by eliminating them once and for all. Have we really made a step forward in securing a better world for ourselves and future generations if both sides can re-arm at a moment's notice? And have we really made progress if the actual number of warheads destroyed is rather small?

Russia, for one, simply can not afford to maintain its current number of strategic nuclear warheads. But I am concerned that if we do not actively destroy more of our strategic nuclear warheads, Russia may feel compelled to keep more of its own, thus diverting valuable resources away from more pressing needs. And, I think everyone recognizes that Russia's ability to safely and securely store any warheads is far less than our own and the potential that they may fall into the wrong heads much higher.

Second, the treaty does not contain a detailed verification regime to judge compliance with its provisions. The treaty only mentions the creation of a Bilateral Implementation Commission that will meet twice a year. No more. The START Treaty, in contrast, contained provisions on detailed notifications, regular data exchanges, onsite inspections, and continuous monitoring of select facilities.

President Reagan was found telling his Soviet counterparts that when it came to reducing the number of nuclear weapons, his motto was ''Trust, but verify.'' Though the Soviet Union is no more and Russia and the United States have a new relationship based on friendship and cooperation, I believe President Reagan's words still ring true.

Eliminating nuclear warheads is serious business and it is beneficial and, necessary, even for friends, to closely monitor, and verify, the progress of each side. We will enhance and deepen the trust and cooperation between Russia and the United States by doing so. So, I would urge the administration to use the Bilateral Implementation Commission as a forum for negotiating a detailed verification regime.

Third, there is no timetable for implementation and no mileposts to judge progress before the Treaty expires. The only date and milepost mentioned is the deadline to reach 1,700 to 2,200 strategic nuclear warheads by December 31, 2012.

Thus, over a 10-year period, with no verification regime, we will have no indication on how Russia is achieving the goals of the treaty until the very day it is bound to reach those goals. And then the treaty expires unless both sides agree at some point to extend it.

Again, trust and cooperation are built on verification and openness. I urge the administration to press for detailed timetables and mileposts to ensure that both sides are actively complying with the provisions of the treaty and will reach the final marker at the stated time.

Fourth, the treaty does not address tactical nuclear weapons. As my colleagues know, there is a great deal of uncertainty about the number, location, and secure storage of Russian tactical nuclear weapons. Smaller and more portable than strategic nuclear weapons, they are vulnerable to theft or sale to terrorist groups. Yet, the treaty does not even mention them.

This is a glaring oversight and the dangers posed by tactical nuclear weapons—especially now in the post-September 11 world of global terrorism—warrants the immediate attention and action by both Russia and the United States. I urge the administration to press for an accurate accounting of and adequate safeguards for tactical nuclear warheads and to work towards reducing their number.

Finally, the treaty does not address the alert status of our nuclear forces. I offered, and withdrew, an amendment to address this issue earlier. Suffice to say that I am very concerned that in this era of a new relationship between the United States and Russia, we still keep our nuclear weapons on high alert or hair trigger status. This greatly increases the chances of an accidental or unauthorized launch or miscalculation which would result in unthinkable devastation.

Clearly there are problems with this treaty but I will vote for ratification because it is a step forward towards the goal of reducing the dangers posed by strategic nuclear weapons.

But there is a lot of work to be done to make this Treaty truly worthwhile. As our former colleague Senator Sam Nunn stated in hearing held by the Senate Foreign Relations Committee on the Moscow Treaty:

> If [the Treaty] is not followed with other substantive actions it will become irrelevant at best and counterproductive at worst.

I hope the administration will take these words to heart and get to work on the important issues left out of the treaty so that we will be able to leave a world for future generations safer from the horror of nuclear war.

Mr. KYL. Mr. President, I rise in strong support of this resolution of ratification for the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, otherwise known as the Moscow Treaty.

This treaty is a masterstroke. It represents, and, I am sure, will be sent as ushering in a wholly new approach to arms control for a wholly new era. The simplicity of this treaty is a marvel. It is extremely brief, indeed just three pages long. It is shorn of the tortured benchmarks, sublimits, arcane definitions and monitoring provisions that weighed down past arms control treaties.

This is for a very good reason. The simplicity and brevity of this treaty reflect the simple fact that the US and Russia have moved beyond the enmity of the cold war era. The treaty recognizes this fact. It assumes a degree of trust between nations that are no longer on the precipice of war. Indeed, this treaty is the ultimate confirmation of the fact that arms control does not lead to real peace; rather, real peace—in this case made possible by a democratic transformation in russia—leads to arms control.

The old cold war approach to arms control treaties is clearly outmoded. Can anyone truly believe that a 700-page behemoth like the START I treaty is relevant to today's situation? Clearly, such an approach would not reflect today's radically changed political and strategic environment. As such, it would not serve America's real security needs.

This treaty does. The most important thing to remember about this treaty is that it was negotiated after the United States independently determined the number of strategic warheads that were needed for our security. The outcome of the negotiations with Russia simply ratified our own prior determination. This is in stark contrast to the old approach to arms control, whereby arms control agreements preceded and ultimately drove our military and strategic decisions.

The long lead time for achieving reductions and the lack of sublimits and interim benchmarks in the treaty also serve our interests by preserving much needed flexibility. Looking at the fluid, almost chaotic, situation in the world today, with new threats having arisen in just the past year or so—attacks on our homeland, nuclear weapons developments in North Korea and Iran—one can foresee that circumstances could easily change over the next decade. If circumstances and threats change, so too might our strategic nuclear requirements. Thus, it is only prudent that we not box ourselves in. The drafters of this treaty in the Bush administration were wisely cognizant of that fact.

Mr. President, this treaty—and the forward-looking, post-cold war mindset that serves as its basis—deserves our strongest support. I urge my colleagues to approve this resolution of ratification.

Mr. BUNNING. Mr. President, I support ratification of the Moscow Treaty without any amendments or further conditions set upon it by the Senate. Ratifying this resolution as it was unanimously reported out of the Committee on Foreign Relations is the right thing to do.

This treaty is a tremendous step forward in the effort to make this world a safer place. This is especially significant in light of all that is going on in the world with our fight against terrorism. It is especially important and

significant to work in this way with the Russian Federation. This treaty and mutual framework helps further align and strengthen the growing relationship between Russia and the United States. We should all be encouraged that Russia's Duma has made no reservations about this treaty and is expected to approve it soon after the Senate approves it.

The Moscow Treaty reduces the aggregate number of operationally deployed strategic nuclear warheads to a range of 1,700 to 2,200 by the end of 2012. This is a tremendous accomplishment that deserves the full support of the Senate and the Russian Duma. President Bush and Russian President Putin hold this as a high priority in getting this treaty ratified in a timely manner.

This treaty was considered in a deliberative and thoughtful manner by the Senate. The Foreign Relations Committee worked in conjunction and cooperatively with the Armed Services Committee and Intelligence Committee. As well, the insights, reservations and recommendations on this issue were solicited and received by Secretary of State Colin Powell, Secretary of Defense Don Rumsfeld, and Chairman of the Joint Chiefs of Staff, Richard Myers.

The Moscow Treaty is unlike any arms control agreement we have participated in with Russia or the former Soviet Union before. Previously, we spent decades with our counterparts in conferences and meetings to negotiate treaties. This agreement was concluded more quickly—with openness, trust, and verification prevailing in a new era of American and Russian relations.

Traditionally, there have always been many objections to treaties such as these which limit our arms and possibly put the United States as risk. Now, we are hearing of some who have said this treaty is not strong enough. And there has been some legitimate debate about the verification system and reduction schedule which I and many of my colleagues share.

But I do not believe these concerns rise to the level to oppose this treaty since it provides a mutual framework for pursuing the continued destruction of weapons and missiles whose sole purpose was to be used against the Untied States. This treaty is too important to oppose. It highlights and emphasizes the vitality of the new relationship between the United States and Russia. And with the ongoing war on terrorism, this is of utmost importance.

Like the chairman and ranking member of the Senate Foreign Relations Committee, I believe our storage procedures are sound and I am thankful for the flexibility within the treaty for our strategic systems. Yet I, like many others, do share some concerns on the Russian side. But these concerns are alleviated since the Treaty has avenues we can pursue which addresses these possible problems to ensure that weapons do not ever slip into the wrong hands. Also, I am thankful Russia is agreeable to work with the United States to ensure that these weapons never fall into the hands of terrorists or rogue states.

Also, one certainly must pay attention to, and demand, a solid verification system for these weapons. Some point out that the treaty has a flawed verification system that must be watched closely. But this criticism has not reached the level of doubt and worry to scrap the treaty. As well, those critics are operating under the guise of a cold war mentality. But things have changed in our relationship with Russia.

Secretary Powell has been upfront on this issue in regards to the verification system in the Treaty. On behalf of the administration, he has clarified the need to keep the verification process the way it is within the treaty. The administration points to the fact that the cold war is over and we must move beyond that thought process. Also, Secretary Powell argues that we are better served with flexibility and not rigidity under the treaty.

I believe the level of verification in this treaty is what is needed. We do know that our American verification experts already have the START Treaty verification procedures underway. These experts and procedures will be around for another decade. So, we do have dismantlement teams and equipment from the United States in Russia. These teams have been and will continue to cooperatively—with verification—dismantle these Russian weapons.

Overall, I believe this treaty is in the national interest of the United States, the Russian Federation, and the world. Of course there are those critics who say this treaty does not go far enough, and some may say it goes too far. The purpose of this treaty is not to put an umbrella over all arms policy for all countries all at once. These objectives and goals can be made through piecemeal approaches, and this is exactly what this treaty does.

We have a new ally with the Russian Federation, and we must move ahead to strengthen our relationship with this new ally and make this world a safer place. I urge my colleagues to support the Moscow Treaty without further conditions being set upon it. It is the right thing to do.

Mr. DASCHLE. Mr. President, I congratulate Senators Lugar and Biden on their efforts on this treaty. In their new roles as chairman and ranking member of the Foreign Relations Committee, they have gotten off to an impressive start.

By holding a series of hearings on pressing foreign policy questions, including the looming war in Iraq, they have helped every Member of this body and every American.

In addition, they have taken the Moscow treaty, a treaty that came to us with perhaps more questions than answers, and added some definition. Their collective labors on behalf of this treaty demonstrate what bipartisanship leadership on the Senate Foreign Relations Committee can accomplish.

This treaty represents a positive step forward by calling on the United States and Russia to reduce their operational strategic nuclear weapons.

But it is a step long overdue. Many in this body felt these kinds of cuts were possible years ago. Unfortunately, despite our best efforts for much of the last decade, Republican opposition prevented us from implementing the kind of cuts this treaty now recommends.

To ensure that we derive the maximum security benefit possible from this treaty, the Administration will have to fill in a number of important holes.

Though the administration has assured us that some nuclear warheads will be dismantled, the treaty itself does not require the destruction of any Russian or American nuclear warheads. At best, the treaty will put warheads out of reach, but, unfortunately, not out of use.

Moreover, the treaty does not include a schedule that spells out when the deactivations must occur. In fact, the treaty language does not require the deactivation of a single weapon until December 31, 2012, the day the Treaty expires.

Finally, the treaty also lacks any concrete commitments on verification, undermining longstanding, commonsense principle of our arms control policy.

In years past during Senate discussion of other arms control treaties, some of my colleagues on the other side of the aisle based their opposition to these treaties on the lack of adequate verification provisions. Evidently, either verification is no longer as important to them or they are more willing to trust rather than verify.

Notwithstanding these shortcomings and inconsistencies, Mr. President, I intend to vote for the Resolution of Ratification, and I do so because it points our country in the right direction.

But at the same time I would like to send a message as loudly and clearly as I can to the administration and to my colleagues here in the Senate: our work to deal with the threat posed by weapons of mass destruction does not—in fact cannot—stop with this vote.

Last fall, the President's National Security Strategy stated that:

> The gravest danger our nation faces lies at the crossroads of radicalism and technology. Our enemies have openly declared that they are seeking weapons of mass destruction, and evidence indicates that they are doing so with determination.

We need look no further than the steadily escalating crisis in North Korea to recognize that the President was right on that point.

You will have to look much harder, however, to ascertain exactly what the administration proposes to do about this crisis, let alone the larger issue of proliferation worldwide.

That is why last night I joined with several of my colleagues, including Senators LIEBERMAN and BIDEN, to introduce S. Res. 77, a resolution that calls on the administration to devise a comprehensive strategy to confront the threat posed by the proliferation of weapons of mass destruction.

The Bush administration's policy to counter proliferation has suffered from inconsistency. It downplays immediate threats, such as North Korea, while emphasizing others. It puts together a coalition against terrorism, but has ignored allies and undercut international action against proliferation. In sum, the administration's actions have served to weaken the effort to establish a robust coalition against proliferation.

Since taking office, the Administration has been deeply ambivalent about U.S. efforts to secure loose Russian nuclear weapons and materials and unemployed nuclear scientists. While focusing on Iraq, it has ignored looming problems elsewhere, such as North Korea and Iran. And rather than seeking ways to reduce the threat of nuclear weapons, it pursues doctrines that would effectively lower the threshold for the use of nuclear weapons, further compounding the threat of proliferation.

This is too dangerous a situation to ignore any longer. Our resolution calls for a comprehensive strategy—not unhelpful actions or ad hoc reactions—to confront the threat proliferation presents to American citizens.

Among other proposals, we urge the President to begin to build a coalition against proliferation, immediately and directly engage North Korea, vastly increase the funding for U.S. programs that secure loose nuclear weapons, and deliver sufficient homeland security funds to the state, local and tribal governments so they can prepare their first responders to respond against further terrorist attacks.

The administration tells us that the Moscow Treaty represents a new kind of agreement, one that acknowledges we have emerged fully from the cold war era. We join the President in welcoming this new era.

But we must take this opportunity to create a comprehensive strategy that recognizes we have entered a new and potentially dangerous era of proliferation.

To date the administration has failed in that effort. But we cannot afford to delay any longer.

Time is not on our side. The risks to our security mount with each day that passes without an administration strategy.

Mr. LUGAR. My understanding is the distinguished majority leader has a statement.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, first of all, I thank Senators Lugar and Biden for their excellent work over the past 2 days. I appreciate their leadership on this very important Resolution for Ratification of the Moscow Treaty.

The treaty is critically important to making the world a safer place and will lead to dramatic reductions in nuclear arsenals. I commend the chairmen. The next vote on the adoption of the Resolution of Ratification will be the last vote of the evening.

In addition, there will be no rollcall votes during tomorrow's session, although the Senate will be in session to allow Members to speak in morning business. Many will be speaking on Iraq. If any Members are interested, I encourage them to come to the floor to do so tomorrow. The next rollcall vote will be on Monday at 6 p.m.

I thank all Senators for their attention.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask for the yeas and nays on the Resolution of Ratification.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Is there further debate?

If not, the question is on agreeing to the Resolution of Ratification with conditions and declarations to Calendar No. 1, Treaty Document No. 107–8, the Moscow Treaty. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FRIST. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The yeas and nays resulted—yeas 95, nays 0, as follows:

[Rollcall Vote No. 43 Ex.]

YEAS—95

Akaka	DeWine	Lieberman
Alexander	Dodd	Lincoln
Allard	Dole	Lott
Allen	Dorgan	Lugar
Baucus	Durbin	McCain
Bayh	Edwards	Mikulski
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Sununu
Cornyn	Kohl	Talent
Corzine	Kyl	Thomas
Craig	Landrieu	Voinovich
Crapo	Lautenberg	Warner
Daschle	Leahy	Wyden
Dayton	Levin	

NOT VOTING—5

Domenici	McConnell	Smith
Graham (FL)	Miller	

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the Resolution of Ratification is agreed to.

The Resolution of Ratification agreed to is as follows:

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

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS AND DECLARATIONS.

The Senate advises and consents to the ratification of the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions (T. Doc. 107–8, in this resolution referred to as the ''Moscow Treaty'' or ''Treaty''), subject to the conditions in section 2 and declarations in section 3.

SEC. 2. CONDITIONS.

The advice and consent of the Senate to the ratification of the Moscow Treaty is subject to the following conditions, which shall be binding on the President:

(1) REPORT ON THE ROLE OF COOPERATIVE THREAT REDUCTION AND NONPROLIFERATION ASSISTANCE. Recognizing that implementation of the Moscow Treaty is the sole responsibility of each party, not later than 60 days after the exchange of instruments of ratification of the Treaty, and annually thereafter on February 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report and recommendations on how United States Cooperative Threat Reduction assistance to the Russian Federation can best contribute to enabling the Russian Federation to implement the Treaty efficiently and maintain the security and accurate accounting of its nuclear weapons and weapons-usable components and material in the current year. The report shall be submitted in both unclassified and, as necessary, classified form. (2) Annual implementation report. Not later than 60 days after exchange of instruments of ratification of the Treaty, and annually thereafter on April 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on implementation of the Treaty by the United States and the Russian Federation. This report shall be submitted in both unclassified and, as necessary, classified form and shall include

(A) a listing of strategic nuclear weapons force levels of the United States, and a best estimate of the strategic nuclear weapons force levels of the Russian Federation, as of December 31 of the preceding calendar year;

(B) a detailed description, to the extent possible, of strategic offensive reductions planned by each party for the current calendar year;

(C) to the extent possible, the plans of each party for achieving by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty;

(D) measures, including any verification or transparency measures, that have been taken or have been proposed by a party to assure each party of the other party's continued intent and ability to achieve by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty;

(E) information relevant to implementation of this Treaty that has been learned as a result of Strategic Arms Reduction Treaty (START) verification measures, and the status of consideration of extending the START verification regime beyond December 2009;

(F) any information, insufficiency of information, or other situation that may call into

question the intent or the ability of either party to achieve by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty; and

(G) any actions that have been taken or have been proposed by a party to address concerns listed pursuant to subparagraph (F) or to improve the implementation and effectiveness of the Treaty.

SEC. 3. DECLARATIONS.

The advice and consent of the Senate to the ratification of the Moscow Treaty is subject to the following declarations, which express the intent of the Senate:

(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 Intermediate-Range Nuclear Forces (INF) Treaty, approved by the Senate on May 27, 1988.

(2) FURTHER STRATEGIC ARMS REDUCTIONS. The Senate encourages the President to continue strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States.

(3) BILATERAL IMPLEMENTATION ISSUES. The Senate expects the executive branch of the Government to offer regular briefings, including consultations before meetings of the Bilateral Implementation Commission, to the Committee on Foreign Relations and the Committee on Armed Services of the Senate on any implementation issues related to the Moscow Treaty. Such briefings shall include a description of all efforts by the United States in bilateral forums and through diplomatic channels with the Russian Federation to resolve any such issues and shall include a description of

(A) the issues raised at the Bilateral Implementation Commission, within 30 days after such meetings;

(B) any issues related to implementation of this Treaty that the United States is pursuing in other channels, including the Consultative Group for Strategic Security established pursuant to the Joint Declaration of May 24, 2002, by the Presidents of the United States and the Russian Federation; and

(C) any Presidential determination with respect to issues described in subparagraphs (A) and (B).

(4) NONSTRATEGIC NUCLEAR WEAPONS. Recognizing the difficulty the United States has faced in ascertaining with confidence the number of nonstrategic nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of

(A) establishing cooperative measures to give each party to the Treaty improved confidence regarding the accurate accounting and security of nonstrategic nuclear weapons maintained by the other party; and

(B) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its nonstrategic nuclear weapons.

(5) ACHIEVING REDUCTIONS. Recognizing the transformed relationship between the United States and the Russian Federation and the significantly decreased threat posed to the United States by the Russian Federation's strategic nuclear arsenal, the Senate encourages the President to accelerate United States strategic force reductions, to the extent feasible and consistent with United States national security requirements and alliance obligations, in order that the reductions required by Article I of the Treaty may be achieved prior to December 31, 2012.

(6) CONSULTATIONS. Given the Senate's continuing interest in this Treaty and in continuing strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate urges the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of Article IV of the Treaty.

Mr. LUGAR. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I express my appreciation to Senator BIDEN for his leadership and management of this treaty and to all Members of the Foreign Affairs Committee, including the distinguished occupant of the Chair, and also Senators who contributed constructively to, I believe, a very important achievement.

I specifically mention staff Members who were most supportive and helpful: Tom Moore, Ed Levine, Jofi Joseph, Brian McKenan, Jason Hamm, Ken Myers, Sr., and Kenny Myers, Jr. We are appreciative of staff on both sides of the aisle for a remarkable piece of work.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that at 6 o'clock on Monday, March 10, the Senate proceed to executive session for the consideration of Calendar No. 39, the nomination of Gregory Frost to be U.S. District Judge for the Southern District of Ohio; provided further that the Senate then proceed immediately to a vote on the confirmation of the nomination; further that following that vote the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that the Senate return to legislative session and proceed to a period for morning business.

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

BLACK HISTORY MONTH

Mr. FRIST. Mr. President, as you know, Black History Month drew to a close last week with the end of February. It was a month of much celebration and many lessons. For me, it was also a time for reflection. I want to take this opportunity to speak for just a moment about where we have been, where we are now and where we, as a nation—''under God, indivisible, with liberty and justice for all''—must go.

Black History Month actually evolved from Black History Week, established in 1926 through the tremendous efforts of Dr. Carter Godwin Woodson. He originally chose the second week of February because of its proximity to the birth dates of two great men whose role in the history of Black Americans are legendary: Frederick Douglass and Abraham Lincoln. Dr. Woodson's goal was simple: to highlight the many accomplishments of African Americans and their history of contribution to the growth and success of the United States of America.

This year, as our Nation faces challenges unsurpassed in my own personal memory, I would like to speak for a moment of what I hope and pray our—this United States Senate—contributions will be.

The 20th century saw great strides forward in equality, civil rights and racial relations in America. These strides were made because dedicated men and women recognized what needed to be done to right wrongs—and then they went and did the right things—sometimes at the expense of their own lives.

Recently, Darrell Green, former Washington Redskin great and future National Football League Hall of Famer, told a group of Senators that knowing the right thing to do is easy. Doing the right thing takes a lot of commitment and very hard work. He reminded us that we are in the Congress to serve—and when we are gone, the world should be a better place not just for a few, but for all people.

Twenty years from now, as our replacements in this Chamber celebrate Black History Month, I hope they will have cause to celebrate the good that we accomplished. I hope they will be able to celebrate the progress we made in bringing people together. I hope they will celebrate the fact that United States Senators of the 108th Congress led the way in spurning activities and speech designed to infect racial wounds, not heal them.

And I hope they will celebrate the fact that we, as today's leaders, made great strides forward in parity in education and health care for all Americans.

We all know that education is the ultimate key to opportunity. Our public education system is an unparalleled commitment by the United States of America to our Nation's children. We need to make certain that we provide them with the tools they must have to succeed. Their success, after all, is vital to all of our future endeavors. If we are to make progress worth celebrating by future generations, we must do the right things.

We must also do the right things to reduce health disparities. It is simply wrong that an African American male the same age as myself is significantly more likely than am I to contract heart disease. We need to provide not only research, but action in this area. Every American deserves the highest quality health care, regardless of race.

I hope they will celebrate the fact that we fought an aggressive and effective war against AIDS, the plague of our time—and perhaps of all time. A disease that disproportionately affects African Americans and indeed, the continent of Africa.

Mr. President, last month we celebrated the amazing accomplishments of African Americans throughout our history. Let us also celebrate a joint commitment to ensure that our contribution to Black history—really, to American history—will be that we serve well, do what is right, and leave the world a better place.

DOUBLE TAXATION OF DIVIDENDS AND CORPORATE GOVERNANCE

Mr. CRAIG. Mr. President, I come to the floor this afternoon to speak with my colleagues as chairman of the Special Committee on Aging. Every person in this Chamber, every Senator, has an abiding interest in the welfare of America's seniors. The issue I wish to speak to this afternoon is, No. 1, how double taxation unfairly targets older Americans and the disastrous effect of the dividend penalty on corporate governance.

During the first week of February, the Aging Committee held a hearing entitled ''Tax Fairness: Does Double Taxation Unfairly Target Older Americans?''

Those attending the Aging hearing learned that older Americans, both working and retired, are subject to double taxation more than any other age group in the United States. Just yesterday, Larry Kudlow, economist-spokesman on Fox News, a television commentator, was here to speak to many of us on the issue of double taxation. Older Americans are literally being taxed to death by their own Government.

Let me share with you three reasons seniors are double taxed. The reality is, first, many seniors pay taxes twice on Social Security benefits. Secondly, the Government collects the death tax when a senior passes on. Third, dividend income is also taxed twice; it is taxed once at the company level and again at the individual level. Older Americans are more likely to hold investments that pay dividends than any other age group. Over 70 percent of all taxable dividend payments are received by Americans age 55 and older.

Clearly, eliminating the dividend penalty will benefit older Americans and seniors who have worked hard all of their lifetime, sacrificed, and saved a nest egg for their retirement. More than 9 million seniors age 65 years and older, many on fixed incomes, rely on dividend income to make ends meet from month to month. The average—and this is an important figure because, remember, our critics are saying, but this is just for the rich; remember, 9 million seniors, 65 years of age and older—dividend income for these taxpayers is a little over $4,000 per year. But $4,000 additional money per year for someone living on a fixed income is a substantial amount of money.

Let me share with you the testimony of one of the witnesses at the Aging Committee hearing, Dick Buxton from Idaho. Mr. Buxton was there to talk about the beneficial impact of ending double taxation on dividends and what it would do to his father and mother-in-law. His father is 89 years old, a railroad retiree; his mother-in-law is 91 years old and a retired schoolteacher. They both worked very hard all their lives, saved a little money, and invested in corporations that paid dividends as a part of their life savings to benefit their income.

They are not wealthy people. They are what is clearly part of the number I am talking about. They are not retired Wall Street investment bankers. They are not wealthy heirs to family fortunes. These are the middle-class seniors who were frugal throughout their lifetime and saved a nest egg for retirement. These are the faces of seniors across the country who should not be penalized for saving. That is what our President has said, and that is one of the reasons he has offered up the opportunity to take down the double taxation of dividends. These are the kind of people who would benefit clearly from the abolition of that double taxation.

Ending the dividend penalty not only benefits older Americans. It gives a much needed boost to our economy. It also makes corporations more accountable. At the hearing, we learned that restoring trust in ensuring the honest financial management of our Nation's companies is extremely important as an issue of this moment in our Nation's history. Larry Kudlow spoke very clearly to that issue yesterday, that it is a unique time in our Nation's investment history, and we need to give this area of our economy a jolt. Improving confidence in our financial markets is critical to all workers, retirees, especially after the Enron and WorldCom debacles.

How would ending the dividend penalty improve corporate accountability? Well, dividends don't lie. You either have the cash to pay them or you don't. Increases in dividend payments would provide a clear and unmistakable signal of a company's strength and viability in the market to the average person who would invest in that company. No corporate report, no message by a corporate executive saying: Here is what we are going to do, and here is how we are going to bump the stock, and here is the game we are playing for all of your investors as the story. The story is, are we making a profit and are we paying a dividend. That is kind of the old way that created the stability in corporate America that most investors began to rely on years ago.

Dividends signal stability. They encourage shareholders to hold for the long term even when companies go through tough times. For example, Bristol-Myers is a company that has gone through tough times recently. The current annual dividend is $1.12, with a yield of about 5 percent. Investors know Bristol-Myers is basically a sound, healthy, productive company.

The dividend is a big part of investor confidence in the long-term strength of a company. The psychology of shareholders changes with short-term to long-term as it relates to the value of dividends and when those dividends go up.

Dividends encourage internal investment in only the best ideas. Dividends are taxed at a much higher rate than capital gains. The higher dividend tax encourages companies to hoard cash rather than pay it out in dividends. The dividend penalty causes too much money to be chasing too few good investment ideas. We have seen that in spades as companies have come tumbling down as a result of bad decisions made by corporate America.

One of our experienced witnesses known as an expert, Hillary Kramer, who is often on television and has her own program, speaking to the stability of investment, spoke about United Airlines. Over the past couple of decades, UAL invested their cash in Internet ventures and car rentals and hotels. United Airlines ventured out of their core competency; that is, getting people from one spot to another on an airliner, in part because the Tax Code pushed them in that direction. Shareholders might have been better served if they had paid a higher dividend instead and stayed with the business of efficiently and safely moving people through their airlines.

The dividend penalty diverts cash away from shareholders into bad but tax-favored activities. On the other hand, paying cash out in dividends encourages stockholders to channel the cash into the most productive investment opportunities available inside and outside the company. This encourages management to be more careful and prudent when investing cash. After all, this is cash that is owed to the stockholder or owned by the stockholder.

The dividend penalty encourages a dangerous buildup of debt and discourages using cash to finance internal investments. Heavy business debt makes companies less stable. The cost of debt is artificially low compared to using cash because of the double taxation of dividends. Interest payments on debt are subsidized by the Tax Code as an expense. In other words, we encourage corporate indebtedness by this very method. Dividends, on the other hand,

are taxed now at a rate of nearly 70 percent, second highest in the world. The first highest is Japan. The flattest, most stagnant, economy in the world today is Japan.

There is a simple and clear explanation. We all know that if we want more of something, we subsidize it; if we want less of something, we tax it. Remember, heavy debt has been associated with many of the recent large bankruptcies about which I have spoken.

You will remember that Enron had significant debt levels, among other things, that it had most of its problems investing in a variety of areas outside of its core competence. The Tax Code encourages debt and discourages dividend payments.

The double taxation of dividends encourages the creation of noncorporate entities. These noncorporate entities include partnerships and limited liability corporations. Again, Enron left many of its debts off the books. As a result, Enron overstated profits by some $400 million in its annual reports. Noncorporate entities do not pay double taxes like corporations.

Many of the scandal-ridden companies that imploded over the past few years had created several noncorporate entities—in part, to escape double taxation. Again, the Government says to do one thing—be honest and straightforward. But the same Government encourages complexity and dishonesty with its very own tax policy.

A year ago, Professor Jeremy Siegel of the Wharton School of Business wrote in the Wall Street Journal:

> Nothing could possibly excuse Enron, Arthur Andersen and other firms from their deceptive and fraudulent practices. But cries for accounting reforms, transparent earning reports, and audit independence will not amount to anything [other than to slightly discourage this effort] if the U.S. tax system encourages firms to do just [what Enron did].

The double taxation of the dividends is hurting efforts to prevent corporate corruption. The frustrating thing is that even after enacting tougher penalties for corporate crooks, it may be wasted effort, unless we end the double taxation penalty. The incentive is backward, Mr. President. If we have learned nothing over the past decades, we should have learned that incentives do matter.

I would venture most of us in the Chamber agree that ending the double taxation of dividends is good for older Americans and it is good tax policy. It would be a shame for us to cast aside good policy without a fair and honest appraisal.

I urge my colleagues to support the effort to end the double taxation of dividends. We can help improve corporate accountability by proper tax policy, while greatly helping America's seniors.

In conclusion, I will quote one of the expert witnesses who testified at our hearing, Hilary Kramer:

> Abolishing the double taxation of dividends is about keeping companies honest, competent, and resourceful. . . .

I say we end the dividend penalty now for the sake of our seniors, who are the savers and investors in stable investments, and who live on fixed incomes, and for the sake of returning trust to the governance of corporate America.

I yield the floor.

ARKANSAS TROOPS ACTIVATED FOR WAR ON TERROR AND IN MIDDLE EAST

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to the American troops in the National Guard and Reserves who are placing themselves in harm's way to defend our Nation against the threats of terrorism and global instability.

As of Wednesday, March 5, there are 176,553 Reservists and Guardsmen nationwide activated in the war on terrorism and in preparation for a potential war against Iraq. Currently, there are 1,875 Arkansans activated in the Guard and Reserves. I ask unanimous consent that the attached list be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it so ordered.

(See exhibit 1.)

Mrs. LINCOLN. Mr. President, the sacrifices that these men and women are making to protect our freedoms, depend our libraries, and ensure regional and global stability. We are very proud of each and every one of them, and we owe all of them a tremendous debt of gratitude for their service and for their dedication to their country. We look forward to welcoming them home safely.

EXHIBIT NO. 1

ARKANSAS TROOPS CURRENTLY ACTIVATED

Amry National Guard (947 Arkansas):
N. Little Rock: State Area Command, 4.
Ft. Smith: 2nd Battalion, 142nd Field Artillery, HQ, 42.
Lincoln: 2nd Battalion, 142nd Field Artillery, SVC Battery, 20.
Van Buren: 2nd Battalion, 142nd Field Artillery, Battery A, 72.
Siloam Springs: 2nd Battalion, 142nd Field Artillery, Battery B, 73.
Ozark: 2nd Battalion, 142nd Field Artillery, Battery C, 73.
West Memphis: 216th Military Police Company, 124.
Little Rock: 149th Medical Company, 2.
Little Rock: 343rd Mobile Public Affairs Detachment, 7.
Ft. Smith: 935th Support Battalion, 99.
N. Little Rock: 935th Support Battalion, 32.
Charleston: 296th Medical Company, 117.
Marked Tree: 1123rd Transportation Company, 167.
N. Little Rock: 25th Support Detachment, 49.
N. Little Rock: 114th Aviation Air Traffic Control Battalion, 64.
N. Little Rock: 223rd Regiment (Regional Training Institute, 2.
Army Reserve (794 Arkansans):
Fayetteville: 362nd Psychological Operations Company, 67.
Little Rock: 431st Civil Affairs Battalion, 140.
Little Rock: 460th Chemical Brigade, 1.
Pine Bluff: 92nd Chemical Battalion, 1.
Charleston: 38th Ordnance Group, 56.
Little Rock: 468th Chemical Battalion, 45.
N. Little Rock: 489th Engineer Battalion, 452.
Little Rock: 90th Reserve Support Command, 22.
Little Rock: 112th Chaplain Detachment, 2.
Little Rock: U.S. Army Engineering Facility Group, 8.
Air National Guard (145 Arkansans):
Little Rock: 189th Airlift Wing, 99.
Fort Smith: 188th Airlift Wing, 46.
Naval Reserves (7 Arkansans):
Little Rock: Naval Support Activity Bahrain, Detachment C, 7.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 2, 2003, in New York City. Robert Spreng, 53, a resident of Manhattan's Upper East Side, was attacked at 4 a.m. as he walked home from a local bar. Spreng was followed by three men who approached him and screamed, ''Faggot!'' Spreng raised his hands and said that he didn't want any trouble, to which the assailants responded, ''Faggot, you're going to have trouble tonight.'' Then the three men attacked Spreng, punching and kicking him. A witness called police, who were able to stop the beating.

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 is 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.

UNANIMOUS CONSENT CONSIDERATION

Mr. INHOFE. Mr. President, earlier today I submitted a request to the Senate to be considered with respect to the referral of the nomination of the Assistant Secretary of the Army for Civil Works for the 108th Congress.

The order reads as follows:

> Ordered that, when the nomination for the Assistant Secretary of the Army for Civil Works is received by the Senate, it be referred to the Committee on Armed Services, provided that when the Committee on Armed Services reports the nomination, it be referred to the Committee on Environment and Public Works for a period of 20 days of session, provided further that if the Committee on Environment and Public Works does not report the nomination within those 20 days, the Committee be discharged from further consideration of the nomination and the nomination be placed on the calendar.

This order has been closely coordinated with both the chairmen and

ranking members of the Committee on Armed Services and the Committee on Environment and Public Works. As chairman of the EPW Committee and a senior member of the Armed Services Committee, I thank Chairman WARNER and Senator LEVIN for working with Senator JEFFORDS and myself.

Mr. JEFFORDS. I too support this order, and I thank my colleagues on both the EPW Committee and Armed Services for working together on this request.

HONORING JAMES T. O'TOOLE

Mr. THOMAS. Mr. President, I rise today to express my thanks to James ''Jim'' O'Toole for all of his hard work and efforts with the Parks and Historic Preservation Subcommittee which I chair.

Born and raised in San Francisco, Jim O'Toole is a graduate of St. Ignatius College Prep and the University of San Francisco. After a 23-year career with the National Park Service, he came to Washington, D.C. in 1987 as part of the U.S. Department of the Interior's Management Development Program where he also served on a professional fellowship to the Senate Committee on Energy and Natural Resources. After the completion of his fellowship, Mr. O'Toole resigned from the Park Service and assumed the roles as professional staff member for the committee. During his tenure in the Senate, he served as professional staff for the minority for the Subcommittee on Public Lands, National Parks and Forests from 1987 to 1994, and with the majority for the Subcommittee on National Parks, Historic Preservation and Recreation from 1994 until now.

Mr. O'Toole's primary issue responsibilities encompassed all work relating to the Subcommittee on National Parks, Historic Preservation and Recreation, including: oversight of the National Park Service and Park Police; Wild and Scenic Rivers; National Trails and Recreation Areas; Historic Sites and Preservation; Military Parks and Battlefields; Land and Water Conservation Fund; outdoor recreation resources; preservation of prehistoric ruins and objects of interests on the public domain; concessions programs affecting federal land management agencies; and various public land management issues. Over the past fourteen years, the bulk of the Senate Energy Committee legislation has been reported from the National Parks Subcommittee which Jim staffed. Mr. O'Toole was also the primary Senate staffer for H.R. 3248, the Omnibus Parks and Public Lands Act of 1997, (P.L. 104–333). This law contains the precedent setting San Francisco Presidio legislation which has been used as a template for similar private sector initiatives including the Oklahoma City Memorial and the Baca Ranch in New Mexico.

More recently, Jim was instrumental in the passage of the Vision 2020 Parks Restoration Act, P.L. 105–391. Vision 2020 represents the culmination of a three-year effort and the first major reform of the National Park Service in more than 30 years, including an 11 year effort to reform the Agency's Concession Management Program.

After 14 dedicated years working for the Senate Energy Committee, and more than 23 years with the National Park Service, it is with gratitude and great enthusiasm that I convey my personal thanks and appreciation to Jim O'Toole. I also announce that Jim is officially retired from his life of public service as of today, and he will be joining the private sector.

Again, I express my appreciation to Mr. O'Toole and I wish him well with all of his new ventures and future challenges.

ADDITIONAL STATEMENTS

TRIBUTE TO FIRE CHIEF STEVE PAULSELL

● Mr. BOND. Mr. President, I rise to pay tribute to Fire Chief Steve Paulsell who for the past 25 years has been Chief of the Fire District in Boone County, MO. When Mr. Paulsell became Fire Chief in 1997, the fire department was volunteer and consisted of six stations and 50 firefighters. Under Chief Paulsell's supervision, the fire district has become a national leader in fire and emergency service. Chief Paulsell's departmental accomplishments include: growth from six to fourteen fire stations in 2003, over 300 volunteer personnel, creation of one of 28 Federal Emergency Management Agency urban search and rescue task forces, an FBI accredited bomb squad, award-winning elementary school education life safety program, creation of fire and building codes in Boone County, and original creator of the Joint Communications 911 Center. Chief Paulsell's personal accomplishments include: International Association of Fire Chief's Fire Chief of the Year in 1996, chair of the Missouri Fire Service Alliance, National Fire Academy course developer, and developer of Missouri State Fire Mutual Aid system. In addition to these accomplishments, Mr. Paulsell has testified on behalf of the Nation's fire service to the Senate.

Boone County Fire District Board President Willis Smith praises Chief Paulsell and states, ''He was the right man to lead our fire department in 1977 and he is still the right man to lead. He has the vision, insight and leadership abilities to continue to grow this department.'' I commend Boone County Fire Chief Steve Paulsell for his dedicated service to protecting and improving the quality of fire and emergency services for Missourians, and for making the Boone County Fire District a model for our country.●

FILIBUSTERS ON JUDICIAL NOMINEES

● Mrs. BOXER. Mr. President, last week in the Senate, I indicated that with the exception of Supreme Court nominees, I believed that if a judicial nominee answers the questions posed to him or her and provides the Senate with the information needed in order for us to perform our constitutional role of advice and consent, I would not engage in a filibuster on the nomination.

I made this remark expecting that the so-called blue slip process would be honored. That is, if a Senator from the nominee's home State did not return a blue slip, that nominee would not have a hearing, would not be considered in the Judiciary Committee, and would never even come before the full Senate. A filibuster would not be possible because the nomination would not leave the Committee.

After my remarks, however, something happened that makes me question that assumption. I heard on good authority that hearings are being considered on nominees for whom a blue slip has not been returned.

Given this development, it is possible that the Senate could, in the very near future, be asked to vote on a nominee for whom a blue slip was never returned. At the time of my statement last week, I was not aware that such an abrupt change in Senate practice was being contemplated so seriously and so quickly.

Therefore, Mr. President, if a nominee were to come before the full Senate without a blue slip having been returned by a home State Senator, I reserve the right to participate in a filibuster on that nomination.

Furthermore, after I gave my statement last week, an incident occurred in the Senate Judiciary Committee that is of great concern to me and should be to the entire Senate. The rules of the Judiciary Committee require at least one Member of the minority party to agree to end debate on a matter before the Committee. Despite this rule, and despite the fact that no one on the Democratic side voted to end debate, the Committee held a vote on two circuit court nominees anyway.

If Committee rules are going to be ignored—if the rights of the minority party and the interests of the minority party are trampled upon—this process is going to break down. It may take a filibuster in the full Senate to ensure that the rules are followed.

Finally, Mr. President, when President Bush was elected, he pledged to govern from the center. Judicial candidates who are not moderate, mainstream nominees violate that pledge. I want to hold President Bush to his pledge, so I also reserve the right to filibuster a nominee who is far outside the mainstream.●

TRIBUTE TO VICTOR BAIRD

● Mr. THOMAS. Mr. President, I pay tribute today to Victor Baird, who is retiring from his position as Staff Director and Chief Counsel to the U.S. Senate Select Committee on Ethics after more than 15 years of service.

Victor has done a good job under difficult circumstances. I have been a member of the Committee for a couple of years, but in that short time, Victor has handled several high profile and sensitive situations very well. He certainly has been an asset in helping the committee preserve the integrity of the U.S. Senate. Often in this type of job, you end up making no one happy. Victor handled this thankless task with an even demeanor.

Vitor has spent much of his life in public service—in the military, for the state of Georgia and in the U.S. Senate—and he has done it well. I wish him the best in his new endeavors.●

TRIBUTE TO THE MOREHEAD STATE UNIVERSITY VARSITY CHEERLEADERS

● Mr. BUNNING. Mr. President, today I pay tribute to the Morehead State University Varsity Cheerleaders. The squad was named the national champions in the Universal Cheerleaders Association-sponsored competition earlier this year.

The Morehead State University coed varsity cheerleading squad was awarded their 13th national title in Division I. Along with winning the overall title, Morehead State University won the all-girl partner stunt competition and received second place in the all-girl squad.

The citizens of Morehead, KY should be proud to have Morehead State University cheerleading champs living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth.

I would like to congratulate the members of the varsity squad for their success. But also, I want to congratulate their coach, Myron Doan, along with their peers, faculty, administrators, and parents for their support and sacrifices they have made to help meet those achievements and dreams.●

TRIBUTE TO WALTER CLORE

● Mrs. MURRAY. Mr. President, in February my State lost one of its great citizens and the father of the Washington State wine industry, Walter Clore.

My colleagues in the Senate may not know a fact that many wine drinkers around the globe have learned the last few years: Washington state produces some of the highest quality wine in the world. In 2001, Wine Enthusiast Magazine named Washington state as ''Wine Region of the Year'' in recognition of its fast emergence as a global leader in producing quality wines.

I am very pleased that Walter Clore lived to see this honor—and so many other honors—bestowed on Washington wine. These honors reflect just how far the Washington wine industry has come. They are also an outstanding tribute to the legacy of Walter Clore and his vision, hard work, and dedication.

I had the great privilege to meet Walter Clore in August 2002. That month, I spent two days traveling through Washington wine country—from Yakima to Prosser to the Tri-Cities to Walla Walla. I toured wineries and vineyards and visited with wine grape growers, vintners, and researchers.

Walter Clore was himself a researcher. He spent 40 years at the Washington State University Irrigated Agriculture Research and Extension Center in Prosser, Washington, an institution that has helped lead Washington agriculture forward in so many ways. During his career, Walter developed and tested wine grape varieties throughout Washington State.

Walter Clore retired in 1976, but he was not content to relax and watch from the sidelines. Using his 40 years of experience and knowledge, he connected emerging vintners with promising varieties and pointed them to ideal sites for growing wine grapes.

I am deeply saddened by the loss of Walter Clore. But I take solace in the fact that he pursued his passion with unrelenting determination and transformed his vision of a vibrant Washington wine industry into a reality. We need more pioneers like Walter Clore.

Today, Washington state's $2.4 billion wine industry is the Nation's second largest producer of premium wines. The industry boasts more than 200 wineries and 300 wine grape growers. More important to consumers than the size of the industry, my State continues to earn respect for its quality, affordable wines.

I believe the best way to pay tribute to Walter Clore is to continue his legacy. As a U.S. Senator, that means funding research through USDA and institutions like Washington State University to keep the industry healthy and on the cutting edge. It means investing in trade promotion initiatives like the Market Access Program so that Washington wine can earn the markets and worldwide recognition it deserves. And it means creating opportunities for Washington wine country to become a destination spot for wine lovers who live in the Pacific Northwest and around the Nation.

As Washingtonians, we are so proud to call Walter Clore our own. On behalf of the Washington wine industry, I want to express my condolences to Walter's family. I also want to let them know that we will continue to build on his great legacy.

Mr. President, I ask unanimous consent that an article from Wine Press Northwest about Walter Clore be printed in the RECORD.

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

[From the Wine Press Northwest, Feb. 3, 2003]

WALTER CLORE, ''FATHER OF WASHINGTON WINE,'' DIES

YAKIMA, Wash.—Dr. Walter Clore, the man known as the ''Father of Washington Wine,'' passed away this morning. He was 91.

Clore, who in 1972 predicted wine consumption would triple in the U.S. by 1999, died in a Yakima-area convalescent home. Considered the father of Washington wines, Clore came up with the idea of growing wine grapes in the Columbia Valley after arriving in Prosser soon after Prohibition was repealed.

Clore retired from the Washington State University Irrigated Agriculture Research and Extension Station in 1976, four years after he commented on the future of wine in this country at a chamber of commerce meeting. His involvement remained strong well into retirement. Last summer, he visited with U.S. Sen. PATTY MURRAY when she toured the region's wine country.

Clore literally helped write the book on the Washington wine industry. In fact, The Wine Project, co-authored by Ron Irvine, serves as a biography of sorts for the man some view as the Johnny Appleseed of vinifera grapes in the state.

He spent 40 years at the Prosser Experiment Station. During his tenure, Clore, more than any other individual, is responsible for convincing Eastern Washington farmers they could grow world-class wine grapes.

Clore was born July 1, 1911, and grew up in Oklahoma during Prohibition and was raised a teetotaling Methodist. He came to Washington State College in 1934 on a $500 fellowship. In 1937, Clore was appointed assistant horticulturist. He was the third faculty member on staff at the center and began working with tree fruits and small fruits—including grapes.

One of Clore's primary contributions to the industry was figuring out where premium wine grapes could be grown in the state. He grew vinifera varieties throughout the state and collected volumes of data on how they fared. He retired in 1976.

Soon after, the Washington wine industry began to grow in earnest and Clore began consulting. Stimson Lane Vineyards and Estates, which owns Columbia Crest and Chateau Ste. Michelle, sought Clore's advice. He pointed them to several sites that have turned out of be among best in the state, including Horse Heaven Hills and Cold Creek.

''The industry got a running start because he planted scores of varieties throughout the Columbia Valley and collected the data necessary for vintners to make reasonable decisions about where to site a vineyard or winery,'' said Ted Baseler, president of Stimson Lane. ''Prior to that, many people decided it was a foregone conclusion that premium wine grapes could not be grown in Washington.''

Last fall, Columbia Crest honored Clore by naming its Bordeaux-style red blend the Walter Clore Private Reserve. It's an honor Clore, 91, appreciated on a couple of levels.

''I read in a recent Wine Spectator that Opus One earned a 93 point rating (out of 100) and was priced at $150,'' Clore said during an Oct. 16 ceremony at the Paterson, Wash., winery. ''I also read that the Columbia Crest Walter Clore Reserve received a 92 rating and was priced at $30.''

Several of those grape growers, along with Clore's friends and company officials, came out to help Columbia Crest and Clore toast the 1999 vintage. Special guests included

George Carter—Clore's longtime assistant—and Les Fleming, pioneer Grandview winery and vineyard manager.

Doug Gore, vice president and head winemaker at Columbia Crest, said part of the honor includes naming the room where the reserve wine is aged as the Walter Clore Barrel Room.

''There are a lot of legends in the Washington wine industry, but it was Walter Clore who first dreamed it was possible,'' Gore said. ''The modern-day legends are a validation that he was right.''

Gore likes to tell the story about when he was a brand-new assistant winemaker at Chateau Ste. Michelle's Grandview winery and was told by his boss Kay Simon that if any grower comes to the back door wanting an analysis of their grapes to shoo them around to the front.

''There was this kindly looking gentleman who came to the back door wanting a sample run on some grapes, and I told him to go around front. However he was persistent, so I asked who he was and he told me, Walt Clore. I apologized for trying to get rid of him. That was the beginning of a long association with the man who I consider the Johnny Appleseed of Washington's wine grape industry,'' Gore said.

In the preface to The Wine Project, Clore wrote: ''I grew up during Prohibition in a teetotaler, nonsmoking Methodist family. My mother was a staunch Women's Christian Temperance Union Member.''

It was an interest aside to the man who grew up to be called the father of the Washington's wine industry, which today is vigorous, flourishing and much in debt to Clore's visionary research.

It was Clore, a horticulturist at WSU's Prosser research station, who was asked more than 40 years ago to look at the potential of growing vinifera wine grapes in Eastern Washington.

''I was intrigued and was given the research task of determine the best adaptable varieties for making premium wines,'' he said.''This was not a difficult task, as I found the interest of co-workers high including not only those in Washington but Oregon, Idaho and British Columbia'' he wrote.

Clore also helped develop the rare Lemberger red variety and found some willing disciples. One of these was Kiona Vineyards Winery in the Red Mountain AVA, which has made Lemberger for more than 20 vintages.

John Williams, who with grower Jim Holmes was one of the original partners at Kiona, said, ''Dr. Clore was the man in the state's wine industry as far as I'm concerned. If it hadn't been for him, both Jim and I probably would not have gotten into making wine.'' I remember in the late 1970s when he called me saying that since Kiona was the only one interested in the Lemberger variety we would be first to get the plants released by WSU,'' Williams said.

Bob Woehler, longtime Tri-City Herald and Wine Press Northwest wine writer, whose association with Clore traces back to the 1970s, said, ''His homespun dignity and overall nice-guy friendliness was as impressive as the knowledge he gave to the Washington wine industry.

''Interestingly, Dr. Clore's association with wine led to developing a taste for it himself despite his upbringing. He often liked to relate at gatherings that he got his mother eventually to try a sip or two,'' Woehler said.

James Zuiches, dean of WSU's College of Agriculture and Home Economics, said in a press release, ''From my point of view, Walter Clore was a true pioneer in agricultural research. He took leadership without anyone telling him to, to evaluate wine grape varieties for Washington's environment. He laid the basis for a multimillion dollar industry. He was a role model for faculty and many people have benefitted from his research and extension work. He never lost his love for the industry. He didn't teach formally in a classroom, but he taught thousands of people through his publications, extension programs and training of students in field work.''

Clore's death came as plans were being made to build a $6 million Walter Clore Wine and Culinary Center in Prosser.

In 1993, the WSU Foundation established the Walter J. Clore Scholarship Endowment to provide scholarships to full-time undergraduate students at WSU who are interested in studying grape production, processing or marketing.

Shaw and Sons Funeral Directors, Yakima, is in charge of arrangements.

Anyone who wishes to make a memorial gift may contact Patrick Kramer, WSU College of Agriculture and Home Economics development director, who has a list of four charities the family has suggested. Kramer may be reached at 509–335–2243 or at kramerp@wsu.edu.●

IN RECOGNITION OF THE 50TH ANNIVERSARY OF THE GREATER MT. CARMEL MISSIONARY BAPTIST CHURCH

● Mr. LEVIN. Mr. President, I would like to pay tribute to the Greater Mt. Carmel Missionary Baptist Church for a half-century of dedication and leadership within the Detroit community. On March 15, 2003, people will be gathering in my hometown of Detroit, MI to celebrate the 50th anniversary of Greater Mt. Carmel Missionary Baptist Church. I am pleased to recognize the members of the Church for their many years of dedication and service to the community.

The Greater Mt. Carmel Missionary Baptist Church first opened its doors on March 1, 1953. At the time, it was only a small congregation that met at a storefront every Sunday. In March of 1965, Greater Mt. Carmel relocated to its current location on Helen Street in Detroit. Later that year, the congregation's Radio Ministry was established and, 38 years later, can still be heard every Sunday afternoon.

Over the last 50 years, Greater Mt. Carmel has become a valuable and well-respected spiritual and educational resource for its growing congregation. Under the guidance of Pastors Montgomery and Pierce, the congregation has expanded upon many fronts and continues to enrich the lives of many people. Greater Mt. Carmel Missionary Baptist Church has partnered with Focus: HOPE to assist with food delivery programs to the elderly and underprivileged. In addition, congregants prepare baskets and meals for homeless Detroit residents during Thanksgiving and Christmas to ensure that no one misses the joy of the holiday season. Greater Mr. Carmel is widely recognized for the multitude of essential services it has provided in our community.

I take great pride in recognizing the efforts of the Greater Mt. Carmel Missionary Baptist Church throughout its 50 year history in Detroit. Their ministry attends to the entire person: mind, body, and soul. I know my Senate colleagues will join me in saluting the accomplishments of the Greater Mt. Carmel Missionary Baptist Church and in wishing them continued success in the future.●

TRANSMITTING NOTICE THAT THE PRESIDENT HAS EXERCISED HIS AUTHORITY TO ISSUE AN EXECUTIVE ORDER TO DECLARE A NATIONAL EMERGENCY WITH RESPECT TO ZIMBABWE—PM 21

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my statutory authority to declare a national emergency with respect to the unusual and extraordinary threat to the foreign policy interests of the United States posed by the actions and policies of certain individuals who have formulated, implemented, or supported policies that have undermined Zimbabwe's democratic institutions.

Over the course of more than 2 years, the Government of Zimbabwe has systematically undermined that nation's democratic institutions, employing violence, intimidation, and repressive means including legislation to stifle opposition to its rule. This campaign to ensure the continued rule of Robert Mugabe and his associates was clearly revealed in the badly flawed presidential election held in March 2002. Subsequent to the election, the Mugabe government intensified its repression of opposition political parties and those voices in civil society and the independent press calling on the government to respect the nation's democratic values and the basic human rights of its citizens. To add to the desperation of the besieged Zimbabwean people, the current government has engaged in a violent assault on the rule of law that has thrown the economy into chaos, devastated the nation's agricultural economy, and triggered a potentially catastrophic food crisis.

As a result of the unusual and extraordinary threat posed to the foreign policy of the United States by the deterioration of Zimbabwe's democracy and the resulting breakdown in the rule of law, politically motivated violence, and the political and economic instability in the southern African region, I have exercised my statutory authority and issued an Executive Order which, except to the extent provided for in

regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

Blocks all property and interests in property of the individuals listed in the Annex to the order;

Prohibits any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to the order, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of the persons designated pursuant to the order.

The Secretary of the Treasury is further authorized to designate any person determined, in consultation with the Secretary of State, to be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any persons designated in or pursuant to the order. The Secretary of the Treasury is also authorized in the exercise of my authorities under the International Emergency Economic Powers Act to implement these measures in consultation with the Secretary of State. All Federal agencies are directed to take actions within their authority to carry out the provisions of the Executive Order.

This Executive Order further demonstrates the U.S. commitment to supporting Zimbabwe's democratic evolution, and strengthens our cooperation with the European Union in efforts to promote that evolution. The European Union has acted to freeze the assets of 79 individuals responsible for the political, economic, and social deterioration of Zimbabwe. With the exception of two individuals no longer associated with the Government of Zimbabwe, this order encompasses all those identified by the European Union.

I have enclosed a copy of the Executive Order I have issued.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 6, 2003.*

MESSAGE FROM THE HOUSE

At 11:51 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1047. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

H.J. Res. 27. A joint resolution recognizing and commending the continuing dedication, selfless service, and commitment of members of the Armed Forces and their families during the Global War on Terrorism and in defense of the United States.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 54. Concurrent resolution expressing the sense of the Congress that there should be established an annual National Visiting Nurse Association Week.

MEASURES REFERRED

The following joint resolution was read the first and the second times by unanimous consent, and referred as indicated:

H.J. Res. 27. Joint resolution recognizing and commending the continuing dedication, selfless service, and commitment of members of the Armed Forces and their families during the Global War on Terrorism and in defense of the United States; to the Committee on Armed Services.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 54. Concurrent resolution expressing the sense of the Congress that there should be established an annual National Visiting Nurse Association Week; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1426. A communication from the Under Secretary of Defense, Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report relative to the Ready Reserve of the Armed Forces that remained on active duty as of January 1, 2003; to the Committee on Armed Services.

EC–1427. A communication from the Assistant Secretary of Defense, International Security Policy, Department of Defense, transmitting, pursuant to law, the report relative to appropriations requested for each project under each Cooperative Threat Reduction (CTR) program element; to the Committee on Armed Services.

EC–1428. A communication from the General Counsel, Department of Defense, transmitting, pursuant to law, the National Defense Authorization Bill for Fiscal Year 2004, received on March 3, 2003; to the Committee on Armed Services.

EC–1429. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report relative to violations of the Antideficiency Act by the Department of the Air Force, case no. 00-02, totaling $3,062,000; to the Committee on Appropriations.

EC–1430. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report relative to violations of the Antideficiency Act by the Department of the Navy, case no. 01-05, totaling $1,592,173; to the Committee on Appropriations.

EC–1431. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report relative to violations of the Antideficiency Act by the Department of the Navy, case no. 01-07, totaling $149,251.70; to the Committee on Appropriations.

EC–1432. A communication from the Secretary of Health and Human Services & the Secretary of Homeland Security, transmitting, pursuant to law, the report of a draft bill entitled ''Project Bioshield Act of 2003'' received on February 27, 2003.

EC–1433. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Semiannual Report to Congress covering the six month period covering the period that ended September 30, 2002; to the Committee on Governmental Affairs .

EC–1434. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulations Regarding Nondiscriminating on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance from the Department of Homeland Security (RIN 1602-AA03)'' received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1435. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Enforcement of Nondiscrimination on the Basis of Disability in Department of Homeland Security Programs or Activities'' (RIN 1601-AA05)'' received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1436. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (RIN 1601-AA04)'' received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1437. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, the report entitled ''Justification of Budget Estimates Fiscal Year 2004'' received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1438. A communication from the Inspector General, United States Railroad Retirement Board, transmitting, pursuant to law, the Fiscal Year 2004 Budget Justification, received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1439. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Enforcement of Nondiscrimination on the Basis of Disability in Department of Homeland Security Programs or Activities (RIN 1601-AA05)'' received on February 28, 2003; to the Committee on Governmental Affairs.

EC–1440. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Negative Declaration (FRL 7459-5)'' received on February 27, 2003; to the Committee on Environment and Public Works.

EC–1441. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implemention Plans and Operating Permits Program; State of Iowa (FRL 7458-8)'' received on February 24, 2003; to the Committee on Environment and Public Works.

EC–1442. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Conditional Approval of Implementation Plan; Indiana (FRL 7457-3)'' received on February 24, 2003; to the Committee on Environment and Public Works.

EC–1443. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants; New Hampshire; Negative Declaration (FRL 7458-3)'' received on February 24, 2003.

EC–1444. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hexythiazox; Pesticide Tolerance

(FRL 7292-8)'' received on February 24, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1445. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Flopet; Pesticide Tolerance (FRL 7296-2)'' received on February 24, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

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–57. A resolution developed by the New England Coalition of State Councils on Aging relative to health care costs affecting senior citizens; to the Committee on Health, Education, Labor and Pensions.

POM–58. A resolution developed by the New England Coalition of State Councils on Aging relative to health care facilities available to senior citizens; to the Committee on Health, Education, Labor and Pensions.

POM–59. A resolution adopted by the Washington Parish School Board, Franklinton, State of Louisiana relative to Social Security; to the Committee on Finance.

POM–60. A resolution adopted by the Town Council of Mansfield, State of Connecticut relative to civil liberties; to the Committee on the Judiciary.

POM–61. A resolution adopted by the House of Representatives, State of Hawaii relative to disarming the rogue states of Iraq and North Korea through the United Nations and with support of Allies; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 22

Whereas, the people of Hawaii have always been taught and attempted to live the spirit of Aloha showing kindness, love, and generosity towards their fellow man, but have always risen to the occasion of defending their country when it has been threatened by outside forces; and

Whereas, the rogue states of North Korea led by Kim Jong Il and Iraq led by Saddam Hussein, and terrorist organizations such as Al Qaeda and Islamic Jihad have made the world a very dangerous place to live; and

Whereas, in 1991, the United States provided the leadership and the means to maintain peace, security, and stability for the world by stopping and ousting the Iraqi invasion of the sovereign state of Kuwait; and

Whereas, the Hawaii Legislature strongly supported Operation Desert Storm that ousted the Iraqi invaders from Kuwait in House Concurrent Resolution No. 2, dated January 18, 1991, and the Hawaii House of Representatives reaffirmed its support of the United States' policy for peace and reconciliation in the Middle East in House Resolution No. 106, dated March 12, 1991; and

Whereas, in 1994, the united States defused the North Korean threat of nuclear development in an agreement brought about by the mediation of former President Jimmy Carter; and

Whereas, the city of New York stood tall in withstanding the attack on the World Trade Center on September 11, 2001; and

Whereas, the people of the United States rallied behind President George W. Bush's fight against Al Qaeda, which led to the destruction of its network in Afghanistan and its liberation from religious fanaticism; and

Whereas, the defeat of the Iraqi aggression in 1991 and the Al Qaeda network in 2001–2002 owes much of its success to the leadership of the United States in marshalling the support of many nations, including Russia and China, and worldwide public opinion, especially the people of Afghanistan who welcomed their delivery from the Taliban; and

Whereas, the United States is also approaching the current North Korean crisis with the same positive, multilateral approach with the support of neighboring countries and allies, South Korea and Japan, and the cooperation of China and Russia; and

Whereas, the United States has secured the approval of the United Nations in the current intensive arms inspection operation in Iraq and is seeking the support of NATO allies and major powers in disarming and neutralizing Iraq; and

Whereas, neither the nations of the world nor public opinion is supporting the United States in seeking a unilateral military solution in Iraq because they do not perceive the provocation or threat that existed in 1991 when Iraq invaded and occupied Kuwait; and

Whereas, a unilateral military solution, specifically, a preemptive strike against Iraq, is fraught with many dangers such as a possible igniting of a clash between Muslim and Christian nations; a disruption of oil supply and prices, which have unknown consequences to the world economy, including the economy of the United States; and intensification of the Arab-Israeli conflict; a possible incitement to other nations to settle scores unilaterally; and a rekindling of the national divisiveness prevalent during the Vietnam War; and

Whereas, Hawaii suffered economically in the aftermath of Operation Desert Storm in 1991 and the downturn in tourism following the attacks on the World Trade Center and Pentagon on September 11, 2001, and will likely suffer similar economic consequences in a new Iraqi War or a conflict on the Korean Peninsula: Now, therefore, be it

Resolved by the House of Representatives of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2003, that this body expresses its strong support for U.S. policy in containing and disarming the rogue states of Iraq and North Korea through the United Nations and with the support of allies and friends; and be it further

Resolved, That this body:

(1) Reaffirms House Concurrent Resolution No. 2, dated January 18, 1991, and House Resolution No. 106, dated March 12, 1991, supporting the men and women in our armed forces fighting in Operation Desert Storm and praising its success in ousting the Iraqi invaders from Kuwait;

(2) Restates unequivocally its strong commitment to collective security through the United Nations, as so nobly expressed by the men and women in Operation Desert Storm from the United States and twenty-seven coalition partners;

(3) Strongly supports the President's positive policy in seeking a dialogue, in concert with our allies, South Korea and Japan, and with neighboring China and Russia, to have North Korea give up its nuclear program and to institute appropriate international safeguards, including on-site United Nations inspection and a United States pledge of ''no first strike'';

(4) Strongly supports the President's policy of containing and disarming Iraq as a threat to world peace and security, particularly the current United Nations arms inspection to find and destroy Iraqi arms of mass destruction;

(5) Expresses its strong concerns and reservations for a unilateral United States military solution, such as a preemptive strike on Iraq with only the support of Israel and the United Kingdom in the face of opposition and reservations from world public opinion, including that of the American people; and

(6) Strongly supports President George W. Bush in continuing the current policy of working with and through the United Nations, seeking the support and assistance of both allies and interested powers, such as China and Russia, and explaining to and seeking the understanding and support of the American people; and be it further

Resolved, That Governor Linda Lingle is asked to convey to President George W. Bush the strong support of the House of Representatives:

(1) For the men and women of our armed forces and their families;

(2) For his efforts in fighting terrorism and rogue states;

(3) For using approaches other than a unilateral military solution; and

(4) For using a multi-national approach to find a solution to this problem through the United Nations; and be it further

Resolved, That Hawaii's Congressional delegation is also requested to convey to the officers and members of the United States Congress the views presented in this Resolution; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States, the United States Congress, Hawaii's Congressional delegation, and Governor Linda Lingle.

POM–62. A resolution adopted by the Legislature of the State of Wyoming relative to Army National Guard of Wyoming; to the Committee on Armed Services.

A RESOLUTION

Whereas, the Wyoming National Guard has deployed nine times in defense of the United States of America starting with the Spanish American War.

Whereas, the soldiers from the Fourth Infantry Division Rear Operations Center will mobilize and deploy to Fort Hood, Texas and prepare for eventual deployment to the Gulf Region of Southwest Asia, leaving Wyoming on January 27th, 2003 and they will display highway signs on roads entering into their station stating ''Entering Wyoming'' as a matter of their pride and honor.

Whereas, this long term deployment will affect and severely test the families of these citizen-soldiers.

Whereas, the civilian employers of these soldiers will also be affected by this deployment.

Whereas, the support of these soldiers by the citizens of Wyoming is vital to their morale and esprit de corps. Now, therefore, be it

Resolved by the Members of the Legislature of the State of Wyoming:

Section 1. That all members of the Wyoming Legislature, and the Governor of the State of Wyoming, deeply convey their thanks and best wishes to the citizen-soldiers of the Fourth Infantry Division Rear Operations Center at the Wyoming Army National Guard and their families, for their service to the Nation and Wyoming.

Section 2. That these citizen-soldiers, and their families, not be forgotten during their service to our state and nation. All Wyoming citizens are urged to contact the Wyoming Army National Guard and volunteer to send letters and items from Wyoming to these Guard members during this mobilization for OPERATION ENDURING FREEDOM and otherwise help their families get through this time of the force separation.

Section 3. That these brave citizen-soldiers from Wyoming stay out of harm's way and return to their homes in Wyoming in good health and spirits as soon as their tour of duty is completed.

Section 4. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate, and the Speaker of the House of Representatives of the United

States Congress and to the Wyoming Congressional Delegation.

POM–63. A resolution adopted by the Legislature of the State of Wyoming relative to the Wyoming Army National Guard; to the Committee on Armed Services.

A RESOLUTION

Whereas, the Wyoming National Guard has deployed nine times in defense of the United States of America starting with the Spanish American War.

Whereas, the soldiers from the 1041st Engineer Company (Assault Float Bridge) will mobilize and deploy the Fort Polk, Louisiana with follow-on training at Fort Chaffee, Arkansas and prepare for eventual deployment to the Gulf Region of Southwest Asia, leaving Wyoming on January 28th, 2003 and they will display highway signs on roads entering into their station stating ''Entering Wyoming'' as a matter of their pride and honor.

Whereas, this long term deployment will affect and severely test the families of these citizen-soldiers.

Whereas, the civilian employers of these soldiers will also be affected by this deployment.

Whereas, the support of these soldiers by the citizens of Wyoming is vital to their morale and esprit de corps. Now, therefore, be it *Resolved by the members of the legislature of the State of Wyoming.*

Section 1. That all members of the Wyoming Legislature, and the Governor of the State of Wyoming, deeply convey their thanks and best wishes to the citizen-soldiers of the 1041st Engineer Company (Assault Float Bridge) of the Wyoming Army National Guard and their families, for their service to the nation and Wyoming.

Section 2. That these citizen-soldiers, and their families, not be forgotten during their service to our state and nation. All Wyoming citizens are urged to contact the Wyoming Army National Guard and volunteer to send letters and items from Wyoming to these Guard members during this mobilization for Operation Enduring Freedom and otherwise help their families get through this time of the forced separation.

Section 3. That these brave citizen-soldiers from Wyoming stay out of harm's way and return to their homes in Wyoming in good health and spirit as soon as their tour of duty is completed.

Section 4. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to the Wyoming Congressional Delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 253. A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Eugene James Corcoran, of New York, to be United States Marshal for the Eastern District of New York for the term of four years.

Humberto S. Garcia, of Puerto Rico, to be United States Attorney for the District of Puerto Rico for the term of four years.

William H. Steele, of Alabama, to be United States District Judge for the Southern District of Alabama.

Thomas A. Varlan, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

J. Daniel Breen, of Tennessee, to be United States District Judge for the Western District of Tennessee.

Timothy M. Tymkovich, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

By Mr. WARNER for the Committee on Armed Services.

*Linton F. Brooks, of Virginia, to be Under Secretary for Nuclear Security, Department of Energy.

*Stephen A. Cambone, of Virginia, to be Under Secretary of Defense for Intelligence.

Air Force nomination of Maj. Gen. John D.W. Corley.

Army nomination of Maj. Gen. Walter L. Sharp.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE (for herself, Mr. BOND, Mr. TALENT, Mrs. DOLE, Mr. MCCAIN, Mr. COLEMAN, and Mrs. HUTCHISON):

S. 545. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA (for himself, Mr. BAUCUS, Mr. CAMPBELL, Mr. DURBIN, Mrs. FEINSTEIN, Mr. ROBERTS, and Mr. LEAHY):

S. 546. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Ms. COLLINS):

S. 547. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 548. A bill to improve mental health programs for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SCHUMER:

S. 549. A bill to amend the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107–42) to provide compensation for victims killed in the bombing of the World Trade Center in 1993, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. THOMAS):

S. 550. A bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 551. A bill to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COCHRAN (for himself, Mrs. LINCOLN, Mr. BREAUX, Mr. LUGAR, and Mr. LOTT):

S. 552. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax exemptions for aerial applicators of fertilizers or other substances; to the Committee on Finance.

By Mr. SCHUMER:

S. 553. A bill to allow all businesses to make up to 24 transfers each month from interest-bearing transaction accounts to other transaction accounts, to require the payment of interest on reserves held for depository institutions at Federal reserve banks, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. DEWINE, Mr. ALLEN, Mr. CRAIG, Mr. GRAHAM of South Carolina, Mr. ALLARD, and Mr. TALENT):

S. 554. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 555. A bill to establish the Native American Health and Wellness Foundation, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN):

S. 556. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

By Ms. COLLINS (for herself, Mr. GRASSLEY, Mr. BINGAMAN, Mr. COCHRAN, Mr. DASCHLE, Mr. SARBANES, and Mr. SMITH):

S. 557. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Finance.

By Mr. McCAIN (for himself, Mr. BINGAMAN, Mr. CAMPBELL, Mrs. MURRAY, Mr. JOHNSON, and Mr. DOMENICI):

S. 558. A bill to elevate the position Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 559. A bill to amend title 49, United States Code, to permit an individual to operate a commercial motor vehicle solely within the borders of a State if the individual meets certain minimum standards prescribed by the State, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG (for himself, Mr. DAYTON, Mr. COLEMAN, Mr. LEAHY, Mr. BOND, Mr. BINGAMAN, Ms. SNOWE, Mrs. LINCOLN, Mr. SHELBY, Mr. JEFFORDS, Mr. DOMENICI, Mr. LEVIN, Ms. COLLINS, Mr. JOHNSON, Mr. SPECTER, Mr. FEINGOLD, and Mr. KOHL):

S. 560. A bill to impose tariff-rate quotas on certain casein and milk protein concentrates; to the Committee on Finance.

By Mr. CRAPO (for himself, Mr. ENZI, Mr. CRAIG, Mr. DOMENICI, Mr. BURNS, and Mr. SMITH):

S. 561. A bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes; to the Committee on the Judiciary.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. INHOFE, and Mr. SMITH):

S. 562. A bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. DAYTON:

S. 563. A bill to protect owners of computers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU (for herself, Mr. SUNUNU, Mr. BURNS, Mr. DODD, Mr. GREGG, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, Mr. LIEBERMAN, Mr. LOTT, Ms. MIKULSKI, Mr. KENNEDY, Mr. MILLER, Mr. DORGAN, and Mr. KERRY):

S. 564. A bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. EDWARDS:

S. 565. A bill to improve homeland security, prevent tax increases, support education and health care, and strengthen the economy; to the Committee on Appropriations.

By Ms. MIKULSKI (for herself, Mr. BOND, Mr. KENNEDY, Mrs. LINCOLN, Mr. BREAUX, and Mr. DODD):

S. 566. A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 567. A bill to amend the Federal Water Pollution Control Act to authorize appropriations for sewer overflow control grants; to the Committee on Environment and Public Works.

By Mr. ENSIGN:

S. 568. A bill to amend title XVIII of the Social Security Act to make a technical correction in the definition of outpatient speech-language pathology services; to the Committee on Finance.

By Mr. ENSIGN (for himself, Mrs. LINCOLN, Mr. WARNER, Mr. GRAHAM of South Carolina, Mr. HOLLINGS, Mrs. MURRAY, Ms. COLLINS, Mr. HAGEL, Mr. ROCKEFELLER, Mr. SARBANES, and Mrs. CLINTON):

S. 569. A bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps; to the Committee on Finance.

By Mr. ENSIGN (for himself, Mr. ALLARD, and Mr. ALLEN):

S. 570. A bill to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (by request):

S. 571. A bill to establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development; to the Committee on Foreign Relations.

By Mr. FRIST:

S. 572. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. DODD, and Mr. ENZI):

S. 573. A bill to amend the Public Health Service Act to promote organ donation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HOLLINGS, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Mr. STEVENS, Mr. SUNUNU, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 78. A resolution designating March 25, 2003, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. NICKLES, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 2, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to encourage economic growth.

S. 52

At the request of Mr. WYDEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 52, a bill to permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes.

S. 59

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 59

At the request of Mr. INOUYE, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 59, supra.

S. 60

At the request of Mr. INOUYE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 60, a bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary and exchange stores.

S. 116

At the request of Mr. GRAHAM of Florida, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 116, a bill to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.

S. 117

At the request of Mr. GRAHAM of Florida, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 117, a bill to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.

S. 140

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 150

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

S. 160

At the request of Mr. BURNS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 160, a bill to amend the Internal Revenue Code of 1986 to allow the expensing of broadband Internet access expenditures, and for other purposes.

S. 160

At the request of Mr. BAUCUS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 160, supra.

S. 171

At the request of Mr. DAYTON, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 171, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 202

At the request of Mr. DEWINE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 202, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income that deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit

for participating reserve component self-employed individuals, and for other purposes.

S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 257

At the request of Mr. NELSON of Florida, the names of the Senator from Nevada (Mr. REID) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 257, a bill to amend title 38, United States Code, to clarify the applicability of the prohibition on assignment of veterans benefits to agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation, and for there purposes.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 296

At the request of Mr. CAMPBELL, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 296, a bill to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial.

S. 312

At the request of Mr. ROCKEFELLER, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 312, a bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program.

S. 338

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 338, a bill to protect the flying public's safety and security by requiring that the air traffic control system remain a Government function.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 349 , a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 397

At the request of Mr. ENSIGN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 397, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes.

S. 424

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 424, a bill to establish, reauthorize, and improve energy programs relating to Indian tribes.

S. 457

At the request of Mr. LEAHY, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 457, a bill to remove the limitation on the use of funds to require a farm to feed livestock with organically produced feed to be certified as an organic farm.

S. 460

At the request of Mrs. FEINSTEIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 460, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2004 through 2010 to carry out the State Criminal Alien Assistance Program.

S. 470

At the request of Mr. SARBANES, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 470, a bill to extend the authority for the construction of a memorial to Martin Luther King, Jr.

S. 504

At the request of Mr. ALEXANDER, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 504, a bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 507

At the request of Ms. SNOWE, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 507, a bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

S. 516

At the request of Mr. BUNNING, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 516, a bill to amend title 49, United States Code, to allow the arming of pilots of cargo aircraft, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 534

At the request of Mr. ALLEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 534, a bill to provide Capitol-flown flags to the immediate family of fire fighters, law enforcement officers, emergency medical technicians, and other rescue workers who are killed in the line of duty.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as ''National Visiting Nurse Association Week''.

S. CON. RES. 13

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 13, a concurrent resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

S. RES. 46

At the request of Mr. BINGAMAN, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. Res. 46, A resolution designating March 31, 2003, as ''National Civilian Conservation Corps Day''.

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. Res. 48, A resolution designating April 2003 as ''Financial Literacy for Youth Month''.

S. RES. 77

At the request of Mr. DASCHLE, the names of the Senator from Louisiana (Mr. BREAUX), the Senator from Arkansas (Mr. PRYOR), the Senator from Maryland (Mr. SARBANES), the Senator from West Virginia (Mr. BYRD), the Senator from Michigan (Mr. LEVIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. Res. 77, A resolution expressing the sense of the Senate that one of the most grave threats facing the United States is the proliferation of weapons of mass destruction, to underscore the need for a comprehensive strategy for dealing with this threat, and to set forth basic principles that should underpin this strategy.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself, Mr. BOND, Mr. TALENT, Mrs. DOLE, Mr. MCCAIN, Mr. COLEMAN, and Mrs. HUTCHISON):

S. 545. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, today I am introducing a bill that will provide revolutionary changes to the health insurance choices available for small businesses. This bill, ''The Small Business Health Fairness Act of 2003'' will give small businesses the same market-based advantages and leverage that large employers and unions currently enjoy to provide health insurance for their employees.

One month ago, I convened my first hearing as Chair of the Committee on Small Business and Entrepreneurship to explore the crisis small businesses are currently facing in their attempts to find affordable health care for their employees. The reason I made this my first hearing was that whenever I spoke to small businesses this is the number one issue they wanted to discuss. Small businesses in my State are literally desperate for more health insurance options; some business owners even say this is keeping them awake at night.

At the hearing small businesses from my home State of Maine made it clear that they have only one choice for their health care. Even when they band together in local purchasing pools, they are unable to attract any other insurance carriers to provide them with less expensive and more flexible options. Even though they have cut back on the coverage and increased the costs to the employees, they are still finding it almost impossible to provide health insurance to their employees. And as the costs to the employees increases, many employees find this too much to absorb, which leaves them uncovered and, therefore, increase the ranks of the employed but uninsured.

Indeed, the Washington Post reported on February 28 that worries about rising health care costs registered higher in a poll conducted by the Kaiser Family Foundation than even concerns over the stock market or terrorist attacks. Thirty-eight percent of the respondents were ''very worried'' that the cost of their health care or health insurance would increase compared to 22 percent who were ''very worried'' about losing their savings in the stock market, or 19 percent who were ''very worried'' about being a victim of a terrorist attack.

With small businesses creating up to 75 percent of net new jobs in America and with a shocking 56 percent of the 41.2 million uninsured in this country already either working a full-time, full-year job or depending on one who does, we have an obligation to ensure that more of these individuals can receive insurance through their employers. So when the Kaiser 2002 Employer Health Benefits Survey reports that only 61 percent of all small businesses are offering health benefits—and that's down from 67 percent just three years ago—is there any question that we're headed in exactly the wrong direction?

This is a crisis, and it's even worse in businesses with fewer than 50 employees. Of those, only 47 percent currently provide health insurance benefits, and the Department of Labor reports that only 24 percent of small businesses that employ ''low-wage'' workers offer health plans.

The fact is, with more than two-thirds of all Americans relying on their employer for health insurance, we can't afford to continue the disturbing trend identified by the Kaiser Family Foundation, where monthly premiums for employer-sponsored health insurance on average rose 11 percent from 2000 to 2001, and then 12.7 percent from 2001 to 2002—the second straight year of double digit increases. As a result, 22 percent of all firms increased employee deductibles in 2002, and 32 percent told Kaiser they are likely to do so this year.

The problem is all the more acute for small businesses. For those with fewer than 10 workers, the employer and employees together pay—on average—about 8 percent more in premiums than the amount paid by larger companies. And for all firms under 200 employees, 84 percent indicated to Kaiser that cost was an important factor in not offering health care.

The result of all this isn't hard to predict. Businesses can and clearly are dropping health benefits. Others struggle onward in providing coverage, but only at the cost of the growth of the business, or offering packages with higher premiums, or a combination of both.

If we can do something that will help more small businesses provide health insurance to their employees, then we can significantly reduce the number of those who are without health insurance in this country.

The Small Business Health Fairness Act of 2003 will improve access to affordable health care for small businesses by giving them the same advantages currently enjoyed by large employers and unions. The bill employs a very basic principle—that volume purchasing of insurance by small businesses will work as it does for any other commodity and for any large business or union that purchases health insurance coverage—it will help reduce the cost. As President Bush has said, ''It makes no sense in America to isolate small businesses as little health care islands unto themselves. We must have association health plans.''

The Act will allow small businesses to pool together nationally, under the auspices of their bona fide associations, and either purchase their insurance from a provider, or self-insure in the same way that large employers and unions currently do. These association health plans, AHPS, would be monitored and regulated by the Department of Labor's Employee Benefits Security Administration in the same way that more than 275,000 plans offered by large employers and unions are currently regulated.

This agency is currently overseeing plans that cover 72 million people. The Department of Labor released a report last week that reveals high rates of compliance by group health plans with health care laws enacted under the Employee Retirement Income Security Act, ERISA. More importantly, the report and the compliance project that is the subject of the report, are further evidence of the Labor Department's commitment and proven success in effectively monitoring health plans. The report establishes that the Department is prepared to oversee association health plans.

Studies by the Small Business Administration, the General Accounting Office, and the Congressional Budget Office have all found that these types of plans operate with between 13 and 30 percent lower administrative costs. These lower costs can then be translated into reducing costs to subscribers or providing more benefits.

Another reason AHPs will be able to offer less expensive plans, and also greater flexibility, is because they will be exempt from the myriad State benefit regulations. Associations will be able to design their plans to meet the needs of their members and their employees. By administering one national plan, it will further reduce the administrative costs instead of trying to administer a plan subject to the mandates of each State.

Even though the benefit mandates will not be in effect, associations will need to design their plans so that enough members participate in them to attract the necessary employees to make them work. This means that they will naturally provide a full range of benefits similar to what many States currently require. In many cases, the plans offered by large employers and unions, which are also exempt from the State benefit mandates, are the most generous plans available. People will often stay in those jobs specifically to keep their health care coverage.

The Act would also provide extensive new protections to ensure that the health care coverage was there when employees need it. Associations sponsoring these plans would need to be established for at least three years for purposes other than providing health insurance—this is intended to prevent the current epidemic of fraud and abuse that is occurring through sham associations who take money from unsuspecting small businesses and then cease to exist when some files a claim.

In addition, association health plans would be required to have sufficient funds in reserve, specific stop-loss insurances, indemnification insurance, and other funding and certification requirements to make sure the insurance coverage would be available when needed. None of these requirements apply

to any of the plans currently regulated by the Department of Labor, either the large employer plans under the Employee Retirement Income Security Act, ERISA, or the union plans under the Taft-Hartley Act.

The approach of this bill is, I believe, a good one—but I also consider it a starting point. And in that light, I intend to work with all groups and interested parties that are committed to passing this bill so that we can improve this bill and finally provide small businesses with more health insurance options at lower costs. The current situation is simply unacceptable. Those who oppose this bill and believe the status quo only needs to be modified slightly are not paying attention—they are not listening to the millions of small businesses who are desperate for more choices, or the small employers who are unable to get health insurance at any cost.

The time for stalling on providing relief for small businesses unable to get affordable health insurance is over. We must act now, and we must pass the Small Business Health Fairness Act of 2003 to bring small businesses more choices and use the power of competition to bring them better options.

I ask unanimous consent that the text of The Small Business Health Fairness Act of 2003 and an explanation of its provisions be printed in the RECORD.

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

S. 545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Health Fairness Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Rules governing association health plans.
''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS
''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Definitions and rules of construction.
Sec. 3. Clarification of treatment of single employer arrangements.
Sec. 4. Clarification of treatment of certain collectively bargained arrangements.
Sec. 5. Enforcement provisions relating to association health plans.
Sec. 6. Cooperation between Federal and State authorities.
Sec. 7. Effective date and transitional and other rules.

SEC. 2. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''SEC. 801. ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—The applicable authority shall prescribe by regulation, through negotiated rulemaking, a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

''(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

''(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation, through negotiated rulemaking, for continued certification of association health plans under this part.

''(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

''(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

''(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2003,

''(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

''(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations which the Secretary shall prescribe through negotiated rulemaking.

''SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(B) LIMITATION.—

''(i) GENERAL RULE.—Except as provided in clauses (ii) and (iii), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(ii) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(iii) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, clause (i) shall not apply in the case of any service provider described in subparagraph (A) who is a provider of medical care under the plan.

''(C) CERTAIN PLANS EXCLUDED.—Subparagraph (A) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2003.

''(D) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a)(1) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation, through negotiated rulemaking, define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

''(d) CERTAIN COLLECTIVELY BARGAINED PLANS.—

''(1) IN GENERAL.—In the case of a group health plan described in paragraph (2)—

''(A) the requirements of subsection (a) and section 801(a)(1) shall be deemed met;

''(B) the joint board of trustees shall be deemed a board of trustees with respect to which the requirements of subsection (b) are met; and

''(C) the requirements of section 804 shall be deemed met.

''(2) REQUIREMENTS.—A group health plan is described in this paragraph if—

''(A) the plan is a multiemployer plan; or

''(B) the plan is in existence on April 1, 2003, and would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii).

''(3) CONSTRUCTION.—A group health plan described in paragraph (2) shall only be treated as an association health plan under this part if the sponsor of the plan applies for, and obtains, certification of the plan as an association health plan under this part.

''SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor,

''(B) the sponsor, or

''(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the beneficiaries of individuals described in subparagraph (A).

''(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

''(1) the affiliated member was an affiliated member on the date of certification under this part; or

''(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

''(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

''SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

''(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

''(C) incorporates the requirements of section 806.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

''(i) setting contribution rates based on the claims experience of the plan; or

''(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act), subject to the requirements of section 702(b) relating to contribution rates.

''(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

''(4) MARKETING REQUIREMENTS.—

''(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

''(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

''(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation through negotiated rulemaking.

''(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of any law to the extent that it (1) prohibits an exclusion of a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to matters governed by section 711 or 712.

''SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

''(1) the benefits under the plan consist solely of health insurance coverage; or

''(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

''(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

''(i) a reserve sufficient for unearned contributions;

''(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

''(iii) a reserve sufficient for any other obligations of the plan; and

''(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

''(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

''(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation, through negotiated rulemaking, provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation, through negotiated rulemaking, provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

''(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

''(1) $500,000, or

''(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority through negotiated rulemaking, based on the level of aggregate and specific excess/stop loss insurance provided with respect to such plan.

''(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves and excess/stop loss insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation, through negotiated rulemaking, with respect to any such plan or any class of such plans.

''(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

''(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

''(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

''(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

''(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

''(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

''(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

''(3) ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

''(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

''(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

''(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term 'specific excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation through negotiated rulemaking) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

''(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe through negotiated

rulemaking) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

''(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation through negotiated rulemaking); and

''(3) which allows for payment of premiums by any third party on behalf of the insured plan.

''(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe through negotiated rulemaking.

''(j) SOLVENCY STANDARDS WORKING GROUP.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2003, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

''(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

''(A) a representative of the National Association of Insurance Commissioners;

''(B) a representative of the American Academy of Actuaries;

''(C) a representative of the State governments, or their interests;

''(D) a representative of existing self-insured arrangements, or their interests;

''(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

''(F) a representative of multiemployer plans that are group health plans, or their interests.

''SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority through negotiated rulemaking, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

''(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

''(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe through negotiated rulemaking.

''(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

''(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

''(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

''(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation through negotiated rulemaking, as necessary to carry out the purposes of this part.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation through negotiated rulemaking. The applicable authority may require by regulation, through negotiated rulemaking, prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 503B by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 503C(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation through negotiated rulemaking such interim reports as it considers appropriate.

''(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

''(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

''(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

''SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees—

''(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation through negotiated rulemaking.

''SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

''(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately

notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation through negotiated rulemaking) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

''(b) MANDATORY TERMINATION.—In any case in which—

''(1) the applicable authority has been notified under subsection (a) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

''(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

''SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation through negotiated rulemaking, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

''(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

''(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

''(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

''(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary through negotiated rulemaking, and applicable provisions of law;

''(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

''(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

''(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

''(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation through negotiated rulemaking or required by any order of the court;

''(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

''(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

''(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

''(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

''(1) the sponsor and plan administrator;

''(2) each participant;

''(3) each participating employer; and

''(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

''(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

''(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

''(f) JURISDICTION OF COURT.—

''(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

''(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

''(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary through negotiated rulemaking, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

''SEC. 811. STATE ASSESSMENT AUTHORITY.

''(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2003.

''(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

''(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

''(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

''(3) such tax is otherwise nondiscriminatory; and

''(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

''SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

''(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(5) APPLICABLE AUTHORITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable authority' means, in connection with an association health plan—

''(i) the State recognized pursuant to subsection (c) of section 506 as the State to which authority has been delegated in connection with such plan; or

''(ii) if there if no State referred to in clause (i), the Secretary.

''(B) EXCEPTIONS.—

''(i) JOINT AUTHORITIES.—Where such term appears in section 808(3), section 807(e) (in the first instance), section 809(a) (in the second instance), section 809(a) (in the fourth instance), and section 809(b)(1), such term means, in connection with an association health plan, the Secretary and the State referred to in subparagraph (A)(i) (if any) in connection with such plan.

''(ii) REGULATORY AUTHORITIES.—Where such term appears in section 802(a) (in the first instance), section 802(d), section 802(e), section 803(d), section 805(a)(5), section 806(a)(2), section 806(b), section 806(c), section 806(d), paragraphs (1)(A) and (2)(A) of section 806(g), section 806(h), section 806(i), section 806(j), section 807(a) (in the second instance), section 807(b), section 807(d), section 807(e) (in the second instance), section 808 (in the matter after paragraph (3)), and section 809(a) (in the third instance), such term means, in connection with an association health plan, the Secretary.

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation through negotiated rulemaking.

''(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

''(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

''(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2003, a person eligible to be a member of the sponsor or one of its member associations.

''(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

''(b) RULES OF CONSTRUCTION.—

''(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (e)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

''(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

''(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

''(B) In any case in which health insurance coverage of any policy type is offered under an association health plan in a State and the filing, with the applicable State authority, of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

''(3) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

''(4) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 811, respectively.''.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking ''and'' at the end;

(B) in clause (ii), by inserting ''and which does not provide medical care (within the meaning of section 733(a)(2)),'' after ''arrangement,'', and by striking ''title.'' and inserting ''title, and''; and

(C) by adding at the end the following new clause:

''(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.''.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking ''Nothing'' and inserting ''(1) Except as provided in paragraph (2), nothing''; and

(B) by adding at the end the following new paragraph:

''(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Fairness Act of 2003 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence:

''Such term also includes a person serving as the sponsor of an association health plan under part 8.''.

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: ''An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.''.

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ''or part 8'' after ''this part''.

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2008, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''Sec. 801. Association health plans.
''Sec. 802. Certification of association health plans.
''Sec. 803. Requirements relating to sponsors and boards of trustees.
''Sec. 804. Participation and coverage requirements.
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options.
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''Sec. 807. Requirements for application and related requirements.
''Sec. 808. Notice requirements for voluntary termination.
''Sec. 809. Corrective actions and mandatory termination.
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''Sec. 811. State assessment authority.
''Sec. 812. Definitions and rules of construction.''.

SEC. 3. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting ''for any plan year of any such plan, or any fiscal year of any such other arrangement;'' after ''single employer'', and by inserting ''during such year or at any time during the preceding 1-year period'' after ''control group'';

(2) in clause (iii)—

(A) by striking ''common control shall not be based on an interest of less than 25 percent'' and inserting ''an interest of greater than 25 percent may not be required as the minimum interest necessary for common control''; and

(B) by striking ''similar to'' and inserting ''consistent and coextensive with'';

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

''(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement;''.

SEC. 4. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) IN GENERAL.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

''(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E);''.

(b) LIMITATIONS.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

''(C) For purposes of subparagraph (A)(i)(II), a plan or other arrangement shall be treated as established or maintained in accordance with this subparagraph only if the following requirements are met:

''(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

''(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement; or

''(II) pay any type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations prescribed by the Secretary through negotiated rulemaking), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement;

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

''(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are neither—

''(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit); nor

''(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment),

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Small Business Health Fairness Act of 2003 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

''(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed by the Secretary through negotiated rulemaking that the plan or other arrangement meets the requirements of clauses (i) and (ii).

''(D) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) all of the benefits provided under the plan or arrangement consist of health insurance coverage; or

''(ii)(I) the plan or arrangement is a multiemployer plan; and

''(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

''(E) For purposes of subparagraph (A)(i)(II), a plan or arrangement shall be treated as established or maintained in accordance with this subparagraph only if—

''(i) the plan or arrangement is in effect as of the date of the enactment of the Small Business Health Fairness Act of 2003; or

''(ii) the employee organization or other entity sponsoring the plan or arrangement—

''(I) has been in existence for at least 3 years; or

''(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.''.

(c) CONFORMING AMENDMENTS TO DEFINITIONS OF PARTICIPANT AND BENEFICIARY.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: ''Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).''.

SEC. 5. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''SEC. 501.''; and

(2) by adding at the end the following new subsection:

''(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being an association health plan which has been certified under part 8;

''(2) having been established or maintained under or pursuant to one or more collective

bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

''(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met,

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.''.

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132), as amended by sections 141 and 143, is further amended by adding at the end the following new subsection:

''(p) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

''(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

''(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

''(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

''(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

''(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

''(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

''(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.''.

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133), as amended by section 301(b), is amended by adding at the end the following new subsection:

''(c) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.''.

SEC. 6. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(c) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State to with which consultation is required. In carrying out this paragraph, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.''.

SEC. 7. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by sections 2, 5, and 6 shall take effect one year from the date of the enactment. The amendments made by sections 3 and 4 shall take effect on the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle within one year from the date of the enactment. Such regulations shall be issued through negotiated rulemaking.

(b) EXCEPTION.—Section 801(a)(2) of the Employee Retirement Income Security Act of 1974 (added by section 2) does not apply in connection with an association health plan (certified under part 8 of subtitle B of title I of such Act) existing on the date of the enactment of this Act, if no benefits provided thereunder as of the date of the enactment of this Act consist of health insurance coverage (as defined in section 733(b)(1) of such Act).

(c) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a)(1) and 803(a)(1) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''association health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

THE SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

SEC. 421. RULES GOVERNING ASSOCIATION HEALTH PLANS

Subsection (a). Rules Governing Regulation of Association Health Plans.

This subsection adds a new Part 8 (Rules Governing Regulation of Association Health Plans) to Title I, Subtitle B of ERISA, as follows:

SEC. 801. ASSOCIATION HEALTH PLANS.

(a) The term ''association health plan'' means a ''group health plan'' (which is defined in ERISA as added by the Health Insurance Portability and Accountability Act or HIPAA; under HIPAA such group health plans are subject to all of the portability, preexisting condition, nondiscriminating, special enrollment, renewability and other provisions of ERISA Part 7)—

(b) The sponsor of an Association Health Plan (AHP) must be:

(1) Organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for at least annual meetings, as a trade association, and industry association (including a rural electric or rural telephone cooperative), a professional association, or a chamber of commerce (or similar business group, include a similar organization that operates on a cooperative basis within the meaning of section 1381 of the Internal Revenue Code), for substantial purposes other than that of obtaining or providing medical care.

(2) Is established as a permanent entity which receives the active support of its members, and collects dues from its members on a periodic basis;

(3) Does not condition membership, dues or coverage under the health plan on the basis of health status-related factors with respect to employees of members, and does not condition such dues on the basis of the member's participation in the group health plan.

In addition to the associations described above, certain other entities are eligible to seek certification as AHPs. These include (1) franchise networks (section 803(c)), and (2) multiemployer plans and certain existing collectively bargained arrangements which fail to meet the statutory exemption criteria (section 803(d)).

SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

This section establishes a procedure for the certification of Association Health Plans as prescribed by the Secretary of Labor or other applicable authority (applicable authority). In the case of an association health plan that provides at least one benefit option that does not consist of health insurance coverage, the applicable authority shall grant certification only if the applicable requirements are met (or, upon the date on which the plan is to commence operations, will be met). Such self-insured association health plans may only be certified if they also (1) offered such coverage on the date of enactment of this Act; (2) the sponsor does not restrict membership to one or more trades or businesses or industries and whose

eligible participating employers represent a broad cross-section of trades or businesses or industries; and (3) the plan's eligible participating employers represent one or more trades or businesses, or one or more industries, which have been indicated as having average or above-average health insurance risk or health claims experience by reason of state rate filings, denials of coverage, or proposed premium rate levels, or other means demonstrated by such plan in accord with regulations prescribed through negotiated rulemaking by the applicable authority.

The applicable authority may provide by regulation for continued certification of association health plans. A ''class certification'' procedure is established to speed the approval of plans that offer only fully-insured health insurance coverage.

In essence, this procedure has the same effect as requiring the Secretary to implement authority under current law to issue exemptions for association health plans (see ERISA section 514(b)(6)(B)). An AHP that is certified must also meet the applicable requirements of Part 8 as described below.

SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

This section establishes additional eligibility requirements for AHPs. Applicants must demonstrate that the arrangement's sponsor has been in existence for a continuous period of at least three years for substantial purposes other than providing coverage under a group health plan.

Subsection (b) also requires that the plan be operated, pursuant to trust agreement, by a ''board of trustees'' which has complete fiscal control and which is responsible for all operations of the plan. The board of trustees must develop rules of operation and financial control based on a three-year plan of operation which is adequate to carry out the terms of the plan and to meet all applicable requirements of the certification and Title I of ERISA. The board of trustees must consist of individuals who are owners, officers, directors or employees of the employers who participate in the plan.

In addition to the association described in section 801, certain other entities are made eligible to seek certification as AHPs. These include (1) franchise networks (section 803(c)) and (2) multiemployer plans and certain existing collectively bargained arrangements which fail to meet the statutory exemption criteria (section 803(d)).

SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

This section prohibits discrimination against eligible employers and employees by requiring that all employers who are association members be eligible for participation under the terms of the plan, that eligible employers be informed of all benefit options available, and that eligible individuals of such participating employers not be excluded from enrolling in the plan because of health status. Plans may include minimum participation, contribution, and size requirements to the extent that they meet the nondiscrimination and other rules under sections 701, 702, and 703. Affiliated members of the plan sponsor may be offered overage if they are affiliated at the time of certification or if they were previously uninsured for 12 months prior to being covered. The legislation will not affect the individual health insurance market adversely inasmuch as the bill requires that no participating employer may exclude an employee from enrollment under an AHP by purchasing an individual policy of health insurance coverage for such person based on his or her health status.

SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

Section 805 requires an association health plan to meet the following requirements: (1) its governing instruments must provide that the board of trustees serves as the named fiduciary and plan administrator, that the sponsor serves as plan sponsor, and that the reserve requirements of section 806 are met; (2) the contribution rates for any particular employer must be nondiscriminatory—they can not vary only on the claims experience of the particular employer or on the type of business or industry in which the employer is engaged, regardless of how much such claims may be above or below average claims experience, (3) the plan has at least 1,000 participants and beneficiaries if the plan does not consist solely of fully-insured health insurance coverage, (4) utilizes State-licensed insurance agents in the marketing of health insurance benefits under the plan; and (5) the plan meets such other requirements as may be set forth in regulations by the applicable authority.

The rules also stipulate that association health plans must be allowed to design benefit options. Specifically, no provision of state law shall preclude an AHP or health insurance issuer from exercising its discretion in designing the items and services of medical care to be included as health insurance converge under the plan, except to the extent that such law (1) prohibits a specific disease from such coverage, or (2) is not preempted under section 731(a)(1) with respect to the matters governed by section 711 (relating to maternal and newborn hospitalization) and section 712 (relating to mental health coverage). In addition, no provision of law shall be construed to preclude an AHP or health insurance issuer from setting contribution rates based on the experience under the plan to the extent such rates are nondiscriminatory as described above.

SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

Section 806 requires AHPs offering benefit options that do not consist solely of fully-insured health insurance coverage to establish and maintain reserves sufficient for unearned contributions, benefit liabilities incurred but not yet satisfied and for which risk of loss has not been transferred, expected administrative costs, any other obligations and a margin for error recommended by the plan's qualified actuary. In addition, the AHP must maintain minimum surplus reserves of $500,000 or such greater amount (up to $2,000,000) as the applicable authority may prescribe. Also, each plan must secure coverage from an insurer consisting of (1) aggregate stop-loss insurance with an attachment point not greater than 125 percent of expected gross claims; (2) specific stop-loss insurance with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary; and (3) to prevent insolvency, indemnification for any claims which a plan is unable to satisfy by reason of a mandatory termination described under section 809(b). The applicable authority may provide additional requirements relating to reserves and excess/stop loss insurance and may provide adjustments to the levels of reserves otherwise required to take into account the level of excess/stop loss insurance or other financial arrangements.

the bill also establishes an ''Association Health Plan Fund'' which is to be managed by the Department of Labor for the purpose of making payments to cover any outstanding benefit claims which are not fulfilled in accord with the solvency standards described above. All certified AHPs will pay $5,000 into the fund annually, and this amount may be altered according to need by the Secretary.

The bill also establishes a ''Solvency Standards Working Group'' for the purpose of providing input to the applicable authority with respect to solvency requirements for AHPs certified under the Act. The Working Group shall consist of not more than 15 members appointed by the applicable authority, and shall include: (1) a representative of the NAIC, (2) a representative of the American Academy of Actuaries; (3) a representative of the State governments; (4) a representative of existing self-insured health plans; (5) a representative bona fide associations eligible to sponsor an AHP under the Act; and (6) a representative of multiemployer group health plans.

SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

This section sets forth additional criteria which association health plans must meet to qualify for certification. The Secretary shall grant certification to a plan only if: (1) a complete application has been filed, accompanied by the filing fee of $5,000; and (2) all other terms of the certification are met (including financial, actuarial, reporting, participation, and such other requirements as may be specified as a condition of the certification).

The application must include the following: (1) identifying information about the arrangement and the states in which it will operate: (2) evidence that ERISA's bonding requirements will be met; (3) copies of all plan documents and agreements with service providers; (4) a funding report indicating that the reserve requirements of section 806 will be met, that contribution rates will be adequate to cover obligations, and that a qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards that the Secretary considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the applicable authority. Certified association health plans must notify by the applicable authority of any material changes in this information at any time, must file annual reports with the applicable authority, and must engage a qualified actuary.

AHPs are also required to file their certification with the applicable state authority of each state in which at least 25 percent of the participants and beneficiaries under the plan are located.

SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

Section 808 requires that, except as provided in section 809, and AHP may terminate only if the board of trustees provides 60 days advance written notice to participants and beneficiaries and submits to the applicable authority a plan providing for timely payment of all benefit obligations.

SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

Section 809 requires an AHP which offers benefit options which are not fully-insured to continue to meet the reserve requirements under section 806 even if its exemption is no longer in effect. The board of trustees of such an AHP must quarterly determine whether the reserve requirements of section 806 are being met and, if they are not, must, in consultation with the qualified actuary, develop a plan to ensure compliance and report such information to the applicable authority. In any case where an AHP notifies the applicable authority that it has failed to meet the reserve requirements and corrective action has not restored compliance, and

the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements applicable to such AHPs, the applicable authority may direct the board to terminate the arrangement.

SEC. 810 TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

Whenever the Secretary determines an AHP won't be able to provide benefits, or is otherwise in financial distress, the Secretary shall apply for appointment as trustee to administer the winding down of the plan.

SEC. 811. STATE ASSESSMENT AUTHORITY.

This section allows a state to assess newly certified AHPs a contribution tax to the same extent they tax health insurance plan. This is intended to enable states to maintain the revenue source for funding high-risk insurance pools.

SEC. 812. DEFINITIONS.

This section defines the following terms: group health plan, medical care, health insurance coverage, health insurance issuer, applicable authority, health status-related factor, individual market, treatment of very small groups, participating employer, applicable state authority, qualified actuary, affiliated member, large employer, and small employer. The terms are consistent with those added to ERISA by HIPAA. In addition, the terms ''employer'' and ''employee'' include self-employed individuals and partners for purposes of the application of Part 8 and the provisions of Title I as applicable to association health plans.

Subsection (b). Conforming Amendments.

This subsection contains (1) conforming changes to the definition of ''plan sponsor'' to include the sponsor of an AHP; (2) conforming changes to the Title I exception for church plans electing association health plan status; and (3) as described below, conforming changes to section 514 preemption rules to reflect the policy changes under Part 8 with respect to association health plans. First, paragraph (6) of section 514(b) is made inapplicable with respect to any state law in the case of a certified AHP. Second, a new subsection 514(d) (current subsection (d) is redesignated as (e)) clarifies the ability of health insurance issuers to offer health insurance coverage under AHPs and clarifies the ability of any health insurance issuer to offer health insurance coverage of the same policy type as offered in connection with a particular AHP to eligible employers, regardless of whether such employers choose or do not choose to become members of the particular association. Health insurance coverage policy forms filed and approved in a particular state in connection with an insurer's offering under an association health plan are deemed to be approved in any other state in which such coverage is offered when the insurer provides a complete filing in the same form and manner to the authority in the other state. Also, this section removes the current restriction on state regulation of self-insured multiple employer welfare arrangements providing medical care (which do not elect to meet the certification requirements for AHPs) under section 514(b)(6)(a)(ii) by eliminating the requirement that such state laws otherwise ''be consistent with the provisions of ERISA Title I.'' Section 514 is also amended to include a cross-reference to section 805(b) (relating to the ability of AHPs and health insurance issuers to design association health insurance options) and to section 805(a)(2)(B) (relating to the ability of AHPs and health insurance issuers to base contribution rates on the experience of such plans).

SEC. 422. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENT.

This section modifies the treatment of certain single employer arrangements under the section of ERISA that defines a multiple employer welfare arrangement (section 3(40). The treatment of a single employer plan as being excluded from the definition of such an arrangement (and thus from state law) is clarified by defining the minimum interest required for two or more entities to be in ''common control'' as a percentage which can not be required to be greater than 25 percent. Also, a plan would be considered a single employer plan if less than 25 percent of the covered employees are employed by other participating employers.

SEC. 423. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

This section clarified the conditions under which multiemployer and other collectively bargained arrangements are exempted from the definition of a multiple employer welfare arrangement, and thus exempt from state law. This is intended to address the problem of ''bogus unions'' and other illegitimate health insurance operators. The provision amends the definition of such an arrangement to exclude a plan or arrangement which is established or maintained under or pursuant to a collective bargaining arrangement (as described in the National Labor Relations Act, the Railway Labor Act, and similar state public employee relation laws). Current law requires the Secretary to ''find'' that a collective bargaining agreement exists, but no such finding has ever been issued. It then specifies additional conditions which must be met for such a plan to be a statutorily excluded collectively bargained arrangement, and thus not a multiple employer welfare arrangement. These include:

(1) The plan can not utilize the services of any licensed insurance agent or broker to solicit or enroll employers or pay a commission or other form of compensation to certain persons that is related to the volume or number of employers or individuals solicited or enrolled in the plan.

(2) A maximum 15 percent rule applies to the number of covered individuals in the plan who are not employees (or their beneficiaries) within a bargaining unit covered by any of the collective bargaining agreements with a participating employer or who are not present or former employees (or their beneficiaries) of sponsoring employee organizations or employers who are or were a party to any of the collective bargaining agreements.

(3) The employee organization or other entity sponsoring the plan or arrangement must certify annually to the Secretary the plan has met the previous requirements.

(4) If the plan or arrangement is not fully insured, it must be a multiemployer plan meeting specific requirements of the Labor Management Relations Act (i.e., the requirement for joint labor-management trusteeship under section 302(c)(5)(B)).

(5) If the plan or arrangement is not in effect as of the date of enactment, the employee organization or other entity sponsoring the plan or arrangement must have existed for at least three years or have been affiliated with another employee organization in existence for at least three years, or demonstrate to the Secretary that certain of the above requirements have been met.

SEC. 424. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

This section amends ERISA to establish enforcement provisions relating to association health plans and multiple employer welfare arrangements: (1) willful misrepresentation that an entity is an exempted AHP or collectively-bargained arrangement may result in criminal penalties: (2) the section provides for cease activity orders for arrangements found to be neither licensed, registered, or otherwise approved under State insurance law, or operating in accordance with the terms of the certification granted by the Secretary under Part 8; and (3) the section provides for the responsibility of the named fiduciary or board of trustees of an AHP to comply with the required claims procedure under ERISA.

SEC. 425. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES

This section amends section 506 of ERISA (relating to coordination and responsibility of agencies enforcing ERISA and related laws) to require the Secretary of Labor to consult with state insurance departments with regard to the Secretary's authority under section 502 and 504 to enforce provisions applicable to certified AHPs.

SEC. 426. EFFECTIVE DATE; TRANSITIONAL RULES.

In general, the amendments made by Section 421, 424, and 425 of the Act are effective one year after enactment of the Act. Sections 422 and 423 are effective upon date of enactment. In addition, the Secretary is required to issue all regulations needed to carry out the amendments within one year after enactment of the Act.

The provisions of section 805(a)(2) relating to health insurance coverage do not apply to group health plans existing on the date of enactment if they do not provide health insurance coverage, but later qualify for certification.

AHPs not in existence on the date of enactment and desiring to offer benefits which do not consist of health insurance must demonstrate to the Secretary that their risk is at least average or above average. The Secretary shall report to Congress the affect on reducing the number of uninsured after five years.

By Mr. AKAKA (for himself, Mr. BAUCUS, Mr. CAMPBELL, Mr. DURBIN, Mrs. FEINSTEIN, Mr. ROBERTS, and Mr. LEAHY):

S. 546. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce The Paleontological Resources Preservation Act to protect and preserve the Nation's important fossil record for the benefit of our citizens. I am pleased to have Senators BAUCUS, CAMPBELL, DURBIN, FEINSTEIN, LEAHY, and ROBERTS join me as original cosponsors on this significant legislation.

This bill was reported favorably by the Energy and Natural Resources Committee, and approved by unanimous consent during the 107th Congress. I plan to work closely with my colleagues to enact this bill during the 108th Congress.

In 1999, Congress requested that the Secretary of the Interior review and report on the Federal policy concerning paleontological resources on Federal lands. In its request, Congress noted that no unified Federal policy existed regarding the treatment of fossils by Federal land management agencies, and emphasized Congress's concerns that lack of appropriate standards

would lead to the deterioration or loss of fossils, which are valuable scientific resources.

In response, seven Federal agencies and the Smithsonian Institution released a report in May 2000 entitled ''Assessment of Fossil Management on Federal and Indian Lands.'' This assessment outlined governing principles for the management of fossils on Federal lands. The report recommended that penalties for fossil theft be strengthened and that Federal fossil collections be preserved and available for research and public education. The interagency group also stated that fossils on Federal lands are rare and a part of America's heritage and that effective stewardship requires accurate information and inventories.

The Paleontological Resources Preservation Act embodies these principles, and provides the paleontological equivalent of protections found in the Archeological Resources Preservation Act. The bill finds that fossil resources on Federal lands are an irreplaceable part of the heritage of the United States. It affirms that reasonable access to fossil resources should be provided for scientific, educational, and recreational purposes. The bill acknowledges the value of amateur collecting, but protects vertebrate fossils found on Federal lands under a system of permits.

I would like to emphasize that this bill in no way affects archaeological or cultural resources under the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Rehabilitation Act. They are exempted. This bill covers paleontological remains—fossils on Federal lands only.

As we look toward the future, public access to fossil resources will take on a new meaning as digital images of fossils become available worldwide. The National Museum of Natural History, one of the premier Smithsonian museums, already has an online catalogue of 9 million specimens, some of which include digital images. Museums will be able to provide global access for researchers, collectors, and educators to study fossil collections through online catalogs and images. Many scientists in developing countries currently lack vital information about fossils because they cannot afford travel costs to museums. This digital advance will truly make fossils a global resource for the public.

Discoveries in paleontology are made more frequently than we realize. They shape how we learn about the world around us. In January of this year, Nature reported that Chinese scientists at Beijing's Institute of Vertebrate Paleontology and Paleoanthropology discovered several four-winged dinosaur fossils. This discovery is providing us with critical insight into the phenomenon of flight. The Paleontological Resources Preservation Act would create a legacy of scientific knowledge for future generations.

The protections offered in this Act are not new. Federal land management agencies have individual regulations prohibiting theft of government property. However, the reality is that U.S. Attorneys are reluctant to prosecute cases involving fossil theft because they are difficult. Congress has not provided a clear statute stating the value of paleontological resources to our Nation, as has been provided for archeological resources. Fossils are too valuable to be left within the general theft provisions that are difficult to prosecute, and they are too valuable to the education of our children not to ensure public access. We need to work together to make sure that we fulfill our responsibility as stewards of public lands, and as protectors of our Nation's natural resources.

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. 546

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 ''Paleontological Resources Preservation Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Paleontological resources are nonrenewable. Such resources on Federal lands are an accessible and irreplaceable part of the heritage of the United States and offer significant educational opportunities to all citizens.

(2) Existing Federal laws, statutes, and other provisions that manage paleontological resources are not articulated in a unified national policy for Federal land management agencies and the public. Such a policy is needed to improve scientific understanding, to promote responsible stewardship, and to facilitate the enhancement of responsible paleontological collecting activities on Federal lands.

(3) Consistent with the statutory provisions applicable to each Federal land management system, reasonable access to paleontological resources on Federal lands should be provided for scientific, educational, and recreational purposes.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a comprehensive national policy for preserving and managing paleontological resources on Federal lands.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term ''casual collecting'' means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for personal (scientific, educational, or recreational) use, either by surface collection or using nonpowered hand tools resulting in only negligible disturbance to the Earth's surface and other resources.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior with respect to lands administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands administered by the Secretary of Agriculture.

(3) FEDERAL LANDS.—The term ''Federal lands'' means lands administered by the Secretary of the Interior, except Indian lands, or National Forest System Lands administered by the Secretary of Agriculture.

(4) INDIAN LANDS.—The term ''Indian Lands'' means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) STATE.—The term ''State'' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(6) PALEONTOLOGICAL RESOURCE.—The term ''paleontological resource'' means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Rehabilitation Act (25 U.S.C. 3001)).

SEC. 5. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION OF IMPLEMENTATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 6. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 7. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands administered by the Bureau of Land Management, the Bureau of Reclamation, and the U.S. Forest Service, where such collection is not inconsistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 9 or is assessed a civil penalty under section 10.

(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 8. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 9. PROHIBITED ACTS; PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, exchanged, transported, or received from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALITIES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be guilty of a class A misdemeanor.

(2) DAMAGE OVER $1,000.—If the sum of the scientific or fair market value of the paleontological resources involved and the cost of restoration and repair of such resources exceeds the sum of $1,000, such person shall, upon conviction, be guilty of a class E felony.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent such violation, such person shall, upon conviction, be guilty of a class D felony.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any palentological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 10. CIVIL PENALTIES FOR VIOLATIONS OF REGULATIONS OR PERMIT CONDITIONS.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved.

(B) The cost of response, restoration, and repair of the resource and the paleontolgical site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order with an appropriate Federal district court within the 30-day period beginning on the date the order making the assessment was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about palenotological resources and sites.

(3) To provide for the payment of Rewards as provided in section 11.

SEC. 11. REWARDS FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under section 9 or 10 of this Act an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 9 or 10 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, may be subject to forfeiture to the United States upon—

(1) the person's conviction of the violation under section 9;

(2) assessment of a civil penalty against any person under section 10 with respect to the violation; or

(3) a determination by any court that the paleontological resources, vehicles, or equipment were involved in the violation.

SEC. 12. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be withheld from the public under subchapter II of chapter 5 of title 5, United States Code, or under any other provision of law unless the responsible Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 13. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 14. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), the Mining in the Parks Act, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time existing laws and authorities relating to reclamation and multiple uses of the public lands;

(3) apply to, or require a permit for, amateur collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontolgical resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mr. DURBIN (for himself and Ms. COLLINS):

S. 547. A bill to encourage energy conservation through bicycling; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I rise today to introduce the Conserve by Bike Act to promote energy conservation and improve public health. I am pleased to be joined by my colleagues from Maine, Senator Susan Collins, in introducing this measure. This legislation addresses one part of our Nation's energy challenges. Although there is no single solution, every possible approach must be considered in order to solve our energy problems.

Our Nation would realize several benefits from the increased use of bicycle transportation, including lessened dependence on foreign oil and prevention of harmful air emissions. Currently, less than one trip in one hundred, .88 percent, is by bicycle. If we can raise our level of cycling to one and a half trips per hundred, which is less than one bike trip every two weeks for the average person, we will save more than 462 million gallons of gasoline in a year, worth more than $721 million. That is the equivalent of one day a year we will not need to import any foreign oil.

In addition to fostering greater independence from foreign oil supplies, this bill will help mitigate air quality challenges, which can be harmful to public health and the environment. Unlike automotive transportation, bicycling is emissions-free.

The Conserve by Bike Act encourages bicycling through two key components: a pilot program and a research project. The Conserve by Bike Pilot Program established by this legislation would be implemented by the U.S. Department of Transportation. The Department would fund up to ten pilots throughout the country that would utilize education and marketing tools to encourage people to convert some of their car trips to bike trips. Each of these pilot projects must: 1. document project results and energy conserved; 2. facilitate partnerships among stakeholders in two or more of the following fields: transportation, law enforcement, education, public health, and the environment; 3. maximize current bicycle facility investments; 4. demonstrate methods that can be replicated in other locations; and 5. produce ongoing programs that are sustained by local resources.

This legislation also directs the Transportation Research Board of the National Academy of Sciences to conduct a research project on converting car trips to bike trips. The study will consider: 1. what car trips Americans can reasonably be expected to make by bike, given such factors as weather, land use, and traffic patterns, carrying capacity of bicycles, and bicycle infrastructure; 2. what energy savings would result, or how much energy could be conserved, if these trips were converted from car to bike; 3. the cost-benefit analysis of bicycle infrastructure investments; and 4. what factors could encourage more car trips to be replaced with bike trips. The study also will identify lessons we can learn from the documented results of the pilot programs.

The Conserve by Bike Program is a small investment that has the potential to produce significant returns: greater independence from foreign oil and a healthier environment and population. The Conserve by Bike Act authorizes a total of $6.2 million to carry out the pilot programs and research. A total of $5,150,000 will be used to implement the pilot projects; $300,000 will be used by the Department of Transportation to coordinate, publicize, and disseminate the results of the program; and $750,000 will be utilized for the research study.

The provisions in this bill enjoy strong, bipartisan support and passed as an amendment to last year's Senate energy bill. The measure is endorsed by the League of American Bicyclists, which has over 300,000 affiliates, as well as the Association of Pedestrian and Bicycle Professionals, Rails to Trails Conservancy, Thunderhead Alliance, Bikes Belong Coalition, Adventure Cycling, International Mountain Bicycling Association, Chicagoland Bicycle Federation, and the League of Illinois Bicyclists.

By enacting the Conserve by Bike Act, we can reduce our energy dependence, reduce harmful air emissions, and improve public health. I urge my colleagues to cosponsor the Conserve by Bike Act and join me in making a responsible investment in cleaner, healthier and more energy efficient future.

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. 547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ''program'' means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the ''Conserve by Bicycling Program''.

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from State or local sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (b);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (e).

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Illinois in reintroducing this legislation to recognize and promote bicycling's important impact on energy savings and public health.

With America becoming more and more dependent on foreign oil, it is vital that we look to the contribution that bike travel can make toward solving our Nation's energy challenges.

This legislation would establish a Conserve by Bike pilot program that would oversee pilot projects throughout the country designed to conserve energy resources by providing education and marketing tools to convert car trips to bike trips. Right now, fewer than one trip in one hundred is by bicycle. If we could increase this statistic to one and a half trips per hundred, we would save over 462 million gallons of gasoline in a year, worth over $721 million.

While more bike trips would benefit our energy conservation efforts, that would also help improve the public's health. According to the U.S. Surgeon General, fewer than one-third of Americans meet Federal recommendations to engage in at least 30 minutes of moderate physical activity at least 5 days a week. Even more disturbing is the fact that approximately 300,000 U.S. death a year are associated with being obese or overweight. By promoting biking, we are working to ensue that Americans will increase their physical activity.

The Conserve by Bike Act has received widespread support on the national, state, and local level, and I urge my colleagues to support this legislation.

By Mr. ROCKEFELLER:

S. 548. A bill to improve mental health programs for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, as a senior member of the Senate Committee on Veterans' Affairs, I am proud to reintroduce legislation today intended to strengthen mental health programs within the Department of Veterans Affairs a key element of caring for those who have served on the battlefield.

Historically, as many as one-third of all veterans seeking care at VA have received mental health treatment, and research suggests that serious mental illnesses affect at least one-fifth of the veterans who use the VA health care system. About 450,000 of the approximately 2.3 million veterans who receive compensation from VA have service-connected psychiatric and neurological disorders.

I remain concerned about the viability of some of the programs developed to care for veterans with mental health needs. I have heard testimony about a number of these programs endangered by budget constraints and a shift in focus from inpatient care to outpatient clinics. Specialized programs particularly for substance use disorders and PTSD shut down, reduced in size, or understaffed—offering little or no care to veterans suffering from these seriously debilitating disorders.

Congress previously enacted a provision to designate $15 million in VA funding specifically to assist medical facilities in their efforts to improve care for veterans with substance use disorders and PTSD. This additional funding has enabled VA to develop better outpatient substance abuse and PTSD treatment programs, outpatient dual-diagnosis programs, more PTSD community clinical teams, and more residential substance abuse disorder rehabilitation programs.

The funds for these mental health programs, mandated by the Millennium Benefits and Health Care Act of 1999, will soon revert to a general fund. The bill I am introducing today ensures that this funding will remain ''protected'' for three more years and increases the total amount of funding identified specifically for treatment of substance use disorders and PTSD from $15 million to $25 million.

Another provision of the legislation I am introducing today concerns VA's Mental Illness Research, Education, and Clinical Centers, called ''MIRECCs. In 1996, Congress authorized VA to establish five of these centers dedicated to mental illness research, education, and clinical activities. This provision will allow VA to establish up to ten more MIRECCs to study and treat mental illnesses. MIRECCs have encouraged research, given VA caregivers more and better tools to treat patients with mental disorders, and increased our fundamental understanding of mental illnesses. Much more can be done in this area if the program is expanded.

Another critical area of VA care involves counseling and treatment for veterans who were victims of sexual harassment or sexual assault during active military service. In 1992, Congress authorized VA to provide counseling to women who experienced sexual trauma during active military service. Two years later, recognizing that sexual trauma is not limited to women, Congress expanded VA's mandate to offer counseling and treatment regardless of gender. The Veterans Millennium Health Care and Benefits Act of 1999 broadened VA's responsibilities toward victims of sexual trauma even further, strengthening outreach efforts and extending the programs through December 2004. The legislation I am reintroducing today would provide permanent authority to VA for counseling and treatment of veterans who have experienced military sexual trauma, so that veterans and health care professionals can depend upon these critical services.

I hope my colleagues will join me in supporting the expansion of these enormously important mental health programs with the Department of Veterans Affairs. We owe our service men and women no less.

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. 548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT AUTHORITY FOR COUNSELING AND TREATMENT OF VETERANS FOR SEXUAL TRAUMA.

Section 1720D of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''During the period through December 31, 2004, the Secretary'' and inserting ''The Secretary''; and

(B) in paragraph (2), by striking '', during the period through December 31, 2004,''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''establishment and''; and

(B) in paragraph (2), by striking ''establishing a program'' and inserting ''operating a program''.

SEC. 2. AUTHORITY TO OPERATE ADDITIONAL DEPARTMENT OF VETERANS AFFAIRS CENTERS FOR MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.

Section 7320(b)(3) of title 38, United States Code, is amended by striking ''five centers'' and inserting ''15 centers''.

SEC. 3. IMPROVEMENT OF PROGRAM FOR PROVISION OF SPECIALIZED MENTAL HEALTH SERVICES TO VETERANS.

(a) INCREASE IN FUNDING.—Subsection (c) of section 116 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1559; 38 U.S.C. 1712A note) is amended—

(1) in paragraph (1), by striking ''$15,000,000'' and inserting ''$25,000,000 in each of fiscal years 2004, 2005, and 2006'';

(2) in paragraph (2), by striking ''$15,000,000'' and inserting ''$25,000,000''; and

(3) in paragraph (3)—

(A) by inserting ''(A)'' after ''(3)''; and

(B) by adding at the end the following new subparagraph:

''(B) For purposes of this paragraph, in fiscal years 2004, 2005, and 2006, the fiscal year utilized to determine the baseline amount shall be fiscal year 2003.''.

(b) ALLOCATION OF FUNDS.—Subsection (d) of that section is amended—

(1) by striking ''The Secretary'' and inserting ''(1) In each of fiscal years 2004, 2005, and 2006, the Secretary''; and

(2) by adding at the end the following new paragraphs:

''(2) In allocating funds to facilities in a fiscal year under paragraph (1), the Secretary shall ensure that—

''(A) not less than $10,000,000 is allocated by direct grants to programs that are identified by the Mental Health Strategic Health Care Group and the Committee on Care of Severely Chronically Mentally Ill Veterans;

''(B) not less than $5,000,000 is allocated for programs on post-traumatic stress disorder; and

''(C) not less than $5,000,000 is allocated for programs on substance abuse disorder.

''(3) The Secretary shall provide that the funds to be allocated under this section during each of fiscal years 2004, 2005, and 2006 are funds for a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.''.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. THOMAS):

S. 550. A bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, I am pleased to be joined by Senators INOUYE and THOMAS in introducing key legislation to help stop Indian land fractionation.

One of the most enduring and damaging legacies of late-19th century Federal Indian policy is the continuing fractionation of Indian trust lands.

The results of this ever-growing problem make it nearly impossible for affected Indian tribes to devise economic development strategies.

By attempting to ''break up the tribal landmass'' and turning Indians into yeoman farmers, the Dawes Act of 1887 resulted in millions of acres of land transferred out of Indian ownership.

By virtue of Indian heirship and probate rules and the steady march of time, millions more acres have passed from their original Indian allottees to thousands of descendants with undivided interests in parcels of land.

In strict economic terms, these interests are practically worthless.

Congressional efforts to counter this problem have focused on the Indian Land Consolidation Act and amendments made to the Act.

Key escheat sections designed to return individual-owned fractionated lands to tribal ownership have been held unconstitutional by the U.S. Supreme Court in 1987, Hodel v. Irving, and in 1997, Babbitt v. Youpee.

Congress and the Administration have also sought to return these interests to tribal ownership through voluntary purchase.

The ''Indian Land Consolidation Program'' was enacted as part of the Fiscal Year 1999 Omnibus Appropriation and has proven a success.

In 1999 I introduced amendments to the ILCA to limit disposition of Indian lands to Indian heirs, life estates to non-Indian heirs, or the tribe with jurisdiction over the lands.

The bill I am re-introducing today was considered by the Committee on Indian Affairs and passed by the Senate last session. In light of this, it is my intention to expedite consideration of the measure.

I urge my colleagues to join me in supporting this important bill.

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. 550

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 ''American Indian Probate Reform Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Act of February 8, 1887 (commonly known as the ''Indian General Allotment Act'') (25 U.S.C. 331 et seq.), which authorized the allotment of Indian reservations, did not permit Indian allotment owners to provide for the testamentary disposition of the land that was allotted to them;

(2) that Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment;

(3) the reliance of the Federal Government on the State law of intestate succession with respect to the descent of allotments has resulted in numerous problems affecting Indian tribes, members of Indian tribes, and the Federal Government, including—

(A) the increasingly fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

(B) the application of different rules of intestate succession to each interest of a decedent in or to trust or restricted land if that land is located within the boundaries of more than 1 State, which application—

(i) makes probate planning unnecessarily difficult; and

(ii) impedes efforts to provide probate planning assistance or advice;

(C) the absence of a uniform general probate code for trust and restricted land, which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which—

(i) is unfair to the owners of trust and restricted land (and heirs and devisees of owners); and

(ii) makes probate planning more difficult; and

(4) a uniform Federal probate code would likely—

(A) reduce the number of fractionated interests in trust or restricted land;

(B) facilitate efforts to provide probate planning assistance and advice;

(C) facilitate intertribal efforts to produce tribal probate codes in accordance with section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

(D) provide essential elements of general probate law that are not applicable on the date of enactment of this Act to interests in trust or restricted land.

SEC. 3. INDIAN PROBATE REFORM.

(a) TESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (a) and inserting the following:

''(a) TESTAMENTARY DISPOSITION.—

''(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

''(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, or a tribal probate code enacted in accordance with section 206, the owner of an interest in trust or restricted land may devise such an interest to—

''(i) an Indian tribe with jurisdiction over the land; or

''(ii) any Indian in trust or restricted status (or as a passive trust interest as provided for in section 207A).

''(B) STATUS.—The devise of an interest in trust or restricted land to an Indian under subparagraph (A)(ii) shall not alter the status of such an interest as a trust or restricted interest unless the testator provides that the interest is to be held as a passive trust interest.

''(2) DEVISE OF TRUST OR RESTRICTED LAND IN PASSIVE TRUST OR FEE.—

''(A) IN GENERAL.—Except as provided under any applicable Federal law, any interest in trust or restricted land that is not devised in accordance with paragraph (1) may be devised only—

''(i) as a life estate to any non-Indian person, with the remainder being devised only in accordance with clause (ii), subparagraph (C), or paragraph (1)(A);

''(ii) to the lineal descendant or heir of the first or second degree of the testator or, if the testator does not have an heir of the first or second degree or a lineal descendant, to any lineal descendant of an Indian grandparent of the testator, as a passive trust interest (referred to in this section as an 'eligible passive trust devisee'); or

''(iii) in fee in accordance with subparagraph (C).

''(B) PRESUMED DEVISE OF PASSIVE TRUST INTEREST.—Any devise to an eligible passive trust devisee, or any devise of a remainder interest from the devise of a life estate under subparagraph (A)(ii), that does not indicate whether the interest is devised as a passive trust interest or a fee interest shall be considered to devise a passive trust interest.

''(C) DEVISE OF A FEE INTEREST.—Subject to subparagraph (D), any interest in trust or restricted land that is not devised in accordance with paragraph (1), or devised to an eligible passive trust devisee in accordance with subparagraph (A), may be devised to a non-Indian in fee.

''(D) LIMITATION.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464), may be devised only in accordance with—

''(i) that section;

''(ii) subparagraph (A); or

''(iii) paragraph (1).

''(3) DEVISE OF A PASSIVE TRUST INTEREST.—

''(A) IN GENERAL.—The holder of an interest in trust or restricted land that is held as a passive trust interest may devise the interest as a passive trust interest only to—

''(i)(I) any Indian; or

''(II) the Indian tribe that exercises jurisdiction over the interest;

''(ii) the lineal descendants, or heirs of the first or second degree, of the holder;

''(iii) any living descendant of the decedent from whom the holder acquired the interest by devise or descent; or

''(iv) any person that owns a preexisting interest or a passive trust interest in the same parcel of land, if the preexisting interest is held in trust or restricted status or in passive trust status.

''(B) INELIGIBLE DEVISEES AND INTESTATE SUCCESSION.—A passive trust interest that is devised to a person that is not eligible under subparagraph (A) or that is not disposed of by a valid will shall pass in accordance with the applicable law of intestate succession as provided for in subsection (b).''.

(b) NONTESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (b) and inserting the following:

''(b) NONTESTAMENTARY DISPOSITION.—

''(1) RULES OF DESCENT.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any interest in trust or restricted land that is not disposed of by a valid will—

''(A) shall descend according to a tribal probate code that is approved in accordance with section 206; or

''(B) in the case of an interest in trust or restricted land to which such a code does not apply, shall descend in accordance with—

''(i) paragraphs (2) through (7);

''(ii) section 207A; and

''(iii) other applicable Federal law.

''(2) NO APPLICABLE CODE.—An intestate interest to which a code described in paragraph (1) does not apply—

''(A) shall include—

''(i) an interest acquired by a decedent through devise or inheritance (referred to in this subsection as a 'devise or inheritance interest'); or

''(ii) an interest acquired by a decedent by any means other than devise or inheritance (referred to in this subsection as an 'acquired interest'), if—

''(I) the decedent—

''(aa) acquired additional undivided interest in the same parcel in which the interest

is held, by a means other than devise or inheritance; or

''(bb) acquired land adjoining the parcel of land in which the interest is held; or

''(II) the parcel of land in which the interest is held includes the residence of the spouse of the decedent; and

''(B) shall descend as follows:

''(i) SURVIVING INDIAN SPOUSE.—

''(I) IN GENERAL.—If a decedent is survived by an Indian spouse, and the estate of the decedent includes 1 or more acquired interests, the spouse of the decedent shall receive all of the acquired interests.

''(II) DEVISE OR INHERITANCE INTERESTS.—If a decedent is survived by an Indian spouse, and the estate of the decedent includes 1 or more devise or inheritance interests—

''(aa) if the decedent is not survived by an Indian heir of the first or second degree, the spouse of the decedent shall receive all of the devise or inheritance interests; and

''(bb) if the decedent is survived by an Indian heir of the first or second degree, the devise or inheritance interest of the decedent shall descend in accordance with paragraph (3)(A).

''(ii) SURVIVING NON-INDIAN SPOUSE.—

''(I) IN GENERAL.—If a decedent is survived by a non-Indian spouse, and the estate of the decedent includes 1 or more acquired interests—

''(aa) the spouse of the decedent shall receive a life estate in each acquired interest; and

''(aa)(AA) if the decedent is survived by an Indian heir of the first or second degree, the remainder interests shall descend in accordance with paragraph (3)(A); and

''(BB) if the decedent is not survived by an Indian heir of the first or second degree, the remainder interest shall descend in accordance with paragraph (3)(C).

''(II) DEVISE OR INHERITANCE INTERESTS.—If the estate of a decedent described in subclause (I) includes 1 or more devise or inheritance interests—

''(aa) if the decedent is survived by an Indian heir of the first or second degree, the devise or inheritance interests shall descend in accordance with paragraph (3)(A); and

''(bb) if the decedent is not survived by an Indian heir of the first or second degree, the devise or inheritance interests shall descend in accordance with paragraph (3)(C).

''(iii) NO SURVIVING SPOUSE.—If a decedent is not survived by a spouse, and the estate of the decedent includes 1 or more acquired interests or 1 or more devise or inheritance interests—

''(I) if the decedent is survived by an Indian heir of the first or second degree, the acquired interests or devise or inheritance interests shall descend in accordance with paragraph (3)(A); and

''(II) if the decedent is not survived by an Indian heir of the first or second degree, the acquired interests or devise or inheritance interests shall descend in accordance with paragraph (3)(C).

''(3) RULES GOVERNING DESCENT OF ESTATE.—

''(A) INDIAN HEIRS.—For the purpose of this section, an Indian heir of the first or second degree shall inherit in the following order:

''(i) To the Indian children of the decedent (or if 1 or more of those Indian children do not survive the decedent, the Indian children of the deceased child of the decedent, by right of representation) shall inherit in equal shares.

''(ii) If the decedent has no Indian children (or grandchildren that inherit by right of representation under clause (i)), to the Indian brothers and sisters of the decedent, in equal shares.

''(iii) If the decedent has no Indian brothers or sisters, to the Indian parent or parents of the decedent.

''(B) RIGHT OF REPRESENTATION.—In any case involving the determination of a right of representation—

''(i) each interest in trust land shall be equally divided into a number of shares that equals the sum obtained by adding—

''(I) the number of surviving heirs in the nearest degree of kinship; and

''(II) the number of deceased individuals in that same degree, if any, who left issue who survive the decedent;

''(ii) each surviving heir described in clause (i)(I) shall receive 1 share; and

''(iii)(I) each deceased individual described in clause (i)(II) shall receive 1 share; and

''(II) that share shall be divided equally among the surviving issue of the deceased person.

''(C) NO INDIAN HEIRS.—

''(i) DEFINITION OF COLLATERAL HEIR.—In this subparagraph, the term 'collateral heir' means an aunt, uncle, niece, nephew, or first cousin of a decedent.

''(ii) NO HEIRS.—If a decedent does not have an Indian heir of the first or second degree, an interest shall descend to any Indian collateral heir who is a co-owner of an interest owned by the decedent.

''(iii) MULTIPLE COLLATERAL HEIRS.—If—

''(I) an Indian collateral heir owns an interest to which clause (ii) applies that is larger than the interest held by any other such collateral heir, the interest shall descend to the collateral heir that owns the largest undivided interest in the parcel; or

''(II) 2 or more collateral heirs own equal shares in an interest to which clause (ii) applies, the interest shall be divided equally among those collateral heirs.

''(iv) NO OWNERSHIP.—If none of the Indian collateral heirs of a decedent owns an interest to which clause (ii) applies, subject to clause (v), the interest shall descend to the Indian tribe that exercises jurisdiction over the parcel of trust or restricted land involved.

''(v) ACQUISITION OF INTEREST.—

''(I) IN GENERAL.—Notwithstanding clause (iv), an Indian co-owner of a parcel of trust or restricted land may acquire an interest that would otherwise descend under that clause by paying into the estate of the decedent, before the close of the probate of the estate, the fair market value of the interest in or to the land.

''(II) MULTIPLE CO-OWNERS.—If more than 1 Indian co-owner (including the Indian tribe referred to in clause (iv)) offers to pay for an interest described in subclause (I), the highest bidder shall acquire the interest.

''(4) SPECIAL RULE RELATING TO SURVIVAL.—In the case of intestate succession under this section, if an individual who fails to survive a decedent by at least 120 hours, as established by clear and convincing evidence—

''(A) the individual shall be deemed to have predeceased the decedent for the purpose of intestate succession; and

''(B) the heirs of the decedent shall be determined in accordance with this section.

''(5) PRETERMITTED SPOUSES AND CHILDREN.—

''(A) SPOUSES.—

''(i) IN GENERAL.—Except as provided in clause (ii), if the surviving spouse of a testator married the testator after the testator executed the will of the testator, the surviving spouse shall receive the intestate share in trust or restricted land that the spouse would have received if the testator had died intestate.

''(ii) EXCEPTION.—Clause (i) shall not apply to an interest in trust or restricted land in a case in which—

''(I) the will of a testator is executed before the date of enactment of this subparagraph;

''(II)(aa) the spouse of a testator is a non-Indian; and

''(bb) the testator devised the interests in trust or restricted land of the testator to 1 or more Indians;

''(III) it appears, based on an examination of the will or other evidence, that the will was made in contemplation of the marriage of the testator to the surviving spouse;

''(IV) the will expresses the intention that the will is to be effective notwithstanding any subsequent marriage; or

''(V)(aa) the testator provided for the spouse by a transfer of funds or property outside the will; and

''(bb) an intent that the transfer be in lieu of a testamentary provision is demonstrated by statements of the testator or through a reasonable inference based on the amount of the transfer or other evidence.

''(B) CHILDREN.—

''(i) IN GENERAL.—If a testator executed the will of the testator before the birth or adoption of 1 or more children of the testator, and the omission of the children from the will is a product of inadvertence rather than an intentional omission, the children shall share in the intestate interests of the decedent in trust or restricted land as if the decedent had died intestate.

''(ii) ADOPTED HEIRS.—Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (25 U.S.C. 372a), shall be treated as the child of a decedent under this subsection.

''(6) DIVORCE.—

''(A) SURVIVING SPOUSE.—

''(i) IN GENERAL.—An individual who is divorced from a decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death of the decedent.

''(ii) SEPARATION.—A decree of separation that does not dissolve a marriage, and terminate the status of husband and wife, shall not be considered a divorce for the purpose of this subsection.

''(iii) NO EFFECT ON ADJUDICATIONS.—Nothing in clause (i) prevents an entity responsible for adjudicating an interest in trust or restricted land from giving effect to a property right settlement if 1 of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

''(B) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—

''(i) IN GENERAL.—If, after executing a will, a testator is divorced or the marriage of the testator is annulled, on the effective date of the divorce or annulment, any disposition of interests in trust or restricted land made by the will to the former spouse of the testator shall be considered to be revoked unless the will expressly provides otherwise.

''(ii) PROPERTY.—Property that is prevented from passing to a former spouse of a decedent under clause (i) shall pass as if the former spouse failed to survive the decedent.

''(iii) PROVISIONS OF WILLS.—Any provision of a will that is considered to be revoked solely by operation of this subparagraph shall be revived by the remarriage of a testator to the former spouse of the testator.

''(7) NOTICE.—

''(A) IN GENERAL.—To the maximum extent practicable, the Secretary shall notify each owner of trust and restricted land of the provisions of this Act.

''(B) COMBINED NOTICES.—The notice under subparagraph (A) may, at the discretion of the Secretary, be provided with the notice required under section 207(g).''.

(c) RULE OF CONSTRUCTION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(h) APPLICABLE FEDERAL LAW.—

''(1) IN GENERAL.—For purpose of subsections (a) and (b), any reference to applicable Federal law includes—

''(A) Public Law 91–627 (84 Stat. 1874);

''(B) Public Law 92–377 (86 Stat. 530);

''(C) Public Law 92–443 (86 Stat. 744);

''(D) Public Law 96–274 (94 Stat. 537); and

''(E) Public Law 98–513 (98 Stat. 2411).

''(2) NO EFFECT ON LAWS.—Nothing in this section amends or otherwise affects any law described in paragraph (1), or any other Federal law, that provides for the devise and descent of any trust or restricted land located on a specific Indian reservation.''.

(d) PASSIVE TRUST INTEREST STATUS FOR TRUST OR RESTRICTED LAND.—The Indian Land Consolidation Act is amended by inserting after section 207 (25 U.S.C. 2206) the following:

''SEC. 207A. PASSIVE TRUST INTEREST STATUS FOR TRUST OR RESTRICTED LAND.

''(a) PASSIVE TRUST INTEREST STATUS.—

''(1) IN GENERAL.—The owner of an interest in trust or restricted land may submit to the Secretary an application requesting that the interest be held in passive trust interest status.

''(2) AUTHORITY.—An application under paragraph (1) may authorize the Secretary to amend any existing lease or agreement with respect to the interest that is the subject of the application.

''(b) APPROVAL.—On the approval of an application by the Secretary under subsection (a), an interest in trust or restricted land covered by the application shall be held as a passive trust interest in accordance with this section.

''(c) REQUIREMENTS.—Except as provided in this section, an interest in trust or restricted land that is held as a passive trust interest under this section—

''(1) shall continue to be covered under any applicable tax-exempt status, and continue to be subject to any restrictions on alienation, until the interest is patented in fee;

''(2) may, without the approval of the Secretary, be—

''(A) leased for a period of not to exceed 25 years;

''(B) mortgaged in accordance with the Act of March 29, 1956 (25 U.S.C. 483a); or

''(C) sold or conveyed to—

''(i) an Indian;

''(ii) the Indian tribe that exercises jurisdiction over the interest; or

''(iii) a co-owner of an interest in the parcel of land in which the interest is held, if the co-owner owns a pre-existing trust, restricted interest, or a passive trust interest in the parcel; and

''(3) may be subject to an ordinance or resolution enacted under subsection (d).

''(d) ORDINANCE OR RESOLUTION FOR REMOVAL OF STATUS.—

''(1) IN GENERAL.—The governing body of the Indian tribe that exercises jurisdiction over an interest in trust or restricted land that is held as a passive trust interest in accordance with this section may enact an ordinance or resolution to permit the owner of the interest to apply to the Secretary for the removal of the trust or restricted status of any portion of the land that is subject to the jurisdiction of the Indian tribe.

''(2) REVIEW BY SECRETARY.—The Secretary shall review, and may approve, an ordinance or resolution enacted by an Indian tribe in accordance with paragraph (1) if the Secretary determines that the ordinance or resolution—

''(A) is consistent with this Act; and

''(B) would not increase fractionated ownership of Indian land.

''(e) REVENUES OR ROYALTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall not be responsible for the collection of or accounting for any lease revenues or royalties accruing to an interest held as a passive trust interest by any person under this section.

''(2) EXCEPTION.—Paragraph (1) shall not apply to an interest described in that paragraph if the Secretary approves an application to take the interest into active trust status on behalf of an Indian or an Indian tribe in accordance with regulations promulgated by the Secretary.

''(3) AUTHORITY OF SECRETARY.—Nothing in this subsection alters any authority or responsibility of the Secretary with respect to an interest in trust or restricted land held in active trust status (including an undivided interest included in the same parcel of land as an undivided passive trust interest).

''(f) JURISDICTION OVER PASSIVE TRUST INTEREST.—With respect to an interest in trust or restricted land that is devised or held as a passive trust interest under this section—

''(1) an Indian tribe that exercises jurisdiction over such an interest shall continue to exercise jurisdiction over the land that is held as a passive trust interest; and

''(2) any person holding, leasing, or otherwise using the land shall be considered to consent to the jurisdiction of the Indian tribe with respect to the use of the land (including any effects associated with any use of the land).

''(g) PROBATE OF PASSIVE TRUST INTERESTS.—

''(1) IN GENERAL.—An interest in trust or restricted land that is held as a passive trust interest under this section shall be subject to—

''(A) probate by the Secretary in accordance with this Act; and

''(B) all other laws applicable to the probate of trust or restricted land.

''(2) COMMENCEMENT OF PROBATE.—Any interested party may file an application to commence the probate of an interest in trust or restricted land held as a passive trust interest.

''(h) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.''.

SEC. 4. PARTITION OF INDIAN LAND.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended by adding at the end the following:

''(c) PARTITION.—

''(1) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE INDIAN TRIBE.—The term 'eligible Indian tribe' means an Indian tribe that—

''(i) owns eligible land; and

''(ii) consents to partition of the eligible land.

''(B) ELIGIBLE LAND.—The term 'eligible land' means an undivided parcel of land that—

''(i) is located within the reservation of an Indian tribe; or

''(ii) is otherwise under the jurisdiction of an Indian tribe.

''(2) REQUIREMENTS.—Notwithstanding any other provision of law, in accordance with this subsection and subject to paragraphs (3), (4), and (5)—

''(A) an eligible Indian tribe may apply to the Secretary for the partition of a parcel of eligible land; and

''(B) the Secretary may commence a process for partitioning the eligible land under this subsection if—

''(i) the eligible Indian tribe meets the applicable ownership requirement under subparagraph (A) or (B) of paragraph (3); or

''(ii) the Secretary determines that it is reasonable to believe that the partition of the eligible land owned would be in accordance with paragraph (3)(C).

''(3) TRIBAL OWNERSHIP.—A parcel of eligible land may be partitioned under this subsection if, with respect to the eligible Indian tribe involved—

''(A) the eligible Indian tribe owns 50 percent or more of the undivided interest in the parcel;

''(B) the eligible Indian tribe is the owner of the largest quantity of undivided interest in the parcel; or

''(C) the owners of undivided interests equal to at least 50 percent of the undivided interest in the parcel (including any undivided interest owned by the eligible Indian tribe) consent or do not object to the partition.

''(4) TRIBAL CONSENT.—A parcel of land that is located within the reservation of an Indian tribe or otherwise under the jurisdiction of an Indian tribe shall be partitioned under this subsection only if the Indian tribe does not object to the partition.

''(5) APPLICABILITY.—This subsection shall not apply to any parcel of land that is the bona fide residence of any person unless the person consents to the partition in writing.

''(6) PARTITION IN KIND.—

''(A) IN GENERAL.—The Secretary shall commence the partition process described in subparagraph (B) if—

''(i) an eligible Indian tribe applies to partition eligible land under this paragraph; and

''(ii)(I) the Secretary determines that the eligible Indian tribe meets the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (3)(C).

''(B) PARTITION PROCESS.—In carrying out any partition under this paragraph, the Secretary shall—

''(i) provide, to each owner of any undivided interest in eligible land to be partitioned, through publication or other appropriate means, notice of the proposed partition;

''(ii) make available to any interested party a copy of any proposed partition plan submitted by an eligible Indian tribe or proposed by the Secretary; and

''(iii) review—

''(I) any proposed partition plan submitted by any owner of an undivided interest in the eligible land; and

''(II) any comments or objections concerning a partition, or any proposed plan of partition, submitted by any owner or any other interested party.

''(C) DETERMINATION NOT TO PARTITION.—If the Secretary determines that a parcel of eligible land cannot be partitioned in a manner that is fair and equitable to the owners of the eligible land, the Secretary shall inform each owner of the eligible land of—

''(i) the determination of the Secretary; and

''(ii) the right of the owner to appeal the determination.

''(D) PARTITION WITH CONSENT OF ELIGIBLE INDIAN TRIBE.—If the Secretary determines that a parcel of eligible land may be partitioned in a manner that is fair and equitable to the owners of the eligible land, and the applicable eligible Indian tribe meets the applicable ownership requirements under subparagraph (A) or (B) of paragraph (3), the Secretary shall—

''(i) approve a plan of partition;

''(ii) provide notice to the owners of the eligible land of the determination of the Secretary;

''(iii) make a copy of the plan of partition available to each owner of the eligible land; and

''(iv) inform each owner of the right to appeal the determination of the Secretary to partition the eligible land in accordance with the plan.

''(E) PARTITION WITH CONSENT; IMPLIED CONSENT.—If the Secretary determines that a parcel of eligible land may be partitioned in a manner that is fair and equitable to the owners of the eligible land, but the eligible Indian tribe involved does not meet the applicable ownership requirements under subparagraph (A) or (B) of paragraph (3), the Secretary shall—

''(i)(I) make a plan of partition available to the owners of the parcel; and

''(II) inform the owners that the eligible land will be partitioned in accordance with the plan if the owners of 50 percent or more of undivided ownership interest in the eligible land—

''(aa) consent to the partition; or

''(bb) do not object to the partition by such date as may be established by the Secretary; and

''(ii)(I) if the owners of 50 percent or more of undivided ownership interest in the eligible land consent to the partition or do not object by a date established by the Secretary under clause (i)(II)(bb), inform the owners of the eligible land that—

''(aa) the plan for partition is final; and

''(bb) the owners have the right to appeal the determination of the Secretary to partition the eligible land; or

''(II) if the owners of 50 percent or more of the undivided ownership interest in the eligible land object to the partition, inform the eligible Indian tribe of the objection.

''(F) SUCCESSIVE PARTITION PLANS.—In carrying out subparagraph (E) in accordance with paragraph (3)(C), the Secretary may, in accordance with subparagraph (E)—

''(i) approve 1 or more successive plans of partition; and

''(ii) make those plans available to the owners of the eligible land to be partitioned.

''(G) PLAN OF PARTITION.—A plan of partition approved by the Secretary in accordance with subparagraph (D) or (E)—

''(i) may determine that 1 or more of the undivided interests in a parcel of eligible land are not susceptible to a partition in kind;

''(ii) may provide for the sale or exchange of those undivided interests to—

''(I) 1 or more of the owners of undivided interests in the eligible land; or

''(II) the Secretary in accordance with section 213; and

''(iii) shall provide that the sale of any undivided interest referred to in clause (ii) shall be for not less than the fair market value of the interest.

''(7) PARTITION BY SALE.—

''(A) IN GENERAL.—The Secretary shall commence the partition process described in subparagraph (B) if—

''(i) an eligible Indian tribe applies to partition a parcel of eligible land under this subsection; and

''(ii)(I) the Secretary determines that the Indian tribe meets the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3); or

''(II) the Secretary determines that it is reasonable to believe that the partition would be in accordance with paragraph (3)(C).

''(B) PARTITION PROCESS.—In carrying out any partition of eligible land under this paragraph, the Secretary—

''(i) shall conduct a preliminary appraisal of the eligible land;

''(ii) shall provide to the owners of the eligible land, through publication or other appropriate means—

''(I) notice of the application of the eligible Indian tribe to partition the eligible land; and

''(II) access to the preliminary appraisal conducted in accordance with clause (i);

''(iii) shall inform each owner of the eligible land of the right to submit to the Secretary comments relating to the preliminary appraisal;

''(iv) may, based on comments received under clause (iii), modify the preliminary appraisal or provide for the conduct of a new appraisal; and

''(v) shall—

''(I) issue a final appraisal for the eligible land;

''(II) provide to the owners of the eligible land and the appropriate Indian tribes access to the final appraisal; and

''(III) inform the Indian tribes of the right to appeal the final appraisal.

''(C) PURCHASE BY ELIGIBLE INDIAN TRIBE.—If an eligible Indian tribe enters into an agreement with the Secretary to pay fair market value for eligible land partitioned under this subsection, as determined by the final appraisal of the eligible land issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), and the eligible Indian tribe meets the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3), the Secretary shall—

''(i) provide to each owner of the eligible land notice of the agreement; and

''(ii) inform the owners of the right to appeal the decision of the Secretary to enter into the agreement (including the right to appeal any final appraisal of the parcel referred to in subparagraph (B)(v)(III)).

''(D) PARTITION WITH CONSENT; IMPLIED CONSENT.—

''(i) IN GENERAL.—If an eligible Indian tribe agrees to pay fair market value for eligible land partitioned under this subsection, as determined by the final appraisal of the eligible land issued under subparagraph (B)(v)(I) (including any appraisal issued by the Secretary after an appeal by the Indian tribe under subparagraph (B)(v)(III)), but does not meet the applicable ownership requirements of subparagraph (A) or (B) of paragraph (3), the Secretary shall—

''(I) provide to each owner of the undivided interest in the eligible land notice that the Indian tribe did not meet the requirements; and

''(II) inform the owners that the eligible land will be partitioned by sale unless the partition is opposed by the owners of 50 percent or more of the undivided ownership interest in the eligible land.

''(ii) FAILURE TO OBJECT TO PARTITION.—If the owners of 50 percent or more of undivided ownership interest in or to a parcel of eligible land consent to the partition of the eligible land, or do not object to the partition by such date as may be established by the Secretary, the Secretary shall inform the owners of the eligible land of the right to appeal the determination of the Secretary to partition the eligible land (including the results of the final appraisal issued under subparagraph (B)(v)(I)).

''(iii) OBJECTION TO PARTITION.—If the owners of 50 percent or more of the undivided ownership interest in a parcel of eligible land object to the partition of the eligible land—

''(I) the Secretary shall notify the eligible Indian tribe of the objection; and

''(II) the eligible Indian tribe and the Secretary may agree to increase the amount offered to purchase the undivided ownership interests in the eligible land.

''(8) ENFORCEMENT.—

''(A) IN GENERAL.—If, with respect to a parcel of eligible land, a partition in kind is approved under subparagraph (D) or (E) of paragraph (6), or a partition by sale is approved under paragraph (7)(C), and the owner of an interest in or to the eligible land fails to convey the interest to the Indian tribe, the Indian tribe or the United States may—

''(i) bring a civil action in the United States district court for the district in which the eligible land is located; and

''(ii) request the court to issue an appropriate order for the partition in kind, or partition by sale to the Indian tribe, of the eligible land.

''(B) FEDERAL ROLE.—With respect to any civil action brought under subparagraph (A)—

''(i) the United States—

''(I) shall receive notice of the civil action; and

''(II) may be a party to the civil action; and

''(ii) the civil action shall not be dismissed, and no relief requested shall be denied, on the ground that the civil action is against the United States or that the United States is an indispensable party.''.

SEC. 5. ADDITIONAL AMENDMENTS.

(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in the second sentence of section 205(a) (25 U.S.C. 2204(a)), by striking ''over 50 percentum of the undivided interests'' and inserting ''undivided interests equal to at least 50 percent of the undivided interest'';

(2) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) TRIBAL PROBATE CODES.—Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prevents the devise of an interest in trust or restricted land to—

''(A) an Indian lineal descendant of the original allottee; or

''(B) an Indian who is not a member of the Indian tribe that exercises jurisdiction over such an interest, unless the code provides for—

''(i) the renouncing of interests to eligible devisees in accordance with the code;

''(ii) the opportunity for a devisee who is the spouse or lineal descendant of a testator to reserve a life estate; and

''(iii) payment of fair market value in the manner prescribed under subsection (c)(2).''; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking the paragraph heading and inserting the following:

''(1) AUTHORITY.—

''(A) IN GENERAL.—'';

(II) in the first sentence of subparagraph (A) (as designated by clause (i)), by striking ''section 207(a)(6)(A) of this title'' and inserting ''section 207(a)(2)(A)(ii), 207(a)(2)(C), or 207(a)(3)''; and

(III) by striking the last sentence and inserting the following:

''(B) TRANSFER.—The Secretary shall transfer payments received under subparagraph (A) to any person or persons who would have received an interest in land if the interest had not been acquired by the Indian tribe in accordance with this paragraph.''; and

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) by striking the subparagraph heading and all that follows through ''Paragraph (1) shall apply'' and inserting the following:

''(A) NONAPPLICABILITY TO CERTAIN INTERESTS.—

''(i) IN GENERAL.—Paragraph (1) shall not apply'';

(bb) in clause (i) (as designated by item (a)), by striking ''if, while'' and inserting the following: ''if—

''(I) while'';

(cc) by striking the period at the end and inserting ''; or''; and

(dd) by adding at the end the following:

''(II)(aa) the interest is part of a family farm that is devised to a member of the family of the decedent; and

''(bb) the devisee agrees that the Indian tribe that exercises jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to an entity that is not a member of the family of the owner of the land.

''(ii) RECORDING OF INTEREST.—On request by an Indian tribe described in clause (i)(II)(bb), a restriction relating to the acquisition by the Indian tribe of an interest in a family farm involved shall be recorded as part of the deed relating to the interest involved.

''(iii) MORTGAGE AND FORECLOSURE.—Nothing in clause (i)(II) prevents or limits the ability of an owner of land to which that clause applies to mortgage the land or limit the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement in accordance with applicable law.

''(iv) DEFINITION OF MEMBER OF THE FAMILY.—In this paragraph, the term 'member of the family', with respect to a decedent or landowner, means—

''(I) a lineal descendant of a decedent or landowner;

''(II) a lineal descendant of the grandparent of a decedent or landowner;

''(III) the spouse of a descendant or landowner described in subclause (I) or (II); and

''(IV) the spouse of a decedent or landowner.''; and

(II) in subparagraph (B), by striking ''subparagraph (A)'' and all that follows through ''207(a)(6)(B) of this title'' and inserting ''paragraph (1)'';

(3) in section 207 (25 U.S.C. 2206)—

(A) in subsection (c)—

(i) by redesignating paragraph (3) as paragraph (4); and

(ii) by inserting after paragraph (2) the following:

''(3) ALIENATION OF JOINT TENANCY INTERESTS.—

''(A) IN GENERAL.—With respect to any interest held in joint tenancy in accordance with this subsection—

''(i) nothing in this subsection alters the ability of an owner of such an interest to convey a life estate in the undivided joint tenancy interest of the owner; and

''(ii) only the last remaining owner of such an interest may devise or convey more than a life estate in the interest.

''(B) APPLICATION OF PROVISION.—This paragraph shall not apply—

''(i) to any conveyance, sale, or transfer that is part of an agreement referred to in subsection (e); or

''(ii) to a co-owner of a joint tenancy interest.''; and

(B) in subsection (g)(5), by striking ''this section'' and inserting ''subsections (a) and (b)'';

(4) in section 213 (25 U.S.C. 2212)—

(A) in subsection (a)(2), by striking ''(A) IN GENERAL.—'' and all that follows through ''the Secretary shall submit'' and inserting ''The Secretary shall submit'';

(B) in subsection (b), by striking paragraph (4) and inserting the following:

''(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under the pilot program under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

''(A) conveyance documents;

''(B) administrative proceedings; and

''(C) transactions.''; and

(C) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking ''landowner upon payment'' and all that follows and inserting the following: ''landowner—

''(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

''(ii) if—

''(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

''(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner.''; and

(II) in subparagraph (B), by inserting before the period at the end the following: ''unless the interest is subject to a foreclosure of a mortgage in accordance with the Act of March 29, 1956 (25 U.S.C. 483a)''; and

(ii) in paragraph (3), by striking ''10 percent of more of the undivided interests'' and inserting ''an undivided interest'';

(5) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

''(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) until the Secretary provides for the removal of the lien under paragraph (3) or (4).

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Until the Secretary removes a lien from an interest in land under paragraph (1)—

''(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

''(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 213 shall be deposited in the fund created under section 216.

''(B) APPROVAL OF TRANSACTIONS.—Notwithstanding section 16 of the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act') (25 U.S.C. 476), or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

''(3) REMOVAL OF LIEN AFTER FINDINGS.—The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

''(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

''(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

''(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

''(4) OTHER REMOVAL OF LIEN.—In accordance with regulations to be promulgated by the Secretary, and in consultation with tribal governments and other entities described in section 213(b)(3), the Secretary shall periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.'';

(6) in section 216 (25 U.S.C. 2215)—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

''(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213.''; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''Subject to paragraph (2), all'' and inserting ''All'';

(II) in subparagraph (A), by striking ''and'' at the end;

(III) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(IV) by adding at the end the following:

''(C) be used to acquire undivided interests on the reservation from which the income was derived.''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) USE OF FUNDS.—The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 205.'';

(7) in section 217 (25 U.S.C. 2216)—

(A) in subsection (e)(3), by striking ''prospective applicants for the leasing, use, or consolidation of'' and insert ''any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,''; and

(B) by striking subsection (f) and inserting the following:

''(f) PURCHASE OF LAND BY INDIAN TRIBE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of trust or restricted land, the Indian tribe that exercises jurisdiction over the parcel shall have the opportunity—

''(A) to match any offer contained in the application; or

''(B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

''(2) EXCEPTION FOR FAMILY FARMS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to a parcel of trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 206(c)(2)(A)(iv)) if—

''(i) the interest is offered for sale to an entity that is not a member of the family of the landowner; and

''(ii) the Indian tribe that exercises jurisdiction over the land is afforded the opportunity to purchase the interest.

''(B) APPLICABILITY.—Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of any trust or restricted land referred to in subparagraph (A).''; and

(8) in section 219(b)(1)(A) (25 U.S.C. 2218(b)(1)(A)), by striking ''100'' and inserting ''90''.

(b) DEFINITION.—

(1) IN GENERAL.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended by striking paragraph (2) and inserting the following:

''(2) INDIAN.—

''(A) IN GENERAL.—The term 'Indian' means—

''(i) any person that is a member of any Indian tribe or is eligible to become a member of any Indian tribe;

''(ii) subject to subparagraph (B), any person that has been found to meet the definition of 'Indian' under any Federal law; and

''(iii) with respect to the ownership, devise, or descent of trust or restricted land in the State of California, any person that meets the definition of 'Indians of California' contained in the first section of the Act of May 18, 1928 (25 U.S.C. 651), until otherwise provided by Congress in accordance with section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679(b));''.

''(B) EXCLUSIONS.—The term 'Indian' does not include any person excluded from a definition described in subparagraph (A)(ii) by a regulation promulgated by the Secretary in a case in which the Secretary determines that the definition is not consistent with the purposes of this Act, unless the definition described in subparagraph (A)(ii) is contained in a law relating to—

''(i) agriculture;

''(ii) cultural resources;

''(iii) economic development;

''(iv) grazing;

''(v) housing;

''(vi) Indian schools;

''(vii) natural resources;

''(viii) any other program with benefits intended to run to Indian landowners; or

''(ix) any land-related program that takes effect after the date of enactment of this subparagraph.''.

(2) APPLICABILITY.—Any exclusion referred to in the amendment made by paragraph (1) shall apply only to a decedent who dies after the date on which the Secretary of the Interior promulgates a regulation providing for the exclusion.

(c) MORTGAGES AND DEEDS OF TRUST.—The Act of March 29, 1956 (25 U.S.C. 483a), is amended in the first sentence of subsection (a) by inserting after ''any land'' the following: ''(including land owned by any person in passive trust status in accordance with section 207A of the Indian Land Consolidation Act)''.

(d) ISSUANCE OF PATENTS.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348), is amended by striking the second proviso and inserting the following: ''*Provided,* That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply to that land for which patents have been executed and delivered:''.

(e) TRANSFERS OF RESTRICTED INDIAN LAND.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by striking '', in accordance with'' and all that follows through the colon and inserting ''in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):''.

SEC. 6. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

(a) IN GENERAL.—Section 5 of Public Law 98–513 (98 Stat. 2413) is amended to read as follows:

''SEC. 5. INHERITANCE OF CERTAIN TRUST OR RESTRICTED LAND.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act—

''(1) the owner of an interest in trust or restricted land within the reservation may not devise an interest (including a life estate under section 4) in the land that is less than 2.5 acres to more than 1 tribal member unless each tribal member already holds an interest in that land; and

''(2) any interest in trust or restricted land within the reservation that is less than 2.5 acres that would otherwise pass by intestate succession (including a life estate in the land under section 4), or that is devised to more than 1 tribal member that is not described in paragraph (1), shall revert to the Indian tribe, to be held in the name of the United States in trust for the Indian tribe.

''(b) NOTICE.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Indian Probate Reform Act of 2003, the Secretary shall provide notice to owners of trust or restricted land within the Lake Traverse Reservation of the provisions of this section by—

''(A) direct mail;

''(B) publication in the Federal Register; or

''(C) publication in local newspapers.

''(2) CERTIFICATION.—After providing notice under paragraph (1), the Secretary shall—

''(A) certify that the requirements of this subsection have been met; and

''(B) shall publish notice of that certification in the Federal Register.''.

(b) APPLICABILITY.—This section and the amendment made by this section shall not apply with respect to the estate of any person who dies before the date that is 1 year after the date on which the Secretary makes the required certification under section 5(b) of Public Law 98–513 (98 Stat. 2413) (as amended by subsection (a)).

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall not apply to the estate of an individual who dies before the later of—

(1) the date that is 1 year after the date of enactment of this Act; or

(2) the date specified in section 207(g)(5) of the Indian Land Consolidation Act (25 U.S.C. 2206(g)(5)).

By Mr. CAMPBELL:

S. 551. A bill to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes; to the Committee on Environment and Public Works.

Mr. CAMPBELL. Mr. President, today I am re-introducing a bill that is important to the State of Colorado, the Southern Ute Indian Tribe and all Coloradans that live in the southwest corner of our beautiful State.

More than thirty years of experience with environmental laws shows us that local design and implementation of such laws almost always trumps the ''one size fits all'' approach advocated by many in Washington, D.C.

The Federal Clean Air Act authorizes States and Indian tribes to accept responsibility for air quality plans and standards, and implement many of the regulatory programs needed to maintain or improve air quality.

In 1984 Congress ratified a jurisdiction and boundary agreement between the Tribe and the State that spared both sides litigation costs and a fight over the jurisdictional status of each square inch on the reservation. The 1984 pact permits the Tribe and the State to work out jurisdictional issues for themselves.

Some uncertainty remains with respect to environmental issues and rather than placing the Environmental Protection Agency in the middle of a controversy about whether it is authorized to delegate Clean Air Act programs within the Ute Reservation, the Tribe and the State signed an agreement to eliminate any ambiguities.

First, consistent with Congress' mandate in the Clean Air Act, the Tribe will be the entity responsible for administering Clean Air Act programs within the reservation.

Second, an equal number of Tribal and State representatives will sit on the Commission established to hear and make decisions, and will set the pace for Tribal applications for delegations of authority. Finally, Federal court review is available to hear challenges to decisions by the Commission.

In closing, let me again commend the efforts of both the Tribe and the State in negotiating and signing this historic agreement.

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. 551

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 ''Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress, after review and in recognition of the purposes and uniqueness of the Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado, finds that—

(1) the Intergovernmental Agreement is consistent with the special legal relationship between Federal Government and the Tribe; and

(2) air quality programs developed in accordance with the Intergovernmental Agreement and submitted by the Tribe for approval by the Administrator may be implemented in a manner that is consistent with the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) PURPOSE.—The purpose of this Act is to provide for the implementation and enforcement of air quality control programs under the Clean Air Act (42 U.S.C. 7401 et seq.) and other air quality programs developed in accordance with the Intergovernmental Agreement that provide for—

(1) the regulation of air quality within the exterior boundaries of the Reservation; and

(2) the establishment of a Southern Ute Indian Tribe/State of Colorado Environmental Commission.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COMMISSION.—The term ''Commission'' means the Southern Ute Indian Tribe/State of Colorado Environmental Commission established by the State and the Tribe in accordance with the Intergovernmental Agreement.

(3) INTERGOVERNMENTAL AGREEMENT.—The term ''Intergovernmental Agreement'' means the agreement entered into by the Tribe and the State on December 13, 1999.

(4) RESERVATION.—The term ''Reservation'' means the Southern Ute Indian Reservation.

(5) STATE.—The term ''State'' means the State of Colorado.

(6) TRIBE.—The term ''Tribe'' means the Southern Ute Indian Tribe.

SEC. 4. TRIBAL AUTHORITY.

(a) AIR PROGRAM APPLICATIONS.—

(1) IN GENERAL.—The Administrator is authorized to treat the Tribe as a State for the purpose of any air program applications submitted to the Administrator by the Tribe under section 301(d) of the Clean Air Act (42 U.S.C. 7601(d)) to carry out, in a manner consistent with the Clean Air Act (42 U.S.C. 7401 et seq.), the Intergovernmental Agreement.

(2) APPLICABILITY.—If the Administrator approves an air program application of the Tribe, the approved program shall be applicable to all air resources within the exterior boundaries of the Reservation.

(b) TERMINATION.—If the Tribe or the State terminates the Intergovernmental Agreement, the Administrator shall promptly take appropriate administrative action to withdraw treatment of the Tribe as a State for the purpose described in subsection (a)(1).

SEC. 5. CIVIL ENFORCEMENT.

If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with a program under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States District Court for the District of Colorado.

SEC. 6. JUDICIAL REVIEW.

Any decision by the Commission that would be subject to appellate review if it were made by the Administrator—

(1) shall be subject to appellate review by the United States Court of Appeals for the Tenth Circuit; and

(2) may be reviewed by the Court of Appeals applying the same standard that would be applicable to a decision of the Administrator.

SEC. 7. DISCLAIMER.

Nothing in this Act—

(1) modifies any provision of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) Public Law 98–290 (25 U.S.C. 668 note); or

(C) any lawful administrative rule promulgated in accordance with those statutes; or

(2) affects or influences in any manner any past or prospective judicial interpretation or application of those statutes by the United States, the Tribe, the State, or any Federal, tribal, or State court.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. DEWINE, Mr. ALLEN, Mr. CRAIG, Mr. GRAHAM of South Carolina, Mr. ALLARD, and Mr. TALENT):

S. 554. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce the Sunshine in the Courtroom Act of 2003, a bill to allow media coverage of court proceedings. This legislation will provide Federal judges with the statutory authority to exercise their discretion to allow the photographing, electronic recording, broadcasting and televising of federal court proceedings.

During the 107th Congress, the Judiciary Committee reported identical legislation favorably, by a vote of 12 to 7. It's my hope that the full Senate will have the opportunity to act on this bill as early as possible in the 108th Congress.

Sunshine bill will help the American people to become better informed about the judicial process. Moreover, this bill will help to produce a better judiciary. Increased public awareness and scrutiny will bring about greater accountability and help judges to do a better job.

Allowing cameras in the Federal courts is consistent with the intent of our Nation's Founders that trials should be held in front of as many people as choose to attend them. In my view, the First Amendment to the Constitution requires that court proceedings must be open to the public and, by extension, to the news media. As the Supreme Court has said, ''what transpires in the courtroom is public property.''

Clearly, the basic American values of openness and education are served by allowing electronic media access to Federal courtrooms. There are many beneficial and no substantial detrimental effects to allowing greater public access to the inner workings of our federal courts. Fifteen States have conducted studies aimed specifically at the educational benefits that are derived from camera access to courtrooms. They all determined that camera coverage contributes to greater public understanding of the judicial system.

Moroever, the experience of the States with electronic media access to judicial proceedings demonstrate that still and video cameras can be used without any problems, and that procedural discipline is preserved. According to the National Center for State Courts, all fifty States allow at least some degree of camera access to judicial proceedings under a wide variety of rules and conditions. My own State of Iowa, for example, has operated successfully in this open manner for more than 20 years.

Furthermore, at the Federal level, the Federal Judicial Center conducted a pilot program in 1994 that studied the effects of allowing camera access to courtrooms. The study found ''small or no effects of camera presence on participants in judicial proceedings, courtroom decorum, or the administration of justice.''

Based on the experience of the States, as well as state and Federal studies, Senator SCHUMER and I are introducing this bill with a well-founded confidence that it represents sound public policy. Nevertheless, in order to provide a mechanism for Congress to study the effects of this legislation on our judiciary before making this change permanent, we have included a three-year sunset provision in our bill.

The Supreme Court of the United States has recognized that there is a strong public interest in electronic media access to important court cases. At my urging and that of Senator SCHUMER, Chief Justice Rehnquist permitted the delayed audio broadcasting of the oral arguments before the Supreme Court in the historic 2000 presidential election dispute. The Supreme Court's response to our request was a major step in the right direction.

It is important to emphasize, that this bill does not require any Federal judge in any Federal court to allow camera access to judicial proceedings. Rather, it simply gives Federal judges the discretion to allow cameras or other electronic media access if they see fit. The bill also protects the privacy and safety of non-party witnesses by giving them the right to have their faces and voices obscured.

This piece of sunshine legislation will bring greater openness and accountability to the Nation's Federal courts. The best way to maintain confidence in our Federal judiciary, which has tremendous power, is to let the sun shine in by allowing judges to exercise their discretion in opening Federal courtrooms to public view through the broadcasting and televising of judicial proceedings. I urge my colleagues to join me in co-sponsoring the Sunshine in the Courtroom Act.

I ask unanimous consent that the text of bill be printed in the RECORD.

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

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) PRESIDING JUDGE.—The term ''presiding judge'' means the judge presiding over the court proceeding concerned. In proceedings in which more than 1 judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term ''appellate court of the United States'' means any United States circuit court of appeals and the Supreme Court of the United States.

SEC. 2. AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.

(a) AUTHORITY OF APPELLATE COURTS.—Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(b) AUTHORITY OF DISTRICT COURTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(2) OBSCURING OF WITNESSES.—

(A) IN GENERAL.—Upon the request of any witness in a trial proceeding other than a party, the court shall order the face and

voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding.

(B) NOTIFICATION TO WITNESSES.—The presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request that the image and voice of that witness be obscured during the witness' testimony.

(c) ADVISORY GUIDELINES.—The Judicial Conference of the United States may promulgate advisory guidelines to which a presiding judge, in the discretion of that judge, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described under subsections (a) and (b).

SEC. 3. SUNSET.

The authority under section 2(b) shall terminate 3 years after the date of the enactment of this Act.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 555. A bill to establish the Native American Health and Wellness Foundation, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN):

S. 556. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President today I am pleased to be joined by Senators INOUYE and MCCAIN in introducing two bills vitally important to the health of Native Americans: the ''Indian Health Care Improvement Act Reauthorization of 2003''.

It is an unfortunate fact that the health status of Native people in the United States is poor. In fact, in the western hemisphere only the people of Haiti are in worse shape.

Alcohol, drug abuse, and mental illness, tuberculosis, cancer, obesity and diabetes, heart disease, infant mortality, and a host of related pathologies plague Native people.

Last fall's reauthorization of the Special Indian Diabetes Program showed the Federal commitment to ending the scourge of diabetes in Native communities.

The ''Indian Health Care Improvement Act Reauthorization of 2003'' will reauthorize the programs administered by the Indian Health Service and will increase the direct management of health care services by tribes, Native Alaskans and Urban Indian health centers.

This bill is the product of intense consultation between tribes, Native Alaskan health providers, and Urban Indian health centers, and relevant Federal agencies and representatives of the public and private health care sectors.

The efforts of the IHS and Native health providers have been successful in improving the health status of Native people. Just in the last 10 years, infant and maternal mortality rates have declined by 30 percent and 40 percent, respectively. Similarly, tuberculosis mortality rates have also been reduced 53 percent. Other indicia of Native health status have also shown marked improvement.

Even with modest increases in recent spending bills, funding for Native health care continues to lag far behind the level of need.

To help close this gap, we must be creative and tap other sources of funds for Native health including the private, tribal and non-profit sectors of our economy.

The second bill I am introducing will do just that and will facilitate the contribution of funds for purposes of Native health care by establishing a nonprofit, charitable foundation to receive funds and in-kind contributions for such purposes.

This is not a radical step as similar foundations have been established for other purposes. In recent years Congress has created both the American Indian Education Foundation and the Fish and Wildlife Foundation, which have proven to be very successful in achieving their purposes.

I urge my colleagues to join me in supporting these important bills.

I ask unanimous consent that copies of the bills be printed in the RECORD.

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

S. 555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native American Health and Wellness Foundation Act of 2003''.

SEC. 2. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

(a) IN GENERAL.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

''TITLE VIII—NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION

''SEC. 801. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the Board of Directors of the Foundation.

''(2) FOUNDATION.—The term 'Foundation' means the Native American Health and Wellness Foundation established under section 802.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(4) SERVICE.—The term 'Service' means the Indian Health Service of the Department of Health and Human Services.

''SEC. 802. NATIVE AMERICAN HEALTH AND WELLNESS FOUNDATION.

''(a) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, the Native American Health and Wellness Foundation.

''(b) PERPETUAL EXISTENCE.—The Foundation shall have perpetual existence.

''(c) NATURE OF CORPORATION.—The Foundation—

''(1) shall be a charitable and nonprofit federally chartered corporation; and

''(2) shall not be an agency or instrumentality of the United States.

''(d) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

''(e) PURPOSES.—The purposes of the Foundation shall be—

''(1) to encourage, accept, and administer private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, the mission of the Service;

''(2) to undertake and conduct such other activities as will further the health and wellness activities and opportunities of Native Americans; and

''(3) to participate with and assist Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the health and wellness activities and opportunities of Native Americans.

''(f) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

''(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

''(3) SELECTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

''(B) REQUIREMENTS.—

''(i) NUMBER OF MEMBERS.—The Board shall have at least 11 members, 2 of whom shall be the Secretary and the Director of the Indian Health Service, who shall serve as nonvoting members.

''(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

''(I) shall be appointed by the Secretary not later than 180 days after the date on which the Foundation is established; and

''(II) shall have staggered terms (as determined by the Secretary).

''(iii) QUALIFICATION.—The members of the Board shall be United States citizens who are knowledgeable or experienced in Native American health care and related matters.

''(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

''(g) OFFICERS.—

''(1) IN GENERAL.—The officers of the Foundation shall be—

''(A) a secretary, elected from among the members of the Board; and

''(B) any other officers provided for in the constitution and bylaws of the Foundation.

''(2) SECRETARY.—The secretary of the Foundation shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

''(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

''(h) POWERS.—The Foundation—

''(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

''(2) may adopt and alter a corporate seal;

''(3) may enter into contracts;

''(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

''(5) may sue and be sued; and

''(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

''(i) PRINCIPAL OFFICE.—

''(1) IN GENERAL.—The principal office of the Foundation shall be in the District of Columbia.

''(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

''(j) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

''(k) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

''(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of their authority.

''(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

''(l) RESTRICTIONS.—

''(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed 10 percent of the sum of—

''(A) the amounts transferred to the Foundation under subsection (m) during the preceding fiscal year; and

''(B) donations received from private sources during the preceding fiscal year.

''(2) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

''(3) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

''(m) TRANSFER OF DONATED FUNDS.—The Secretary may transfer to the Foundation funds held by the Department of Health and Human Services under the Act of August 5, 1954 (42 U.S.C. 2001 et seq.) if the transfer or use of the funds is not prohibited by any term under which the funds were donated.

''(n) AUDITS.—The Foundation shall comply with section 10101 of title 36, United States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

''SEC. 803. ADMINISTRATIVE SERVICES AND SUPPORT.

''(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

''(1) may provide personnel, facilities, and other administrative support services to the Foundation;

''(2) may provide funds to reimburse the travel expenses of the members of the Board; and

''(3) shall require and accept reimbursements from the Foundation for—

''(A) services provided under paragraph (1); and

''(B) funds provided under paragraph (2).

''(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—

''(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

''(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

''(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services—

''(1) are available; and

''(2) are provided on reimbursable cost basis.''.

(b) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (as added by section 1302 of the American Indian Education Foundation Act of 2000) (25 U.S.C. 458bbb et seq.)) as title VII;

(2) by redesignating sections 501, 502, and 503 (as added by section 1302 of the American Indian Education Foundation Act of 2000) as sections 701, 702, and 703, respectively; and

(3) in subsection (a)(2) of section 702 and paragraph (2) of section 703 (as redesignated by paragraph (2)), by striking ''section 501'' and inserting ''section 701''.

S. 556

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 ''Indian Health Care Improvement Act Reauthorization of 2003''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

TITLE I—REAUTHORIZATION AND REVISIONS OF THE INDIAN HEALTH CARE IMPROVEMENT ACT

Sec. 101. Amendment to the Indian Health Care Improvement Act.

TITLE II—CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Subtitle A—Medicare

Sec. 201. Limitations on charges.
Sec. 202. Qualified Indian health program.

Subtitle B—Medicaid

Sec. 211. State consultation with Indian health programs.
Sec. 212. Fmap for services provided by Indian health programs.
Sec. 213. Indian Health Service programs.

Subtitle C—State Children's Health Insurance Program

Sec. 221. Enhanced fmap for State children's health insurance program.
Sec. 222. Direct funding of State children's health insurance program.

Subtitle D—Authorization of Appropriations

Sec. 231. Authorization of appropriations.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Repeals.
Sec. 302. Severability provisions.
Sec. 303. Effective date.

TITLE I—REAUTHORIZATION AND REVISIONS OF THE INDIAN HEALTH CARE IMPROVEMENT ACT

SEC. 101. AMENDMENT TO THE INDIAN HEALTH CARE IMPROVEMENT ACT.

The Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended to read as follows:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Indian Health Care Improvement Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''Sec. 1. Short title; table of contents.
''Sec. 2. Findings.
''Sec. 3. Declaration of health objectives.
''Sec. 4. Definitions.

''TITLE I—INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT

''Sec. 101. Purpose.
''Sec. 102. General requirements.
''Sec. 103. Health professions recruitment program for Indians.
''Sec. 104. Health professions preparatory scholarship program for Indians.
''Sec. 105. Indian health professions scholarships.
''Sec. 106. American Indians into psychology program.
''Sec. 107. Indian Health Service extern programs.
''Sec. 108. Continuing education allowances.
''Sec. 109. Community health representative program.
''Sec. 110. Indian Health Service loan repayment program.
''Sec. 111. Scholarship and loan repayment recovery fund.
''Sec. 112. Recruitment activities.
''Sec. 113. Tribal recruitment and retention program.
''Sec. 114. Advanced training and research.
''Sec. 115. Nursing programs; Quentin N. Burdick American Indians into Nursing Program.
''Sec. 116. Tribal culture and history.
''Sec. 117. INMED program.
''Sec. 118. Health training programs of community colleges.
''Sec. 119. Retention bonus.
''Sec. 120. Nursing residency program.
''Sec. 121. Community health aide program for Alaska.
''Sec. 122. Tribal health program administration.
''Sec. 123. Health professional chronic shortage demonstration project.
''Sec. 124. Scholarships.
''Sec. 125. National Health Service Corps.
''Sec. 126. Substance abuse counselor education demonstration project.
''Sec. 127. Mental health training and community education.
''Sec. 128. Authorization of appropriations.

''TITLE II—HEALTH SERVICES

''Sec. 201. Indian Health Care Improvement Fund.
''Sec. 202. Catastrophic Health Emergency Fund.
''Sec. 203. Health promotion and disease prevention services.
''Sec. 204. Diabetes prevention, treatment, and control.
''Sec. 205. Shared services.
''Sec. 206. Health services research.
''Sec. 207. Mammography and other cancer screening.
''Sec. 208. Patient travel costs.
''Sec. 209. Epidemiology centers.
''Sec. 210. Comprehensive school health education programs.
''Sec. 211. Indian youth program.
''Sec. 212. Prevention, control, and elimination of communicable and infectious diseases.
''Sec. 213. Authority for provision of other services.
''Sec. 214. Indian women's health care.
''Sec. 215. Environmental and nuclear health hazards.
''Sec. 216. Arizona as a contract health service delivery area.
''Sec. 216A. North Dakota as a contract health service delivery area.
''Sec. 216B. South Dakota as a contract health service delivery area.
''Sec. 217. California contract health services demonstration program.
''Sec. 218. California as a contract health service delivery area.
''Sec. 219. Contract health services for the Trenton service area.

''Sec. 220. Programs operated by Indian tribes and tribal organizations.
''Sec. 221. Licensing.
''Sec. 222. Authorization for emergency contract health services.
''Sec. 223. Prompt action on payment of claims.
''Sec. 224. Liability for payment.
''Sec. 225. Authorization of appropriations.

''TITLE III—FACILITIES

''Sec. 301. Consultation, construction and renovation of facilities; reports.
''Sec. 302. Safe water and sanitary waste disposal facilities.
''Sec. 303. Preference to Indians and Indian firms.
''Sec. 304. Soboba sanitation facilities.
''Sec. 305. Expenditure of nonservice funds for renovation.
''Sec. 306. Funding for the construction, expansion, and modernization of small ambulatory care facilities.
''Sec. 307. Indian health care delivery demonstration project.
''Sec. 308. Land transfer.
''Sec. 309. Leases.
''Sec. 310. Loans, loan guarantees and loan repayment.
''Sec. 311. Tribal leasing.
''Sec. 312. Indian Health Service/tribal facilities joint venture program.
''Sec. 313. Location of facilities.
''Sec. 314. Maintenance and improvement of health care facilities.
''Sec. 315. Tribal management of Federally-owned quarters.
''Sec. 316. Applicability of buy American requirement.
''Sec. 317. Other funding for facilities.
''Sec. 318. Authorization of appropriations.

''TITLE IV—ACCESS TO HEALTH SERVICES

''Sec. 401. Treatment of payments under medicare program.
''Sec. 402. Treatment of payments under medicaid program.
''Sec. 403. Report.
''Sec. 404. Grants to and funding agreements with the service, Indian tribes or tribal organizations, and urban Indian organizations.
''Sec. 405. Direct billing and reimbursement of medicare, medicaid, and other third party payors.
''Sec. 406. Reimbursement from certain third parties of costs of health services.
''Sec. 407. Crediting of reimbursements.
''Sec. 408. Purchasing health care coverage.
''Sec. 409. Indian Health Service, Department of Veteran's Affairs, and other Federal agency health facilities and services sharing.
''Sec. 410. Payor of last resort.
''Sec. 411. Right to recover from Federal health care programs.
''Sec. 412. Tuba City demonstration project.
''Sec. 413. Access to Federal insurance.
''Sec. 414. Consultation and rulemaking.
''Sec. 415. Limitations on charges.
''Sec. 416. Limitation on Secretary's waiver authority.
''Sec. 417. Waiver of medicare and medicaid sanctions.
''Sec. 418. Meaning of 'remuneration' for purposes of safe harbor provisions; antitrust immunity.
''Sec. 419. Co-insurance, co-payments, deductibles and premiums.
''Sec. 420. Inclusion of income and resources for purposes of medically needy medicaid eligibility.
''Sec. 421. Estate recovery provisions.
''Sec. 422. Medical child support.
''Sec. 423. Provisions relating to managed care.
''Sec. 424. Navajo Nation medicaid agency.
''Sec. 425. Indian advisory committees.
''Sec. 426. Authorization of appropriations.

''TITLE V—HEALTH SERVICES FOR URBAN INDIANS

''Sec. 501. Purpose.
''Sec. 502. Contracts with, and grants to, urban Indian organizations.
''Sec. 503. Contracts and grants for the provision of health care and referral services.
''Sec. 504. Contracts and grants for the determination of unmet health care needs.
''Sec. 505. Evaluations; renewals.
''Sec. 506. Other contract and grant requirements.
''Sec. 507. Reports and records.
''Sec. 508. Limitation on contract authority.
''Sec. 509. Facilities.
''Sec. 510. Office of Urban Indian Health.
''Sec. 511. Grants for alcohol and substance abuse related services.
''Sec. 512. Treatment of certain demonstration projects.
''Sec. 513. Urban NIAAA transferred programs.
''Sec. 514. Consultation with urban Indian organizations.
''Sec. 515. Federal Tort Claims Act coverage.
''Sec. 516. Urban youth treatment center demonstration.
''Sec. 517. Use of Federal government facilities and sources of supply.
''Sec. 518. Grants for diabetes prevention, treatment and control.
''Sec. 519. Community health representatives.
''Sec. 520. Regulations.
''Sec. 521. Authorization of appropriations.

''TITLE VI—ORGANIZATIONAL IMPROVEMENTS

''Sec. 601. Establishment of the Indian Health Service as an agency of the Public Health Service.
''Sec. 602. Automated management information system.
''Sec. 603. Authorization of appropriations.

''TITLE VII—BEHAVIORAL HEALTH PROGRAMS

''Sec. 701. Behavioral health prevention and treatment services.
''Sec. 702. Memorandum of agreement with the Department of the Interior.
''Sec. 703. Comprehensive behavioral health prevention and treatment program.
''Sec. 704. Mental health technician program.
''Sec. 705. Licensing requirement for mental health care workers.
''Sec. 706. Indian women treatment programs.
''Sec. 707. Indian youth program.
''Sec. 708. Inpatient and community-based mental health facilities design, construction and staffing assessment.
''Sec. 709. Training and community education.
''Sec. 710. Behavioral health program.
''Sec. 711. Fetal alcohol disorder funding.
''Sec. 712. Child sexual abuse and prevention treatment programs.
''Sec. 713. Behavioral mental health research.
''Sec. 714. Definitions.
''Sec. 715. Authorization of appropriations.

''TITLE VIII—MISCELLANEOUS

''Sec. 801. Reports.
''Sec. 802. Regulations.
''Sec. 803. Plan of implementation.
''Sec. 804. Availability of funds.
''Sec. 805. Limitation on use of funds appropriated to the Indian Health Service.
''Sec. 806. Eligibility of California Indians.
''Sec. 807. Health services for ineligible persons.
''Sec. 808. Reallocation of base resources.
''Sec. 809. Results of demonstration projects.
''Sec. 810. Provision of services in Montana.
''Sec. 811. Moratorium.
''Sec. 812. Tribal employment.
''Sec. 813. Prime vendor.
''Sec. 814. National Bi-Partisan Commission on Indian Health Care Entitlement.
''Sec. 815. Appropriations; availability.
''Sec. 816. Authorization of appropriations.

''SEC. 2. FINDINGS.

''Congress makes the following findings:

''(1) Federal delivery of health services and funding of tribal and urban Indian health programs to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with the American Indian people, as reflected in the Constitution, treaties, Federal laws, and the course of dealings of the United States with Indian Tribes, and the United States' resulting government to government and trust responsibility and obligations to the American Indian people.

''(2) From the time of European occupation and colonization through the 20th century, the policies and practices of the United States caused or contributed to the severe health conditions of Indians.

''(3) Indian Tribes have, through the cession of over 400,000,000 acres of land to the United States in exchange for promises, often reflected in treaties, of health care secured a de facto contract that entitles Indians to health care in perpetuity, based on the moral, legal, and historic obligation of the United States.

''(4) The population growth of the Indian people that began in the later part of the 20th century increases the need for Federal health care services.

''(5) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians, regardless of where they live, to be raised to the highest possible level, a level that is not less than that of the general population, and to provide for the maximum participation of Indian Tribes, tribal organizations, and urban Indian organizations in the planning, delivery, and management of those services.

''(6) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of illnesses among, and unnecessary and premature deaths of, Indians.

''(7) Despite such services, the unmet health needs of the American Indian people remain alarmingly severe, and even continue to increase, and the health status of the Indians is far below the health status of the general population of the United States.

''(8) The disparity in health status that is to be addressed is formidable. In death rates

for example, Indian people suffer a death rate for diabetes mellitus that is 249 percent higher than the death rate for all races in the United States, a pneumonia and influenza death rate that is 71 percent higher, a tuberculosis death rate that is 533 percent higher, and a death rate from alcoholism that is 627 percent higher.

"SEC. 3. DECLARATION OF HEALTH OBJECTIVES.

''Congress hereby declares that it is the policy of the United States, in fulfillment of its special trust responsibilities and legal obligations to the American Indian people—

''(1) to assure the highest possible health status for Indians and to provide all resources necessary to effect that policy;

''(2) to raise the health status of Indians by the year 2010 to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto;

''(3) in order to raise the health status of Indian people to at least the levels set forth in the goals contained within the Healthy People 2010, or any successor standards thereto, to permit Indian Tribes and tribal organizations to set their own health care priorities and establish goals that reflect their unmet needs;

''(4) to increase the proportion of all degrees in the health professions and allied and associated health professions awarded to Indians so that the proportion of Indian health professionals in each geographic service area is raised to at least the level of that of the general population;

''(5) to require meaningful, active consultation with Indian Tribes, Indian organizations, and urban Indian organizations to implement this Act and the national policy of Indian self-determination; and

''(6) that funds for health care programs and facilities operated by Tribes and tribal organizations be provided in amounts that are not less than the funds that are provided to programs and facilities operated directly by the Service.

"SEC. 4. DEFINITIONS.

''In this Act:

''(1) ACCREDITED AND ACCESSIBLE.—The term 'accredited and accessible', with respect to an entity, means a community college or other appropriate entity that is on or near a reservation and accredited by a national or regional organization with accrediting authority.

''(2) AREA OFFICE.—The term 'area office' means an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

''(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary of the Indian Health as established under section 601.

''(4) CONTRACT HEALTH SERVICE.—The term 'contract health service' means a health service that is provided at the expense of the Service, Indian Tribe, or tribal organization by a public or private medical provider or hospital, other than a service funded under the Indian Self-Determination and Education Assistance Act or under this Act.

''(5) DEPARTMENT.—The term 'Department', unless specifically provided otherwise, means the Department of Health and Human Services.

''(6) FUND.—The terms 'fund' or 'funding' mean the transfer of monies from the Department to any eligible entity or individual under this Act by any legal means, including funding agreements, contracts, memoranda of understanding, Buy Indian Act contracts, or otherwise.

''(7) FUNDING AGREEMENT.—The term 'funding agreement' means any agreement to transfer funds for the planning, conduct, and administration of programs, functions, services and activities to Tribes and tribal organizations from the Secretary under the authority of the Indian Self-Determination and Education Assistance Act.

''(8) HEALTH PROFESSION.—The term 'health profession' means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, and allied health professions, or any other health profession.

''(9) HEALTH PROMOTION; DISEASE PREVENTION.—The terms 'health promotion' and 'disease prevention' shall have the meanings given such terms in paragraphs (1) and (2) of section 203(c).

''(10) INDIAN.—The term 'Indian' and 'Indians' shall have meanings given such terms for purposes of the Indian Self-Determination and Education Assistance Act.

''(11) INDIAN HEALTH PROGRAM.—The term 'Indian health program' shall have the meaning given such term in section 110(a)(2)(A).

''(12) INDIAN TRIBE.—The term 'Indian tribe' shall have the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act.

''(13) RESERVATION.—The term 'reservation' means any Federally recognized Indian tribe's reservation, Pueblo or colony, including former reservations in Oklahoma, Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act, and Indian allotments.

''(14) SECRETARY.—The term 'Secretary', unless specifically provided otherwise, means the Secretary of Health and Human Services.

''(15) SERVICE.—The term 'Service' means the Indian Health Service.

''(16) SERVICE AREA.—The term 'service area' means the geographical area served by each area office.

''(17) SERVICE UNIT.—The term 'service unit' means—

''(A) an administrative entity within the Indian Health Service; or

''(B) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act, through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.

''(18) TRADITIONAL HEALTH CARE PRACTICES.—The term 'traditional health care practices' means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to western healing sciences) which embodies the influences or forces of innate tribal discovery, history, description, explanation and knowledge of the states of wellness and illness and which calls upon these influences or forces, including physical, mental, and spiritual forces in the promotion, restoration, preservation and maintenance of health, well-being, and life's harmony.

''(19) TRIBAL ORGANIZATION.—The term 'tribal organization' shall have the meaning given such term in section 4(l) of the Indian Self Determination and Education Assistance Act.

''(20) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term 'tribally controlled community college' shall have the meaning given such term in section 126 (g)(2).

''(21) URBAN CENTER.—The term 'urban center' means any community that has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

''(22) URBAN INDIAN.—The term 'urban Indian' means any individual who resides in an urban center and who—

''(A) for purposes of title V and regardless of whether such individual lives on or near a reservation, is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those tribes, bands or groups that are recognized by the States in which they reside, or who is a descendant in the first or second degree of any such member;

''(B) is an Eskimo or Aleut or other Alaskan Native;

''(C) is considered by the Secretary of the Interior to be an Indian for any purpose; or

''(D) is determined to be an Indian under regulations promulgated by the Secretary.

''(23) URBAN INDIAN ORGANIZATION.—The term 'urban Indian organization' means a nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the participation of all interested Indian groups and individuals, and which is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

"TITLE I—INDIAN HEALTH, HUMAN RESOURCES AND DEVELOPMENT

"SEC. 101. PURPOSE.

''The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health services to Indian people.

"SEC. 102. GENERAL REQUIREMENTS.

''(a) SERVICE AREA PRIORITIES.—Unless specifically provided otherwise, amounts appropriated for each fiscal year to carry out each program authorized under this title shall be allocated by the Secretary to the area office of each service area using a formula—

''(1) to be developed in consultation with Indian Tribes, tribal organizations and urban Indian organizations;

''(2) that takes into account the human resource and development needs in each such service area; and

''(3) that weighs the allocation of amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

''(b) CONSULTATION.—Each area office receiving funds under this title shall actively and continuously consult with representatives of Indian tribes, tribal organizations, and urban Indian organizations to prioritize the utilization of funds provided under this title within the service area.

''(c) REALLOCATION.—Unless specifically prohibited, an area office may reallocate funds provided to the office under this title among the programs authorized by this title, except that scholarship and loan repayment funds shall not be used for administrative functions or expenses.

''(d) LIMITATION.—This section shall not apply with respect to individual recipients of scholarships, loans or other funds provided under this title (as this title existed 1 day prior to the date of enactment of this Act) until such time as the individual completes

the course of study that is supported through the use of such funds.

"SEC. 103. HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall make funds available through the area office to public or nonprofit private health entities, or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

''(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

''(A) to enroll in courses of study in such health professions; or

''(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

''(2) publicizing existing sources of financial aid available to Indians enrolled in any course of study referred to in paragraph (1) or who are undertaking training necessary to qualify them to enroll in any such course of study; or

''(3) establishing other programs which the area office determines will enhance and facilitate the enrollment of Indians in, and the subsequent pursuit and completion by them of, courses of study referred to in paragraph (1).

''(b) ADMINISTRATIVE PROVISIONS.—

''(1) APPLICATION.—To be eligible to receive funds under this section an entity described in subsection (a) shall submit to the Secretary, through the appropriate area office, and have approved, an application in such form, submitted in such manner, and containing such information as the Secretary shall by regulation prescribe.

''(2) PREFERENCE.—In awarding funds under this section, the area office shall give a preference to applications submitted by Indian tribes, tribal organizations, or urban Indian organizations.

''(3) AMOUNT.—The amount of funds to be provided to an eligible entity under this section shall be determined by the area office. Payments under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as provided for in regulations promulgated pursuant to this Act.

''(4) TERMS.—A funding commitment under this section shall, to the extent not otherwise prohibited by law, be for a term of 3 years, as provided for in regulations promulgated pursuant to this Act.

''(c) DEFINITION.—For purposes of this section and sections 104 and 105, the terms 'Indian' and 'Indians' shall, in addition to the definition provided for in section 4, mean any individual who—

''(1) irrespective of whether such individual lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those Tribes, bands, or groups terminated since 1940;

''(2) is an Eskimo or Aleut or other Alaska Native;

''(3) is considered by the Secretary of the Interior to be an Indian for any purpose; or

''(4) is determined to be an Indian under regulations promulgated by the Secretary.

"SEC. 104. HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide scholarships through the area offices to Indians who—

''(1) have successfully completed their high school education or high school equivalency; and

''(2) have demonstrated the capability to successfully complete courses of study in the health professions.

''(b) PURPOSE.—Scholarships provided under this section shall be for the following purposes:

''(1) Compensatory preprofessional education of any recipient. Such scholarship shall not exceed 2 years on a full-time basis (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act).

''(2) Pregraduate education of any recipient leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the area office pursuant to regulations promulgated under this Act) except that an extension of up to 2 years may be approved by the Secretary.

''(c) USE OF SCHOLARSHIP.—Scholarships made under this section may be used to cover costs of tuition, books, transportation, board, and other necessary related expenses of a recipient while attending school.

''(d) LIMITATIONS.—Scholarship assistance to an eligible applicant under this section shall not be denied solely on the basis of—

''(1) the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution; or

''(2) the applicant's eligibility for assistance or benefits under any other Federal program.

"SEC. 105. INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.

''(a) SCHOLARSHIPS.—

''(1) IN GENERAL.—In order to meet the needs of Indians, Indian tribes, tribal organizations, and urban Indian organizations for health professionals, the Secretary, acting through the Service and in accordance with this section, shall provide scholarships through the area offices to Indians who are enrolled full or part time in accredited schools and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall, except as provided in subsection (b), be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 254l).

''(2) NO DELEGATION.—The Director of the Service shall administer this section and shall not delegate any administrative functions under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act.

''(b) ELIGIBILITY.—

''(1) ENROLLMENT.—An Indian shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full or part time in a course of study referred to in subsection (a)(1).

''(2) SERVICE OBLIGATION.—

''(A) PUBLIC HEALTH SERVICE ACT.—The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 254l) that an Indian has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice on an equivalent year for year obligation, by service—

''(i) in the Indian Health Service;

''(ii) in a program conducted under a funding agreement entered into under the Indian Self-Determination and Education Assistance Act;

''(iii) in a program assisted under title V; or

''(iv) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''(B) DEFERRING ACTIVE SERVICE.—At the request of any Indian who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

''(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

''(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

''(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (iv) of subparagraph (A).

''(C) NEW SCHOLARSHIP RECIPIENTS.—A recipient of an Indian Health Scholarship that is awarded after December 31, 2003, shall meet the active duty service obligation under such scholarship by providing service within the service area from which the scholarship was awarded. In placing the recipient for active duty the area office shall give priority to the program that funded the recipient, except that in cases of special circumstances, a recipient may be placed in a different service area pursuant to an agreement between the areas or programs involved.

''(D) PRIORITY IN ASSIGNMENT.—Subject to subparagraph (C), the area office, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation described in subparagraph (A), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(3) PART-TIME ENROLLMENT.—In the case of an Indian receiving a scholarship under this section who is enrolled part time in an approved course of study—

''(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the appropriate area office;

''(B) the period of obligated service described in paragraph (2)(A) shall be equal to the greater of—

''(i) the part-time equivalent of 1 year for each year for which the individual was provided a scholarship (as determined by the area office); or

''(ii) two years; and

''(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254l(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

''(4) BREACH OF CONTRACT.—

''(A) IN GENERAL.—An Indian who has, on or after the date of the enactment of this paragraph, entered into a written contract with the area office pursuant to a scholarship under this section and who—

''(i) fails to maintain an acceptable level of academic standing in the educational institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) is dismissed from such educational institution for disciplinary reasons;

''(iii) voluntarily terminates the training in such an educational institution for which he or she is provided a scholarship under such contract before the completion of such training; or

''(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him or her, or on his or her behalf, under the contract.

''(B) FAILURE TO PERFORM SERVICE OBLIGATION.—If for any reason not specified in subparagraph (A) an individual breaches his or her written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(C) DEATH.—Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

''(D) WAIVER.—The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary, in consultation with the appropriate area office, Indian tribe, tribal organization, and urban Indian organization, determines that—

''(i) it is not possible for the recipient to meet that obligation or make that payment;

''(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

''(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

''(E) HARDSHIP OR GOOD CAUSE.—Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

''(F) BANKRUPTCY.—Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

''(c) FUNDING FOR TRIBES FOR SCHOLARSHIP PROGRAMS.—

''(1) PROVISION OF FUNDS.—

''(A) IN GENERAL.—The Secretary shall make funds available, through area offices, to Indian Tribes and tribal organizations for the purpose of assisting such Tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

''(B) LIMITATION.—The Secretary shall ensure that amounts available for grants under subparagraph (A) for any fiscal year shall not exceed an amount equal to 5 percent of the amount available for each fiscal year for Indian Health Scholarships under this section.

''(C) APPLICATION.—An application for funds under subparagraph (A) shall be in such form and contain such agreements, assurances and information as consistent with this section.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—An Indian Tribe or tribal organization receiving funds under paragraph (1) shall agree to provide scholarships to Indians in accordance with the requirements of this subsection.

''(B) MATCHING REQUIREMENT.—With respect to the costs of providing any scholarship pursuant to subparagraph (A)—

''(i) 80 percent of the costs of the scholarship shall be paid from the funds provided under paragraph (1) to the Indian Tribe or tribal organization; and

''(ii) 20 percent of such costs shall be paid from any other source of funds.

''(3) ELIGIBILITY.—An Indian Tribe or tribal organization shall provide scholarships under this subsection only to Indians who are enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in this Act.

''(4) CONTRACTS.—In providing scholarships under paragraph (1), the Secretary and the Indian Tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall—

''(A) obligate such recipient to provide service in an Indian health program (as defined in section 110(a)(2)(A)) in the same service area where the Indian Tribe or tribal organization providing the scholarship is located, for—

''(i) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

''(ii) such greater period of time as the recipient and the Indian Tribe or tribal organization may agree;

''(B) provide that the scholarship—

''(i) may only be expended for—

''(I) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

''(II) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled, and may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in this clause; and

''(ii) may not exceed, for any year of attendance which the scholarship is provided, the total amount required for the year for the purposes authorized in clause (i);

''(C) require the recipient of such scholarship to maintain an acceptable level of academic standing as determined by the educational institution in accordance with regulations issued pursuant to this Act; and

''(D) require the recipient of such scholarship to meet the educational and licensure requirements appropriate to the health profession involved.

''(5) BREACH OF CONTRACT.—

''(A) IN GENERAL.—An individual who has entered into a written contract with the Secretary and an Indian Tribe or tribal organization under this subsection and who—

''(i) fails to maintain an acceptable level of academic standing in the education institution in which he or she is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) is dismissed from such education for disciplinary reasons;

''(iii) voluntarily terminates the training in such an educational institution for which he or she has been provided a scholarship under such contract before the completion of such training; or

''(iv) fails to accept payment, or instructs the educational institution in which he or she is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract;

shall be liable to the United States for the Federal share of the amount which has been paid to him or her, or on his or her behalf, under the contract.

''(B) FAILURE TO PERFORM SERVICE OBLIGATION.—If for any reason not specified in subparagraph (A), an individual breaches his or her written contract by failing to either begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(C) INFORMATION.—The Secretary may carry out this subsection on the basis of information received from Indian Tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary deems appropriate.

''(6) REQUIRED AGREEMENTS.—The recipient of a scholarship under paragraph (1) shall agree, in providing health care pursuant to the requirements of this subsection—

''(A) not to discriminate against an individual seeking care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the programs established in title XIX of such Act; and

''(B) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

''(7) PAYMENTS.—The Secretary, through the area office, shall make payments under this subsection to an Indian Tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary or area office determines that, for the immediately preceding fiscal year, the Indian Tribe or tribal organization has not complied with the requirements of this subsection.

''SEC. 106. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

''(a) IN GENERAL.—Notwithstanding section 102, the Secretary shall provide funds to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. These programs shall be located at various colleges and universities throughout the country to maximize their availability to Indian students and new programs shall be established in different locations from time to time.

''(b) QUENTIN N. BURDICK AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.—The Secretary shall provide funds under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Nursing Program authorized under section 115, the Quentin N. Burdick Indians

into Health Program authorized under section 117, and existing university research and communications networks.

''(c) REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall promulgate regulations pursuant to this Act for the competitive awarding of funds under this section.

''(2) PROGRAM.—Applicants for funds under this section shall agree to provide a program which, at a minimum—

''(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and accredited and accessible community colleges that will be served by the program;

''(B) incorporates a program advisory board comprised of representatives from the Tribes and communities that will be served by the program;

''(C) provides summer enrichment programs to expose Indian students to the various fields of psychology through research, clinical, and experimental activities;

''(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

''(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate accredited and accessible entities to enhance the education of Indian students;

''(F) utilizes, to the maximum extent feasible, existing university tutoring, counseling and student support services; and

''(G) employs, to the maximum extent feasible, qualified Indians in the program.

''(d) ACTIVE DUTY OBLIGATION.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate who receives a stipend described in subsection (c)(2)(C) that is funded under this section. Such obligation shall be met by service—

''(1) in the Indian Health Service;

''(2) in a program conducted under a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act;

''(3) in a program assisted under title V; or

''(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''SEC. 107. INDIAN HEALTH SERVICE EXTERN PROGRAMS.

''(a) IN GENERAL.—Any individual who receives a scholarship pursuant to section 105 shall be entitled to employment in the Service, or may be employed by a program of an Indian tribe, tribal organization, or urban Indian organization, or other agency of the Department as may be appropriate and available, during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship.

''(b) ENROLLEES IN COURSE OF STUDY.—Any individual who is enrolled in a course of study in the health professions may be employed by the Service or by an Indian tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

''(c) HIGH SCHOOL PROGRAMS.—Any individual who is in a high school program authorized under section 103(a) may be employed by the Service, or by a Indian Tribe, tribal organization, or urban Indian organization, during any nonacademic period of the year. Any such employment shall not exceed 120 days during any calendar year.

''(d) ADMINISTRATIVE PROVISIONS.—Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department.

''SEC. 108. CONTINUING EDUCATION ALLOWANCES.

''In order to encourage health professionals, including for purposes of this section, community health representatives and emergency medical technicians, to join or continue in the Service or in any program of an Indian tribe, tribal organization, or urban Indian organization and to provide their services in the rural and remote areas where a significant portion of the Indian people reside, the Secretary, acting through the area offices, may provide allowances to health professionals employed in the Service or such a program to enable such professionals to take leave of their duty stations for a period of time each year (as prescribed by regulations of the Secretary) for professional consultation and refresher training courses.

''SEC. 109. COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary shall maintain a Community Health Representative Program under which the Service, Indian tribes and tribal organizations—

''(1) provide for the training of Indians as community health representatives; and

''(2) use such community health representatives in the provision of health care, health promotion, and disease prevention services to Indian communities.

''(b) ACTIVITIES.—The Secretary, acting through the Community Health Representative Program, shall—

''(1) provide a high standard of training for community health representatives to ensure that the community health representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program;

''(2) in order to provide such training, develop and maintain a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care; and

''(B) provides instruction and practical experience in health promotion and disease prevention activities, with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty;

''(3) maintain a system which identifies the needs of community health representatives for continuing education in health care, health promotion, and disease prevention and maintain programs that meet the needs for such continuing education;

''(4) maintain a system that provides close supervision of community health representatives;

''(5) maintain a system under which the work of community health representatives is reviewed and evaluated; and

''(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.

''SEC. 110. INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (referred to in this Act as the 'Loan Repayment Program') in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

''(2) DEFINITIONS.—In this section:

''(A) INDIAN HEALTH PROGRAM.—The term 'Indian health program' means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered—

''(i) directly by the Service;

''(ii) by any Indian tribe or tribal or Indian organization pursuant to a funding agreement under—

''(I) the Indian Self-Determination and Educational Assistance Act; or

''(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47) (commonly known as the 'Buy-Indian Act'); or

''(iii) by an urban Indian organization pursuant to title V.

''(B) STATE.—The term 'State' has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

''(b) ELIGIBILITY.—To be eligible to participate in the Loan Repayment Program, an individual must—

''(1)(A) be enrolled—

''(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or

''(ii) in an approved graduate training program in a health profession; or

''(B) have—

''(i) a degree in a health profession; and

''(ii) a license to practice a health profession in a State;

''(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

''(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

''(C) meet the professional standards for civil service employment in the Indian Health Service; or

''(D) be employed in an Indian health program without a service obligation; and

''(3) submit to the Secretary an application for a contract described in subsection (f).

''(c) FORMS.—

''(1) IN GENERAL.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of the contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

''(2) FORMS TO BE UNDERSTANDABLE.—The application form, contract form, and all other information furnished by the Secretary under this section shall be written in

a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

''(3) AVAILABILITY.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

''(d) PRIORITY.—

''(1) ANNUAL DETERMINATIONS.—The Secretary, acting through the Service and in accordance with subsection (k), shall annually—

''(A) identify the positions in each Indian health program for which there is a need or a vacancy; and

''(B) rank those positions in order of priority.

''(2) PRIORITY IN APPROVAL.—Notwithstanding the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall—

''(A) give first priority to applications made by individual Indians; and

''(B) after making determinations on all applications submitted by individual Indians as required under subparagraph (A), give priority to—

''(i) individuals recruited through the efforts an Indian tribe, tribal organization, or urban Indian organization; and

''(ii) other individuals based on the priority rankings under paragraph (1).

''(e) CONTRACTS.—

''(1) IN GENERAL.—An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).

''(2) NOTICE.—Not later than 21 days after considering an individual for participation in the Loan Repayment Program under paragraph (1), the Secretary shall provide written notice to the individual of—

''(A) the Secretary's approving of the individual's participation in the Loan Repayment Program, including extensions resulting in an aggregate period of obligated service in excess of 4 years; or

''(B) the Secretary's disapproving an individual's participation in such Program.

''(f) WRITTEN CONTRACT.—The written contract referred to in this section between the Secretary and an individual shall contain—

''(1) an agreement under which—

''(A) subject to paragraph (3), the Secretary agrees—

''(i) to pay loans on behalf of the individual in accordance with the provisions of this section; and

''(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe, tribal organization, or urban Indian organization as provided in subparagraph (B)(iii); and

''(B) subject to paragraph (3), the individual agrees—

''(i) to accept loan payments on behalf of the individual;

''(ii) in the case of an individual described in subsection (b)(1)—

''(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training; and

''(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

''(iii) to serve for a time period (referred to in this section as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

''(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

''(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

''(4) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

''(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

''(g) LOAN REPAYMENTS.—

''(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

''(A) tuition expenses;

''(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

''(C) reasonable living expenses as determined by the Secretary.

''(2) AMOUNT OF PAYMENT.—

''(A) IN GENERAL.—For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

''(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

''(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

''(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

''(B) TIME FOR PAYMENT.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made not later than the end of the fiscal year in which the individual completes such year of service.

''(3) SCHEDULE FOR PAYMENTS.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

''(h) COUNTING OF INDIVIDUALS.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

''(i) RECRUITING PROGRAMS.—The Secretary shall conduct recruiting programs for the Loan Repayment Program and other health professional programs of the Service at educational institutions training health professionals or specialists identified in subsection (a).

''(j) NONAPPLICATION OF CERTAIN PROVISION.—Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

''(k) ASSIGNMENT OF INDIVIDUALS.—The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

''(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

''(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

''(l) BREACH OF CONTRACT.—

''(1) IN GENERAL.—An individual who has entered into a written contract with the Secretary under this section and who—

''(A) is enrolled in the final year of a course of study and who—

''(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

''(ii) voluntarily terminates such enrollment; or

''(iii) is dismissed from such educational institution before completion of such course of study; or

''(B) is enrolled in a graduate training program, and who fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii),

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

''(2) AMOUNT OF RECOVERY.—If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A=3Z(t-s/t)$$

in which—

''(A) 'A' is the amount the United States is entitled to recover;

''(B) 'Z' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

''(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

''(D) 's' is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in medicare payments pursuant to section 1892 of the Social Security Act.

''(3) DAMAGES.—

''(A) TIME FOR PAYMENT.—Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach of contract or such longer period beginning on such date as shall be specified by the Secretary.

''(B) DELINQUENCIES.—If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

''(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

''(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

''(C) CONTRACTS FOR RECOVERY OF DAMAGES.—Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

''(m) CANCELLATION, WAIVER OR RELEASE.—

''(1) CANCELLATION.—Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

''(2) WAIVER OF SERVICE OBLIGATION.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

''(3) WAIVER OF RIGHTS OF UNITED STATES.—The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

''(4) RELEASE.—Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

''(n) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

''(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

''(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

''(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

''(4) the amount of loan payments made under this section, in total and by health profession;

''(5) the number of scholarship grants that are provided under section 105 with respect to each health profession;

''(6) the amount of scholarship grants provided under section 105, in total and by health profession;

''(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the 3 fiscal years beginning after the date the report is filed; and

''(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes, tribal organizations, or urban Indian organizations for which recruitment or retention is difficult.

''SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

''(a) ESTABLISHMENT.—Notwithstanding section 102, there is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (referred to in this section as the 'LRRF'). The LRRF Fund shall consist of—

''(1) such amounts as may be collected from individuals under subparagraphs (A) and (B) of section 105(b)(4) and section 110(l) for breach of contract;

''(2) such funds as may be appropriated to the LRRF;

''(3) such interest earned on amounts in the LRRF; and

''(4) such additional amounts as may be collected, appropriated, or earned relative to the LRRF.

Amounts appropriated to the LRRF shall remain available until expended.

''(b) USE OF LRRF.—

''(1) IN GENERAL.—Amounts in the LRRF may be expended by the Secretary, subject to section 102, acting through the Service, to make payments to the Service or to an Indian tribe or tribal organization administering a health care program pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act—

''(A) to which a scholarship recipient under section 105 or a loan repayment program participant under section 110 has been assigned to meet the obligated service requirements pursuant to sections; and

''(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 105 or section 110.

''(2) SCHOLARSHIPS AND RECRUITING.—An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to provide scholarships or to recruit and employ, directly or by contract, health professionals to provide health care services.

''(c) INVESTING OF FUND.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the LRRF as the Secretary determines are not required to meet current withdrawals from the LRRF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

''(2) SALE PRICE.—Any obligation acquired by the LRRF may be sold by the Secretary of the Treasury at the market price.

''SEC. 112. RECRUITMENT ACTIVITIES.

''(a) REIMBURSEMENT OF EXPENSES.—The Secretary may reimburse health professionals seeking positions in the Service, Indian tribes, tribal organizations, or urban Indian organizations, including unpaid student volunteers and individuals considering entering into a contract under section 110, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

''(b) ASSIGNMENT OF PERSONNEL.—The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.

''SEC. 113. TRIBAL RECRUITMENT AND RETENTION PROGRAM.

''(a) FUNDING OF PROJECTS.—The Secretary, acting through the Service, shall fund innovative projects for a period not to exceed 3 years to enable Indian tribes, tribal organizations, and urban Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 110(a)(2)(A)).

''(b) ELIGIBILITY.—Any Indian tribe, tribal organization, or urban Indian organization may submit an application for funding of a project pursuant to this section.

''SEC. 114. ADVANCED TRAINING AND RESEARCH.

''(a) DEMONSTRATION PROJECT.—The Secretary, acting through the Service, shall establish a demonstration project to enable health professionals who have worked in an Indian health program (as defined in section 110) for a substantial period of time to pursue advanced training or research in areas of study for which the Secretary determines a need exists.

''(b) SERVICE OBLIGATION.—

''(1) IN GENERAL.—An individual who participates in the project under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least the period of time during which the individual participates in such project.

''(2) FAILURE TO COMPLETE SERVICE.—In the event that an individual fails to complete a period of obligated service under paragraph (1), the individual shall be liable to the United States for the period of service remaining. In such event, with respect to individuals entering the project after the date of the enactment of this Act, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''(c) OPPORTUNITY TO PARTICIPATE.—Health professionals from Indian tribes, tribal organizations, and urban Indian organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to participate in the program under subsection (a).

''SEC. 115. NURSING PROGRAMS; QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.

''(a) GRANTS.—Notwithstanding section 102, the Secretary, acting through the Service, shall provide funds to—

''(1) public or private schools of nursing;

''(2) tribally controlled community colleges and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

''(3) nurse midwife programs, and advance practice nurse programs, that are provided by any tribal college accredited nursing program, or in the absence of such, any other public or private institution,

for the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

''(b) USE OF GRANTS.—Funds provided under subsection (a) may be used to—

''(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or advanced practice nurses;

''(2) provide scholarships to Indian individuals enrolled in such programs that may be used to pay the tuition charged for such program and for other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses;

''(3) provide a program that encourages nurses, nurse midwives, and advanced practice nurses to provide, or continue to provide, health care services to Indians;

''(4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and advanced practice nurses; or

''(5) provide any program that is designed to achieve the purpose described in subsection (a).

''(c) APPLICATIONS.—Each application for funds under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

''(d) PREFERENCES.—In providing funds under subsection (a), the Secretary shall extend a preference to—

''(1) programs that provide a preference to Indians;

''(2) programs that train nurse midwives or advanced practice nurses;

''(3) programs that are interdisciplinary; and

''(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

''(e) QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.—The Secretary shall ensure that a portion of the funds authorized under subsection (a) is made available to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick Indian Health Programs established under section 117(b).

''(f) SERVICE OBLIGATION.—The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded under subsection (a). Such obligation shall be met by service—

''(1) in the Indian Health Service;

''(2) in a program conducted under a contract entered into under the Indian Self-Determination and Education assistance Act;

''(3) in a program assisted under title V; or

''(4) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

''SEC. 116. TRIBAL CULTURE AND HISTORY.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall require that appropriate employees of the Service who serve Indian tribes in each service area receive educational instruction in the history and culture of such tribes and their relationship to the Service.

''(b) REQUIREMENTS.—To the extent feasible, the educational instruction to be provided under subsection (a) shall—

''(1) be provided in consultation with the affected tribal governments, tribal organizations, and urban Indian organizations;

''(2) be provided through tribally-controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1978) and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)); and

''(3) include instruction in Native American studies.

''SEC. 117. INMED PROGRAM.

''(a) GRANTS.—The Secretary may provide grants to 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment program known as the 'Indians into Medicine Program' (referred to in this section as 'INMED') as a means of encouraging Indians to enter the health professions.

''(b) QUENTIN N. BURDICK INDIAN HEALTH PROGRAM.—The Secretary shall provide 1 of the grants under subsection (a) to maintain the INMED program at the University of North Dakota, to be known as the 'Quentin N. Burdick Indian Health Program', unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 106(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 115.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall develop regulations to govern grants under to this section.

''(2) PROGRAM REQUIREMENTS.—Applicants for grants provided under this section shall agree to provide a program that—

''(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program;

''(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program;

''(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions;

''(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university; and

''(E) to the maximum extent feasible, employs qualified Indians in the program.

''SEC. 118. HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES.

''(a) ESTABLISHMENT GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges for the purpose of assisting such colleges in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation, in the Service, or in a tribal health program.

''(2) AMOUNT.—The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

''(b) CONTINUATION GRANTS.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall award grants to accredited and accessible community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

''(2) ELIGIBILITY.—Grants may only be made under this subsection to a community college that—

''(A) is accredited;

''(B) has a relationship with a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals;

''(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

''(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals; and

''(ii) stipulate certifications necessary to approve internship and field placement opportunities at health programs of the Service or at tribal health programs;

''(D) has a qualified staff which has the appropriate certifications;

''(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1); and

''(F) agrees to provide for Indian preference for applicants for programs under this section.

''(c) SERVICE PERSONNEL AND TECHNICAL ASSISTANCE.—The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

''(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs, and

''(2) providing technical assistance and support to such colleges.

''(d) SPECIFIED COURSES OF STUDY.—Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

''(1) has already received a degree or diploma in such health profession; and

''(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

''(e) PRIORITY.—Priority shall be provided under this section to tribally controlled colleges in service areas that meet the requirements of subsection (b).

''(f) DEFINITIONS.—In this section:

''(1) COMMUNITY COLLEGE.—The term 'community college' means—

''(A) a tribally controlled community college; or

''(B) a junior or community college.

''(2) JUNIOR OR COMMUNITY COLLEGE.—The term 'junior or community college' has the meaning given such term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

''(3) TRIBALLY CONTROLLED COLLEGE.—The term 'tribally controlled college' has the meaning given the term 'tribally controlled community college' by section 2(4) of the Tribally Controlled Community College Assistance Act of 1978.

''SEC. 119. RETENTION BONUS.

''(a) IN GENERAL.—The Secretary may pay a retention bonus to any health professional employed by, or assigned to, and serving in, the Service, an Indian tribe, a tribal organization, or an urban Indian organization either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who—

''(1) is assigned to, and serving in, a position for which recruitment or retention of personnel is difficult;

''(2) the Secretary determines is needed by the Service, tribe, tribal organization, or urban organization;

''(3) has—

''(A) completed 3 years of employment with the Service; tribe, tribal organization, or urban organization; or

''(B) completed any service obligations incurred as a requirement of—

''(i) any Federal scholarship program; or

''(ii) any Federal education loan repayment program; and

''(4) enters into an agreement with the Service, Indian tribe, tribal organization, or urban Indian organization for continued employment for a period of not less than 1 year.

''(b) RATES.—The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

''(c) FAILURE TO COMPLETE TERM OF SERVICE.—Any health professional failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 110(l)(2)(B).

''(d) FUNDING AGREEMENT.—The Secretary may pay a retention bonus to any health professional employed by an organization providing health care services to Indians pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act if such health professional is serving in a position which the Secretary determines is—

''(1) a position for which recruitment or retention is difficult; and

''(2) necessary for providing health care services to Indians.

''SEC. 120. NURSING RESIDENCY PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, acting through the Service, shall establish a program to enable Indians who are licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 110(a)(2)(A)), and have done so for a period of not less than 1 year, to pursue advanced training.

''(b) REQUIREMENT.—The program established under subsection (a) shall include a combination of education and work study in an Indian health program (as defined in section 110(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse) or an advanced degrees in nursing and public health.

''(c) SERVICE OBLIGATION.—An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to the amount of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 110 in the manner provided for in such subsection.

''SEC. 121. COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; commonly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

''(1) provides for the training of Alaska Natives as health aides or community health practitioners;

''(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

''(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

''(b) ACTIVITIES.—The Secretary, acting through the Community Health Aide Program under subsection (a), shall—

''(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

''(2) in order to provide such training, develop a curriculum that—

''(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

''(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

''(C) promotes the achievement of the health status objective specified in section 3(b);

''(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or who can demonstrate equivalent experience;

''(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

''(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

''(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.

''SEC. 122. TRIBAL HEALTH PROGRAM ADMINISTRATION.

''Subject to Section 102, the Secretary, acting through the Service, shall, through a funding agreement or otherwise, provide training for Indians in the administration and planning of tribal health programs.

''SEC. 123. HEALTH PROFESSIONAL CHRONIC SHORTAGE DEMONSTRATION PROJECT.

''(a) PILOT PROGRAMS.—The Secretary may, through area offices, fund pilot programs for tribes and tribal organizations to address chronic shortages of health professionals.

''(b) PURPOSE.—It is the purpose of the health professions demonstration project under this section to—

''(1) provide direct clinical and practical experience in a service area to health professions students and residents from medical schools;

''(2) improve the quality of health care for Indians by assuring access to qualified health care professionals; and

''(3) provide academic and scholarly opportunities for health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

''(c) ADVISORY BOARD.—A pilot program established under subsection (a) shall incorporate a program advisory board that shall be composed of representatives from the tribes and communities in the service area that will be served by the program.

''SEC. 124. SCHOLARSHIPS.

''Scholarships and loan reimbursements provided to individuals pursuant to this title shall be treated as 'qualified scholarships' for purposes of section 117 of the Internal Revenue Code of 1986.

''SEC. 125. NATIONAL HEALTH SERVICE CORPS.

''(a) LIMITATIONS.—The Secretary shall not—

''(1) remove a member of the National Health Services Corps from a health program operated by Indian Health Service or by a tribe or tribal organization under a funding agreement with the Service under the Indian Self-Determination and Education Assistance Act, or by urban Indian organizations; or

''(2) withdraw the funding used to support such a member;

unless the Secretary, acting through the Service, tribes or tribal organization, has ensured that the Indians receiving services from such member will experience no reduction in services.

''(b) DESIGNATION OF SERVICE AREAS AS HEALTH PROFESSIONAL SHORTAGE AREAS.—All service areas served by programs operated by the Service or by a tribe or tribal organization under the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization, shall be designated under section 332 of the Public Health Service Act (42 U.S.C. 254e) as Health Professional Shortage Areas.

''(c) FULL TIME EQUIVALENT.—National Health Service Corps scholars that qualify for the commissioned corps in the Public Health Service shall be exempt from the full time equivalent limitations of the National Health Service Corps and the Service when such scholars serve as commissioned corps officers in a health program operated by an Indian tribe or tribal organization under the Indian Self-Determination and Education Assistance Act or by an urban Indian organization.

''SEC. 126. SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT.

''(a) DEMONSTRATION PROJECTS.—The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

''(b) USE OF FUNDS.—Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

''(c) TERM OF GRANT.—A contract entered into or a grant provided under this section shall be for a period of 1 year. Such contract or grant may be renewed for an additional 1 year period upon the approval of the Secretary.

''(d) REVIEW OF APPLICATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible accredited and accessible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

''(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

''(f) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

''(g) DEFINITIONS.—In this section:

''(1) EDUCATIONAL CURRICULUM.—The term 'educational curriculum' means 1 or more of the following:

''(A) Classroom education.

''(B) Clinical work experience.

''(C) Continuing education workshops.

''(2) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term 'tribally controlled community college' has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

''(3) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTION.—The term 'tribally controlled postsecondary vocational institution' has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

''SEC. 127. MENTAL HEALTH TRAINING AND COMMUNITY EDUCATION.

''(a) STUDY AND LIST.—

''(1) IN GENERAL.—The Secretary and the Secretary of the Interior in consultation with Indian tribes and tribal organizations shall conduct a study and compile a list of the types of staff positions specified in subsection (b) whose qualifications include or should include, training in the identification, prevention, education, referral or treatment of mental illness, dysfunctional or self-destructive behavior.

''(2) POSITIONS.—The positions referred to in paragraph (1) are—

''(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

''(i) elementary and secondary education;

''(ii) social services, family and child welfare;

''(iii) law enforcement and judicial services; and

''(iv) alcohol and substance abuse;

''(B) staff positions within the Service; and

''(C) staff positions similar to those specified in subsection (b) and established and maintained by Indian tribes, tribal organizations, and urban Indian organizations, including positions established pursuant to funding agreements under the Indian Self-determination and Education Assistance Act, and this Act.

''(3) TRAINING CRITERIA.—

''(A) IN GENERAL.—The appropriate Secretary shall provide training criteria appropriate to each type of position specified in subsection (b)(1) and ensure that appropriate training has been or will be provided to any individual in any such position.

''(B) TRAINING.—With respect to any such individual in a position specified pursuant to subsection (b)(3), the respective Secretaries shall provide appropriate training or provide funds to an Indian tribe, tribal organization, or urban Indian organization for the training of appropriate individuals. In the case of a funding agreement, the appropriate Secretary shall ensure that such training costs are included in the funding agreement, if necessary.

''(4) CULTURAL RELEVANCY.—Position specific training criteria shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional health care practices is provided.

''(5) COMMUNITY EDUCATION.—

''(A) DEVELOPMENT.—The Service shall develop and implement, or on request of an Indian tribe or tribal organization, assist an Indian tribe or tribal organization, in developing and implementing a program of community education on mental illness.

''(B) TECHNICAL ASSISTANCE.—In carrying out this paragraph, the Service shall, upon the request of an Indian tribe or tribal organization, provide technical assistance to the Indian tribe or tribal organization to obtain and develop community educational materials on the identification, prevention, referral and treatment of mental illness, dysfunctional and self-destructive behavior.

''(b) STAFFING.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Act, the Director of the Service shall develop a plan under which the Service will increase the number of health care staff that are providing mental health services by at least 500 positions within 5 years after such date of enactment, with at least 200 of such positions devoted to child, adolescent, and family services. The allocation of such positions shall be subject to the provisions of section 102(a).

''(2) IMPLEMENTATION.—The plan developed under paragraph (1) shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) (commonly know as the 'Snyder Act').

''SEC. 128. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE II—HEALTH SERVICES

''SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

''(a) IN GENERAL.—The Secretary may expend funds, directly or under the authority of the Indian Self-Determination and Education Assistance Act, that are appropriated under the authority of this section, for the purposes of—

''(1) eliminating the deficiencies in the health status and resources of all Indian tribes;

''(2) eliminating backlogs in the provision of health care services to Indians;

''(3) meeting the health needs of Indians in an efficient and equitable manner;

''(4) eliminating inequities in funding for both direct care and contract health service programs; and

''(5) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian tribes with the highest levels of health status and resource deficiencies:

''(A) clinical care, including inpatient care, outpatient care (including audiology, clinical eye and vision care), primary care, secondary and tertiary care, and long term care;

''(B) preventive health, including mammography and other cancer screening in accordance with section 207;

''(C) dental care;

''(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential treatment centers, and training of traditional health care practitioners;

''(E) emergency medical services;

''(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

''(G) accident prevention programs;

''(H) home health care;

''(I) community health representatives;

''(J) maintenance and repair; and

''(K) traditional health care practices.

''(b) USE OF FUNDS.—

''(1) LIMITATION.—Any funds appropriated under the authority of this section shall not be used to offset or limit any other appropriations made to the Service under this Act, the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), or any other provision of law.

''(2) ALLOCATION.—

''(A) IN GENERAL.—Funds appropriated under the authority of this section shall be allocated to service units or Indian tribes or tribal organizations. The funds allocated to each tribe, tribal organization, or service unit under this subparagraph shall be used to improve the health status and reduce the resource deficiency of each tribe served by such service unit, tribe or tribal organization. Such allocation shall weigh the amounts appropriated in favor of those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians for all service areas, except that amounts allocated to each such area using such a weighted allocation formula shall not be less than the amounts allocated to each such area in the previous fiscal year.

''(B) APPORTIONMENT.—The apportionment of funds allocated to a service unit, tribe or tribal organization under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with, and with the active participation of, the affected Indian tribes in accordance with this section and such rules as may be established under title VIII.

''(c) HEALTH STATUS AND RESOURCE DEFICIENCY.—In this section:

''(1) DEFINITION.—The term 'health status and resource deficiency' means the extent to which—

''(A) the health status objective set forth in section 3(2) is not being achieved; and

''(B) the Indian tribe or tribal organization does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances.

''(2) RESOURCES.—The health resources available to an Indian tribe or tribal organization shall include health resources provided by the Service as well as health resources used by the Indian Tribe or tribal organization, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

''(3) REVIEW OF DETERMINATION.—The Secretary shall establish procedures which allow any Indian tribe or tribal organization to petition the Secretary for a review of any determination of the extent of the health status and resource deficiency of such tribe or tribal organization.

''(d) ELIGIBILITY.—Programs administered by any Indian tribe or tribal organization

under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for funds appropriated under the authority of this section on an equal basis with programs that are administered directly by the Service.

''(e) REPORT.—Not later than the date that is 3 years after the date of enactment of this Act, the Secretary shall submit to the Congress the current health status and resource deficiency report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

''(1) the methodology then in use by the Service for determining tribal health status and resource deficiencies, as well as the most recent application of that methodology;

''(2) the extent of the health status and resource deficiency of each Indian tribe served by the Service;

''(3) the amount of funds necessary to eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and

''(4) an estimate of—

''(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity;

''(B) the number of Indians eligible for health services in each service unit or Indian tribe or tribal organization; and

''(C) the number of Indians using the Service resources made available to each service unit or Indian tribe or tribal organization, and, to the extent available, information on the waiting lists and number of Indians turned away for services due to lack of resources.

''(f) BUDGETARY RULE.—Funds appropriated under the authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

''(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs or to discourage the Service from undertaking additional efforts to achieve equity among Indian tribes and tribal organizations.

''(h) DESIGNATION.—Any funds appropriated under the authority of this section shall be designated as the 'Indian Health Care Improvement Fund'.

''SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is hereby established an Indian Catastrophic Health Emergency Fund (referred to in this section as the 'CHEF') consisting of—

''(A) the amounts deposited under subsection (d); and

''(B) any amounts appropriated to the CHEF under this Act.

''(2) ADMINISTRATION.—The CHEF shall be administered by the Secretary solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

''(3) EQUITABLE ALLOCATION.—The CHEF shall be equitably allocated, apportioned or delegated on a service unit or area office basis, based upon a formula to be developed by the Secretary in consultation with the Indian tribes and tribal organizations through negotiated rulemaking under title VIII. Such formula shall take into account the added needs of service areas which are contract health service dependent.

''(4) NOT SUBJECT TO CONTRACT OR GRANT.—No part of the CHEF or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination and Education Assistance Act.

''(5) ADMINISTRATION.—Amounts provided from the CHEF shall be administered by the area offices based upon priorities determined by the Indian tribes and tribal organizations within each service area, including a consideration of the needs of Indian tribes and tribal organizations which are contract health service-dependent.

''(b) REQUIREMENTS.—The Secretary shall, through the negotiated rulemaking process under title VIII, promulgate regulations consistent with the provisions of this section—

''(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the CHEF;

''(2) provide that a service unit, Indian tribe, or tribal organization shall not be eligible for reimbursement for the cost of treatment from the CHEF until its cost of treatment for any victim of such a catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at—

''(A) for 1999, not less than $19,000; and

''(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;

''(3) establish a procedure for the reimbursement of the portion of the costs incurred by—

''(A) service units, Indian tribes, or tribal organizations, or facilities of the Service; or

''(B) non-Service facilities or providers whenever otherwise authorized by the Service;

in rendering treatment that exceeds threshold cost described in paragraph (2);

''(4) establish a procedure for payment from the CHEF in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

''(5) establish a procedure that will ensure that no payment shall be made from the CHEF to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

''(c) LIMITATION.—Amounts appropriated to the CHEF under this section shall not be used to offset or limit appropriations made to the Service under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act) or any other law.

''(d) DEPOSITS.—There shall be deposited into the CHEF all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the CHEF.

''SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION SERVICES.

''(a) FINDINGS.—Congress finds that health promotion and disease prevention activities will—

''(1) improve the health and well-being of Indians; and

''(2) reduce the expenses for health care of Indians.

''(b) PROVISION OF SERVICES.—The Secretary, acting through the Service and through Indian tribes and tribal organizations, shall provide health promotion and disease prevention services to Indians so as to achieve the health status objective set forth in section 3(b).

''(c) DISEASE PREVENTION AND HEALTH PROMOTION.—In this section:

''(1) DISEASE PREVENTION.—The term 'disease prevention' means the reduction, limitation, and prevention of disease and its complications, and the reduction in the consequences of such diseases, including—

''(A) controlling—

''(i) diabetes;

''(ii) high blood pressure;

''(iii) infectious agents;

''(iv) injuries;

''(v) occupational hazards and disabilities;

''(vi) sexually transmittable diseases; and

''(vii) toxic agents; and

''(B) providing—

''(i) for the fluoridation of water; and

''(ii) immunizations.

''(2) HEALTH PROMOTION.—The term 'health promotion' means fostering social, economic, environmental, and personal factors conducive to health, including—

''(A) raising people's awareness about health matters and enabling them to cope with health problems by increasing their knowledge and providing them with valid information;

''(B) encouraging adequate and appropriate diet, exercise, and sleep;

''(C) promoting education and work in conformity with physical and mental capacity;

''(E) making available suitable housing, safe water, and sanitary facilities;

''(F) improving the physical economic, cultural, psychological, and social environment;

''(G) promoting adequate opportunity for spiritual, religious, and traditional practices; and

''(H) adequate and appropriate programs including—

''(i) abuse prevention (mental and physical);

''(iii) community health;

''(iv) community safety;

''(v) consumer health education;

''(vi) diet and nutrition;

''(vii) disease prevention (communicable, immunizations, HIV/AIDS);

''(viii) environmental health;

''(ix) exercise and physical fitness;

''(x) fetal alcohol disorders;

''(xi) first aid and CPR education;

''(xii) human growth and development;

''(xiii) injury prevention and personal safety;

''(xiv) mental health (emotional, self-worth);

''(xv) personal health and wellness practices;

''(xvi) personal capacity building;

''(xvii) prenatal, pregnancy, and infant care;

''(xviii) psychological well being;

''(xix) reproductive health (family planning);

''(xx) safe and adequate water;

''(xxi) safe housing;

''(xxii) safe work environments;

''(xxiii) stress control;

''(xxiv) substance abuse;

''(xxv) sanitary facilities;

''(xxvi) tobacco use cessation and reduction;

''(xxvii) violence prevention; and

''(xxviii) such other activities identified by the Service, an Indian tribe or tribal organization, to promote the achievement of the objective described in section 3(b).

''(d) EVALUATION.—The Secretary, after obtaining input from affected Indian tribes and tribal organizations, shall submit to the President for inclusion in each statement which is required to be submitted to Congress under section 801 an evaluation of—

''(1) the health promotion and disease prevention needs of Indians;

''(2) the health promotion and disease prevention activities which would best meet such needs;

''(3) the internal capacity of the Service to meet such needs; and

''(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

''SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

''(a) DETERMINATION.—The Secretary, in consultation with Indian tribes and tribal organizations, shall determine—

''(1) by tribe, tribal organization, and service unit of the Service, the prevalence of, and the types of complications resulting from, diabetes among Indians; and

''(2) based on paragraph (1), the measures (including patient education) each service unit should take to reduce the prevalence of, and prevent, treat, and control the complications resulting from, diabetes among Indian tribes within that service unit.

''(b) SCREENING.—The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by an Indian tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination and Education Assistance Act.

''(c) CONTINUED FUNDING.—The Secretary shall continue to fund, through fiscal year 2015, each effective model diabetes project in existence on the date of the enactment of this Act and such other diabetes programs operated by the Secretary or by Indian tribes and tribal organizations and any additional programs added to meet existing diabetes needs. Indian tribes and tribal organizations shall receive recurring funding for the diabetes programs which they operate pursuant to this section. Model diabetes projects shall consult, on a regular basis, with tribes and tribal organizations in their regions regarding diabetes needs and provide technical expertise as needed.

''(d) DIALYSIS PROGRAMS.—The Secretary shall provide funding through the Service, Indian tribes and tribal organizations to establish dialysis programs, including funds to purchase dialysis equipment and provide necessary staffing.

''(e) OTHER ACTIVITIES.—The Secretary shall, to the extent funding is available—

''(1) in each area office of the Service, consult with Indian tribes and tribal organizations regarding programs for the prevention, treatment, and control of diabetes;

''(2) establish in each area office of the Service a registry of patients with diabetes to track the prevalence of diabetes and the complications from diabetes in that area; and

''(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to tribes, tribal organizations, and all other area offices.

''SEC. 205. SHARED SERVICES.

''(a) IN GENERAL.—The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into funding agreements or other arrangements with Indian tribes or tribal organizations for the delivery of long-term care and similar services to Indians. Such projects shall provide for the sharing of staff or other services between a Service or tribal facility and a long-term care or other similar facility owned and operated (directly or through a funding agreement) by such Indian tribe or tribal organization.

''(b) REQUIREMENTS.—A funding agreement or other arrangement entered into pursuant to subsection (a)—

''(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

''(2) shall provide that expenses (including salaries) relating to services that are shared between the Service and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

''(3) may authorize such tribe or tribal organization to construct, renovate, or expand a long-term care or other similar facility (including the construction of a facility attached to a Service facility).

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

''(d) USE OF EXISTING FACILITIES.—The Secretary shall encourage the use for long-term or similar care of existing facilities that are under-utilized or allow the use of swing beds for such purposes.

''SEC. 206. HEALTH SERVICES RESEARCH.

''(a) FUNDING.—The Secretary shall make funding available for research to further the performance of the health service responsibilities of the Service, Indian tribes, and tribal organizations and shall coordinate the activities of other Agencies within the Department to address these research needs.

''(b) ALLOCATION.—Funding under subsection (a) shall be allocated equitably among the area offices. Each area office shall award such funds competitively within that area.

''(c) ELIGIBILITY FOR FUNDS.—Indian tribes and tribal organizations receiving funding from the Service under the authority of the Indian Self-Determination and Education Assistance Act shall be given an equal opportunity to compete for, and receive, research funds under this section.

''(d) USE.—Funds received under this section may be used for both clinical and nonclinical research by Indian tribes and tribal organizations and shall be distributed to the area offices. Such area offices may make grants using such funds within each area.

''SEC. 207. MAMMOGRAPHY AND OTHER CANCER SCREENING.

''The Secretary, through the Service or through Indian tribes or tribal organizations, shall provide for the following screening:

''(1) Mammography (as defined in section 1861(jj) of the Social Security Act) for Indian women at a frequency appropriate to such women under national standards, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.

''(2) Other cancer screening meeting national standards.

''SEC. 208. PATIENT TRAVEL COSTS.

''The Secretary, acting through the Service, Indian tribes and tribal organizations shall provide funds for the following patient travel costs, including appropriate and necessary qualified escorts, associated with receiving health care services provided (either through direct or contract care or through funding agreements entered into pursuant to the Indian Self-Determination and Education Assistance Act) under this Act:

''(1) Emergency air transportation and nonemergency air transportation where ground transportation is infeasible.

''(2) Transportation by private vehicle, specially equipped vehicle and ambulance.

''(3) Transportation by such other means as may be available and required when air or motor vehicle transportation is not available.

''SEC. 209. EPIDEMIOLOGY CENTERS.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In addition to those centers operating 1 day prior to the date of enactment of this Act, (including those centers for which funding is currently being provided through funding agreements under the Indian Self-Determination and Education Assistance Act), the Secretary shall, not later than 180 days after such date of enactment, establish and fund an epidemiology center in each service area which does not have such a center to carry out the functions described in paragraph (2). Any centers established under the preceding sentence may be operated by Indian tribes or tribal organizations pursuant to funding agreements under the Indian Self-Determination and Education Assistance Act, but funding under such agreements may not be divisible.

''(2) FUNCTIONS.—In consultation with and upon the request of Indian tribes, tribal organizations and urban Indian organizations, each area epidemiology center established under this subsection shall, with respect to such area shall—

''(A) collect data related to the health status objective described in section 3(b), and monitor the progress that the Service, Indian tribes, tribal organizations, and urban Indian organizations have made in meeting such health status objective;

''(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

''(C) assist Indian tribes, tribal organizations, and urban Indian organizations in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

''(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

''(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

''(F) provide requested technical assistance to Indian Tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community; and

''(G) provide disease surveillance and assist Indian tribes, tribal organizations, and urban Indian organizations to promote public health.

''(3) TECHNICAL ASSISTANCE.—The director of the Centers for Disease Control and Prevention shall provide technical assistance to the centers in carrying out the requirements of this subsection.

''(b) FUNDING.—The Secretary may make funding available to Indian tribes, tribal organizations, and eligible intertribal consortia or urban Indian organizations to conduct epidemiological studies of Indian communities.

''SEC. 210. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide funding to Indian tribes, tribal organizations, and urban Indian organizations to develop comprehensive school health education programs for children from preschool through grade 12 in schools for the benefit of Indian and urban Indian children.

''(b) USE OF FUNDS.—Funds awarded under this section may be used to—

''(1) develop and implement health education curricula both for regular school programs and after school programs;

''(2) train teachers in comprehensive school health education curricula;

''(3) integrate school-based, community-based, and other public and private health promotion efforts;

''(4) encourage healthy, tobacco-free school environments;

''(5) coordinate school-based health programs with existing services and programs available in the community;

''(6) develop school programs on nutrition education, personal health, oral health, and fitness;

''(7) develop mental health wellness programs;

''(8) develop chronic disease prevention programs;

''(9) develop substance abuse prevention programs;

''(10) develop injury prevention and safety education programs;

''(11) develop activities for the prevention and control of communicable diseases;

''(12) develop community and environmental health education programs that include traditional health care practitioners;

''(13) carry out violence prevention activities; and

''(14) carry out activities relating to such other health issues as are appropriate.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall, upon request, provide technical assistance to Indian tribes, tribal organizations and urban Indian organizations in the development of comprehensive health education plans, and the dissemination of comprehensive health education materials and information on existing health programs and resources.

''(d) CRITERIA.—The Secretary, in consultation with Indian tribes, tribal organizations, and urban Indian organizations shall establish criteria for the review and approval of applications for funding under this section.

''(e) COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.—

''(1) DEVELOPMENT.—The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary and affected Indian tribes and tribal organizations, shall develop a comprehensive school health education program for children from preschool through grade 12 for use in schools operated by the Bureau of Indian Affairs.

''(2) REQUIREMENTS.—The program developed under paragraph (1) shall include—

''(A) school programs on nutrition education, personal health, oral health, and fitness;

''(B) mental health wellness programs;

''(C) chronic disease prevention programs;

''(D) substance abuse prevention programs;

''(E) injury prevention and safety education programs; and

''(F) activities for the prevention and control of communicable diseases.

''(3) TRAINING AND COORDINATION.—The Secretary of the Interior shall—

''(A) provide training to teachers in comprehensive school health education curricula;

''(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

''(C) encourage healthy, tobacco-free school environments.

''SEC. 211. INDIAN YOUTH PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Service, is authorized to provide funding to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian and urban Indian pre-adolescent and adolescent youths.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available under this section may be used to—

''(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional health care practitioners; and

''(B) develop and provide community training and education.

''(2) LIMITATION.—Funds made available under this section may not be used to provide services described in section 707(c).

''(c) REQUIREMENTS.—The Secretary shall—

''(1) disseminate to Indian tribes, tribal organizations, and urban Indian organizations information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

''(2) encourage the implementation of such models; and

''(3) at the request of an Indian tribe, tribal organization, or urban Indian organization, provide technical assistance in the implementation of such models.

''(d) CRITERIA.—The Secretary, in consultation with Indian tribes, tribal organization, and urban Indian organizations, shall establish criteria for the review and approval of applications under this section.

''SEC. 212. PREVENTION, CONTROL, AND ELIMINATION OF COMMUNICABLE AND INFECTIOUS DISEASES.

''(a) IN GENERAL.—The Secretary, acting through the Service after consultation with Indian tribes, tribal organizations, urban Indian organizations, and the Centers for Disease Control and Prevention, may make funding available to Indian tribes and tribal organizations for—

''(1) projects for the prevention, control, and elimination of communicable and infectious diseases, including tuberculosis, hepatitis, HIV, respiratory syncitial virus, hanta virus, sexually transmitted diseases, and H. Pylori, which projects may include screening, testing and treatment for HCV and other infectious and communicable diseases;

''(2) public information and education programs for the prevention, control, and elimination of communicable and infectious diseases;

''(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of communicable and infectious diseases for health professionals, including allied health professionals; and

''(4) a demonstration project that studies the seroprevalence of the Hepatitis C virus among a random sample of American Indian and Alaskan Native populations and identifies prevalence rates among a variety of tribes and geographic regions.

''(b) REQUIREMENT OF APPLICATION.—The Secretary may provide funds under subsection (a) only if an application or proposal for such funds is submitted.

''(c) TECHNICAL ASSISTANCE AND REPORT.—In carrying out this section, the Secretary—

''(1) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

''(2) shall prepare and submit, biennially, a report to Congress on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and urban Indians.

''SEC. 213. AUTHORITY FOR PROVISION OF OTHER SERVICES.

''(a) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, and tribal organizations, may provide funding under this Act to meet the objective set forth in section 3 through health care related services and programs not otherwise described in this Act. Such services and programs shall include services and programs related to—

''(1) hospice care and assisted living;

''(2) long-term health care;

''(3) home- and community-based services;

''(4) public health functions; and

''(5) traditional health care practices.

''(b) AVAILABILITY OF SERVICES FOR CERTAIN INDIVIDUALS.—At the discretion of the Service, Indian tribe, or tribal organization, services hospice care, home health care (under section 201), home- and community-based care, assisted living, and long term care may be provided (on a cost basis) to individuals otherwise ineligible for the health care benefits of the Service. Any funds received under this subsection shall not be used to offset or limit the funding allocated to a tribe or tribal organization.

''(c) DEFINITIONS.—In this section:

''(1) HOME- AND COMMUNITY-BASED SERVICES.—The term 'home- and community-based services' means 1 or more of the following:

''(A) Homemaker/home health aide services.

''(B) Chore services.

''(C) Personal care services.

''(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

''(E) Training for family members.

''(F) Adult day care.

''(G) Such other home- and community-based services as the Secretary or a tribe or tribal organization may approve.

''(2) HOSPICE CARE.—The term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)), and such other services which an Indian tribe or tribal organization determines are necessary and appropriate to provide in furtherance of such care.

''(3) PUBLIC HEALTH FUNCTIONS.—The term 'public health functions' means public health related programs, functions, and services including assessments, assurances, and policy development that Indian tribes and tribal organizations are authorized and encouraged, in those circumstances where it meets their needs, to carry out by forming collaborative relationships with all levels of local, State, and Federal governments.

''SEC. 214. INDIAN WOMEN'S HEALTH CARE.

''The Secretary acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall provide funding to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

''SEC. 215. ENVIRONMENTAL AND NUCLEAR HEALTH HAZARDS.

''(a) STUDY AND MONITORING PROGRAMS.—The Secretary and the Service shall, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian tribes and tribal organizations, conduct a study and carry out ongoing monitoring programs to determine the trends that exist in the health hazards posed to Indian miners and to Indians on or near Indian reservations and in Indian communities as a result of environmental hazards that may result in chronic or life-threatening health problems. Such hazards include nuclear resource development, petroleum contamination, and contamination of the water source or of the food chain. Such study (and any reports with respect to such study) shall include—

''(1) an evaluation of the nature and extent of health problems caused by environmental hazards currently exhibited among Indians and the causes of such health problems;

''(2) an analysis of the potential effect of ongoing and future environmental resource development on or near Indian reservations and communities including the cumulative effect of such development over time on health;

''(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems including uranium mining and milling, uranium mine tailing deposits, nuclear power plant operation and construction, and nuclear waste disposal, oil and gas production or transportation on or near Indian reservations or communities, and other development that could affect the health of Indians and their water supply and food chain;

''(4) a summary of any findings or recommendations provided in Federal and State studies, reports, investigations, and inspections during the 5 years prior to the date of the enactment of this Act that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

''(5) a description of the efforts that have been made by Federal and State agencies and resource and economic development companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such development.

''(b) DEVELOPMENT OF HEALTH CARE PLANS.—Upon the completion of the study under subsection (a), the Secretary and the Service shall take into account the results of such study and, in consultation with Indian tribes and tribal organizations, develop a health care plan to address the health problems that were the subject of such study. The plans shall include—

''(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

''(2) preventive care and testing for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other activities that have had or could have a serious impact upon the health of such individuals; and

''(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear or other development activities, may experience health problems.

''(c) SUBMISSION TO CONGRESS.—

''(1) GENERAL REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary and the Service shall submit to Congress a report concerning the study conducted under subsection (a).

''(2) HEALTH CARE PLAN REPORT.—Not later than 1 year after the date on which the report under paragraph (1) is submitted to Congress, the Secretary and the Service shall submit to Congress the health care plan prepared under subsection (b). Such plan shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address the health problems involved.

''(d) TASK FORCE.—

''(1) ESTABLISHED.—There is hereby established an Intergovernmental Task Force (referred to in this section as the 'task force') that shall be composed of the following individuals (or their designees):

''(A) The Secretary of Energy.

''(B) The Administrator of the Environmental Protection Agency.

''(C) The Director of the Bureau of Mines.

''(D) The Assistant Secretary for Occupational Safety and Health.

''(E) The Secretary of the Interior.

''(2) DUTIES.—The Task Force shall identify existing and potential operations related to nuclear resource development or other environmental hazards that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community, and enter into activities to correct existing health hazards and ensure that current and future health problems resulting from nuclear resource or other development activities are minimized or reduced.

''(3) ADMINISTRATIVE PROVISIONS.—The Secretary shall serve as the chairperson of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

''(e) PROVISION OF APPROPRIATE MEDICAL CARE.—In the case of any Indian who—

''(1) as a result of employment in or near a uranium mine or mill or near any other environmental hazard, suffers from a work related illness or condition;

''(2) is eligible to receive diagnosis and treatment services from a Service facility; and

''(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator or entity responsible for the environmental hazard;

the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator or entity from such operator or entity. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.

''SEC. 216. ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 1983, and ending with the fiscal year ending September 30, 2015, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of Arizona.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

''SEC. 216A. NORTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 2003, and ending with the fiscal year ending September 30, 2015, the State of North Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of North Dakota.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of North Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

''SEC. 216B. SOUTH DAKOTA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''(a) IN GENERAL.—For fiscal years beginning with the fiscal year ending September 30, 2003, and ending with the fiscal year ending September 30, 2015, the State of South Dakota shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to members of federally recognized Indian Tribes of South Dakota.

''(b) LIMITATION.—The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of South Dakota if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

''SEC. 217. CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.

''(a) IN GENERAL.—The Secretary may fund a program that utilizes the California Rural Indian Health Board as a contract care intermediary to improve the accessibility of health services to California Indians.

''(b) REIMBURSEMENT OF BOARD.—

''(1) AGREEMENT.—The Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred pursuant to this section in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 218 with respect to high-cost contract care cases.

''(2) ADMINISTRATION.—Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be used for reimbursement for administrative expenses incurred by the Board during such fiscal year.

''(3) LIMITATION.—No payment may be made for treatment provided under this section to the extent that payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

''(c) ADVISORY BOARD.—There is hereby established an advisory board that shall advise the California Rural Indian Health Board in carrying out this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under this section, at least 50 percent of whom are not affiliated with the California Rural Indian Health Board.

''SEC. 218. CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

''The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State, except that any of the counties described in this section may be included in the contract health services delivery area if funding is specifically provided by the Service for such services in those counties.

''SEC. 219. CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

''SEC. 220. PROGRAMS OPERATED BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.

''The Service shall provide funds for health care programs and facilities operated by Indian tribes and tribal organizations under funding agreements with the Service entered into under the Indian Self-Determination and Education Assistance Act on the same basis as such funds are provided to programs and facilities operated directly by the Service.

''SEC. 221. LICENSING.

''Health care professionals employed by Indian Tribes and tribal organizations to carry out agreements under the Indian Self-Determination and Education Assistance Act, shall, if licensed in any State, be exempt from the licensing requirements of the State in which the agreement is performed.

''SEC. 222. AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES.

''With respect to an elderly Indian or an Indian with a disability receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.

''SEC. 223. PROMPT ACTION ON PAYMENT OF CLAIMS.

''(a) REQUIREMENT.—The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

''(b) FAILURE TO RESPOND.—If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

''(c) PAYMENT.—The Service shall pay a valid contract care service claim within 30 days after the completion of the claim.

''SEC. 224. LIABILITY FOR PAYMENT.

''(a) NO LIABILITY.—A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services.

''(b) NOTIFICATION.—The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.

''(c) LIMITATION.—Following receipt of the notice provided under subsection (b), or, if a claim has been deemed accepted under section 223(b), the provider shall have no further recourse against the patient who received the services involved.

''SEC. 225. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE III—FACILITIES

''SEC. 301. CONSULTATION, CONSTRUCTION AND RENOVATION OF FACILITIES; REPORTS.

''(a) CONSULTATION.—Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall—

''(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

''(2) ensure, whenever practicable, that such facility meets the construction standards of any nationally recognized accrediting body by not later than 1 year after the date on which the construction or renovation of such facility is completed.

''(b) CLOSURE OF FACILITIES.—

''(1) IN GENERAL.—Notwithstanding any provision of law other than this subsection, no Service hospital or outpatient health care facility or any inpatient service or special care facility operated by the Service, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such proposed closure an evaluation of the impact of such proposed closure which specifies, in addition to other considerations—

''(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

''(B) the cost effectiveness of such closure;

''(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

''(D) the availability of contract health care funds to maintain existing levels of service;

''(E) the views of the Indian tribes served by such hospital or facility concerning such closure;

''(F) the level of utilization of such hospital or facility by all eligible Indians; and

''(G) the distance between such hospital or facility and the nearest operating Service hospital.

''(2) TEMPORARY CLOSURE.—Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

''(c) PRIORITY SYSTEM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a health care facility priority system, that shall—

''(A) be developed with Indian tribes and tribal organizations through negotiated rulemaking under section 802;

''(B) give the needs of Indian tribes the highest priority, with additional priority being given to those service areas where the health status of Indians within the area, as measured by life expectancy based upon the most recent data available, is significantly lower than the average health status for Indians in all service areas; and

''(C) at a minimum, include the lists required in paragraph (2)(B) and the methodology required in paragraph (2)(E);

except that the priority of any project established under the construction priority system in effect on the date of this Act shall not be affected by any change in the construction priority system taking place thereafter if the project was identified as one of the top 10 priority inpatient projects or one of the top 10 outpatient projects in the Indian Health Service budget justification for fiscal year 2003, or if the project had completed both Phase I and Phase II of the construction priority system in effect on the date of this Act.

''(2) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report that includes—

''(A) a description of the health care facility priority system of the Service, as established under paragraph (1);

''(B) health care facility lists, including—

''(i) the total health care facility planning, design, construction and renovation needs for Indians;

''(ii) the 10 top-priority inpatient care facilities;

''(iii) the 10 top-priority outpatient care facilities;

''(iv) the 10 top-priority specialized care facilities (such as long-term care and alcohol and drug abuse treatment); and

''(v) any staff quarters associated with such prioritized facilities;

''(C) the justification for the order of priority among facilities;

''(D) the projected cost of the projects involved; and

''(E) the methodology adopted by the Service in establishing priorities under its health care facility priority system.

''(3) CONSULTATION.—In preparing each report required under paragraph (2) (other than the initial report) the Secretary shall annually—

''(A) consult with, and obtain information on all health care facilities needs from, Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act; and

''(B) review the total unmet needs of all tribes and tribal organizations for health care facilities (including staff quarters), including needs for renovation and expansion of existing facilities.

''(4) CRITERIA.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

''(5) EQUITABLE INTEGRATION.—The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities, operated under funding agreements in accordance with the Indian Self-Determination and Education Assistance Act are fully and equitably integrated into the health care facility priority system.

''(d) REVIEW OF NEED FOR FACILITIES.—

''(1) REPORT.—Beginning in 2004, the Secretary shall annually submit to the President, for inclusion in the report required to be transmitted to Congress under section 801 of this Act, a report which sets forth the needs of the Service and all Indian tribes and tribal organizations, including urban Indian organizations, for inpatient, outpatient and specialized care facilities, including the needs for renovation and expansion of existing facilities.

''(2) CONSULTATION.—In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, and with urban Indian organizations.

''(3) CRITERIA.—For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

''(4) EQUITABLE INTEGRATION.—The Secretary shall ensure that the planning, design, construction, and renovation needs of facilities operated under funding agreements, in accordance with the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the development of the health facility priority system.

''(5) ANNUAL NOMINATIONS.—Each year the Secretary shall provide an opportunity for the nomination of planning, design, and construction projects by the Service and all Indian tribes and tribal organizations for consideration under the health care facility priority system.

''(e) INCLUSION OF CERTAIN PROGRAMS.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of section 102 of the Indian Self-Determination and Education Assistance Act.

''(f) INNOVATIVE APPROACHES.—The Secretary shall consult and cooperate with Indian tribes, tribal organizations and urban Indian organizations in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, including those provided for in other sections of this title and other approaches.

''SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

''(a) FINDINGS.—Congress finds and declares that—

''(1) the provision of safe water supply facilities and sanitary sewage and solid waste disposal facilities is primarily a health consideration and function;

''(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such facilities;

''(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such facilities and other preventive health measures;

''(4) many Indian homes and communities still lack safe water supply facilities and sanitary sewage and solid waste disposal facilities; and

''(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply facilities and sanitary sewage waste disposal facilities as soon as possible.

''(b) PROVISION OF FACILITIES AND SERVICES.—

''(1) IN GENERAL.—In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

''(2) ASSISTANCE.—The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)—

''(A) financial and technical assistance to Indian tribes, tribal organizations and Indian communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities, including the provision of existing plans, standard details, and specifications available in the Department, to be used at the option of the tribe or tribal organization;

''(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

''(C) priority funding for the operation, and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid an imminent health threat or to protect the investment in sanitation facilities and the investment in the health benefits gained through the provision of sanitation facilities.

''(3) PROVISIONS RELATING TO FUNDING.—Notwithstanding any other provision of law—

''(A) the Secretary of Housing and Urban Development is authorized to transfer funds appropriated under the Native American Housing Assistance and Self-Determination Act of 1996 to the Secretary of Health and Human Services;

''(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a);

''(C) unless specifically authorized when funds are appropriated, the Secretary of Health and Human Services shall not use funds appropriated under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a) to provide sanitation facilities to new homes constructed using funds provided by the Department of Housing and Urban Development;

''(D) the Secretary of Health and Human Services is authorized to accept all Federal funds that are available for the purpose of providing sanitation facilities and related services and place those funds into funding agreements, authorized under the Indian Self-Determination and Education Assistance Act, between the Secretary and Indian tribes and tribal organizations;

''(E) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to fund up to 100 percent of the amount of a tribe's loan obtained under any Federal program for new projects to construct eligible sanitation facilities to serve Indian homes;

''(F) the Secretary may permit funds appropriated under the authority of section 4 of the Act of August 5, 1954 (42 U.S.C. 2004) to be used to meet matching or cost participation requirements under other Federal and non-Federal programs for new projects to construct eligible sanitation facilities;

''(G) all Federal agencies are authorized to transfer to the Secretary funds identified, granted, loaned or appropriated and thereafter the Department's applicable policies, rules, regulations shall apply in the implementation of such projects;

''(H) the Secretary of Health and Human Services shall enter into inter-agency agreements with the Bureau of Indian Affairs, the Department of Housing and Urban Development, the Department of Agriculture, the Environmental Protection Agency and other appropriate Federal agencies, for the purpose of providing financial assistance for safe water supply and sanitary sewage disposal facilities under this Act; and

''(I) the Secretary of Health and Human Services shall, by regulation developed through rulemaking under section 802, establish standards applicable to the planning, design and construction of water supply and sanitary sewage and solid waste disposal facilities funded under this Act.

''(c) 10-YEAR FUNDING PLAN.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, shall develop and implement a 10-year funding plan to provide safe water supply and sanitary sewage and solid waste disposal facilities serving existing Indian homes and communities, and to new and renovated Indian homes.

''(d) CAPABILITY OF TRIBE OR COMMUNITY.—The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

''(e) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to Indian tribes, tribal organizations and communities for the operation, management, and maintenance of their sanitation facilities.

''(f) RESPONSIBILITY FOR FEES FOR OPERATION AND MAINTENANCE.—The Indian family, community or tribe involved shall have the primary responsibility to establish, collect, and use reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities. If a community facility is threatened with imminent failure and there is a lack of tribal capacity to maintain the integrity or the health benefit of the facility, the Secretary may assist the Tribe in the resolution of the problem on a short term basis through cooperation with the emergency coordinator or by providing operation and maintenance service.

''(g) ELIGIBILITY OF CERTAIN TRIBES OR ORGANIZATIONS.—Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination and Education Assistance Act shall be eligible for—

''(1) any funds appropriated pursuant to this section; and

''(2) any funds appropriated for the purpose of providing water supply, sewage disposal, or solid waste facilities;

on an equal basis with programs that are administered directly by the Service.

''(h) REPORT.—

''(1) IN GENERAL.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—

''(A) the current Indian sanitation facility priority system of the Service;

''(B) the methodology for determining sanitation deficiencies;

''(C) the level of initial and final sanitation deficiency for each type sanitation facility for each project of each Indian tribe or community; and

''(D) the amount of funds necessary to reduce the identified sanitation deficiency levels of all Indian tribes and communities to a level I sanitation deficiency as described in paragraph (4)(A).

''(2) CONSULTATION.—In preparing each report required under paragraph (1), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any funding agreements entered into with the Service under the Indian Self-Determination and Education Assistance Act) to determine the sanitation needs of each tribe and in developing the criteria on which the needs will be evaluated through a process of negotiated rulemaking.

''(3) METHODOLOGY.—The methodology used by the Secretary in determining, preparing cost estimates for and reporting sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

''(4) SANITATION DEFICIENCY LEVELS.—For purposes of this subsection, the sanitation deficiency levels for an individual or community sanitation facility serving Indian homes are as follows:

''(A) A level I deficiency is a sanitation facility serving and individual or community—

''(i) which complies with all applicable water supply, pollution control and solid waste disposal laws; and

''(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs.

''(B) A level II deficiency is a sanitation facility serving and individual or community—

''(i) which substantially or recently complied with all applicable water supply, pollution control and solid waste laws, in which the deficiencies relate to small or minor capital improvements needed to bring the facility back into compliance;

''(ii) in which the deficiencies relate to capital improvements that are necessary to enlarge or improve the facilities in order to meet the current needs for domestic sanitation facilities; or

''(iii) in which the deficiencies relate to the lack of equipment or training by an Indian Tribe or community to properly operate and maintain the sanitation facilities.

''(C) A level III deficiency is an individual or community facility with water or sewer service in the home, piped services or a haul system with holding tanks and interior plumbing, or where major significant interruptions to water supply or sewage disposal occur frequently, requiring major capital improvements to correct the deficiencies. There is no access to or no approved or permitted solid waste facility available.

''(D) A level IV deficiency is an individual or community facility where there are no piped water or sewer facilities in the home or the facility has become inoperable due to major component failure or where only a washeteria or central facility exists.

''(E) A level V deficiency is the absence of a sanitation facility, where individual homes do not have access to safe drinking water or adequate wastewater disposal.

''(i) DEFINITIONS.—In this section:

''(1) FACILITY.—The terms 'facility' or 'facilities' shall have the same meaning as the terms 'system' or 'systems' unless the context requires otherwise.

''(2) INDIAN COMMUNITY.—The term 'Indian community' means a geographic area, a significant proportion of whose inhabitants are Indians and which is served by or capable of being served by a facility described in this section.

''SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

''(a) IN GENERAL.—The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an 'Indian firm') in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to rules and regulations promulgated by the Secretary, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

''(1) ownership and control by Indians;

''(2) equipment;

''(3) bookkeeping and accounting procedures;

''(4) substantive knowledge of the project or function to be contracted for;

''(5) adequately trained personnel; or

''(6) other necessary components of contract performance.

''(b) EXEMPTION FROM DAVIS-BACON.—For the purpose of implementing the provisions of this title, construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are exempt from the Act of March 3, 1931 (40 U.S.C. 276a—276a–5, known as the Davis-Bacon Act). For all health facilities, staff quarters and sanitation facilities, construction and renovation subcontractors shall be paid wages at rates that are not less than the prevailing wage rates for similar construction in the locality involved, as determined by the Indian tribe, Tribes, or tribal organizations served by such facilities.

''SEC. 304. SOBOBA SANITATION FACILITIES.

''Nothing in the Act of December 17, 1970 (84 Stat. 1465) shall be construed to preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954 (68 Stat 674), as amended by the Act of July 31, 1959 (73 Stat. 267).

''SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

''(a) PERMISSIBILITY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to accept any major expansion, renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act, including—

''(A) any plans or designs for such expansion, renovation or modernization; and

''(B) any expansion, renovation or modernization for which funds appropriated under any Federal law were lawfully expended;

but only if the requirements of subsection (b) are met.

''(2) PRIORITY LIST.—The Secretary shall maintain a separate priority list to address the need for increased operating expenses, personnel or equipment for such facilities described in paragraph (1). The methodology for establishing priorities shall be developed by negotiated rulemaking under section 802. The list of priority facilities will be revised annually in consultation with Indian tribes and tribal organizations.

''(3) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2).

''(b) REQUIREMENTS.—The requirements of this subsection are met with respect to any expansion, renovation or modernization if—

''(1) the tribe or tribal organization—

''(A) provides notice to the Secretary of its intent to expand, renovate or modernize; and

''(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for increased operating expenses, personnel or equipment; and

''(2) the expansion renovation or modernization—

''(A) is approved by the appropriate area director of the Service for Federal facilities; and

''(B) is administered by the Indian tribe or tribal organization in accordance with any applicable regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

''(c) RIGHT OF TRIBE IN CASE OF FAILURE OF FACILITY TO BE USED AS A SERVICE FACILITY.—If any Service facility which has been expanded, renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such expansion, renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such expansion, renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such expansion, renovation or modernization) bore to the value of such facility at the time of the completion of such expansion, renovation or modernization.

''SEC. 306. FUNDING FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES.

''(a) AVAILABILITY OF FUNDING.—

''(1) IN GENERAL.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organization, shall make funding available to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided for in subsections (b)(2) and (c)(1)(C)). Funding under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

''(2) REQUIREMENT.—Funding under paragraph (1) may only be made available to an Indian tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to an Indian tribe or tribal organization) pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

''(A) located apart from a hospital;

''(B) not funded under section 301 or section 307; and

''(C) which, upon completion of such construction, expansion, or modernization will—

''(i) have a total capacity appropriate to its projected service population;

''(ii) provide annually not less than 500 patient visits by eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B); and

''(iii) provide ambulatory care in a service area (specified in the funding agreement entered into under the Indian Self-Determination and Education Assistance Act) with a population of not less than 1,500 eligible Indians and other users who are eligible for services in such facility in accordance with section 807(b)(1)(B).

''(2) LIMITATION.—Funding provided under this section may be used only for the cost of that portion of a construction, expansion or modernization project that benefits the service population described in clauses (ii) and (iii) of paragraph (1)(C). The requirements of such clauses (ii) and (iii) shall not apply to a tribe or tribal organization applying for funding under this section whose principal office for health care administration is located on an island or where such office is not located on a road system providing direct access to an inpatient hospital where care is available to the service population.

''(c) APPLICATION AND PRIORITY.—

''(1) APPLICATION.—No funding may be made available under this section unless an application for such funding has been submitted to and approved by the Secretary. An application or proposal for funding under this section shall be submitted in accordance with applicable regulations and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to funding received under this section—

''(A) adequate financial support will be available for the provision of services at such facility;

''(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

''(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve non-eligible persons on a cost basis.

''(2) PRIORITY.—In awarding funds under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

''(A) a need for increased ambulatory care services; and

''(B) insufficient capacity to deliver such services.

''(d) FAILURE TO USE FACILITY AS HEALTH FACILITY.—If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, within 5 years after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing health care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States unless otherwise negotiated by the Service and the Indian tribe or tribal organization.

''(e) NO INCLUSION IN TRIBAL SHARE.—Funding provided to Indian tribes and tribal organizations under this section shall be non-recurring and shall not be available for inclusion in any individual tribe's tribal share for an award under the Indian Self-Determination and Education Assistance Act or for reallocation or redesign thereunder.

''SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

''(a) HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.—The Secretary, acting through the Service and in consultation with Indian tribes and tribal organizations, may enter into funding agreements with, or make grants or loan guarantees to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities, including hospice, traditional Indian health and child care facilities, to Indians.

''(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

''(1) waive any leasing prohibition;

''(2) permit carryover of funds appropriated for the provision of health care services;

''(3) permit the use of other available funds;

''(4) permit the use of funds or property donated from any source for project purposes;

''(5) provide for the reversion of donated real or personal property to the donor; and

''(6) permit the use of Service funds to match other funds, including Federal funds.

''(c) CRITERIA.—

''(1) IN GENERAL.—The Secretary shall develop and publish regulations through rulemaking under section 802 for the review and approval of applications submitted under this section. The Secretary may enter into a contract, funding agreement or award a grant under this section for projects which meet the following criteria:

''(A) There is a need for a new facility or program or the reorientation of an existing facility or program.

''(B) A significant number of Indians, including those with low health status, will be served by the project.

''(C) The project has the potential to address the health needs of Indians in an innovative manner.

''(D) The project has the potential to deliver services in an efficient and effective manner.

''(E) The project is economically viable.

''(F) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

''(G) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

''(2) PEER REVIEW PANELS.—The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).

''(3) PRIORITY.—The Secretary shall give priority to applications for demonstration projects under this section in each of the following service units to the extent that such applications are filed in a timely manner and otherwise meet the criteria specified in paragraph (1):

''(A) Cass Lake, Minnesota.

''(B) Clinton, Oklahoma.

''(C) Harlem, Montana.

''(D) Mescalero, New Mexico.

''(E) Owyhee, Nevada.

''(F) Parker, Arizona.

''(G) Schurz, Nevada.

''(H) Winnebago, Nebraska.

''(I) Ft. Yuma, California.

''(d) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

''(e) SERVICE TO INELIGIBLE PERSONS.—The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in Service facilities to non-Service health care practitioners as provided in section 807 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

''(f) EQUITABLE TREATMENT.—For purposes of subsection (c)(1)(A), the Secretary shall, in evaluating facilities operated under any funding agreement entered into with the Service under the Indian Self-Determination and Education Assistance Act, use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

''(g) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, renovation and expansion needs of Service and non-Service facilities which are the subject of a funding agreement for health services entered into with the Service under the Indian Self-Determination and Education Assistance Act, are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

''SEC. 308. LAND TRANSFER.

''(a) GENERAL AUTHORITY FOR TRANSFERS.—Notwithstanding any other provision of law, the Bureau of Indian Affairs and all other agencies and departments of the United States are authorized to transfer, at no cost, land and improvements to the Service for the provision of health care services. The Secretary is authorized to accept such land and improvements for such purposes.

''(b) CHEMAWA INDIAN SCHOOL.—The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

''SEC. 309. LEASES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes and tribal organizations for periods not in excess of 20 years. Property leased by the Secretary from an Indian tribe or tribal organization may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe or tribal organization.

''(b) FACILITIES FOR THE ADMINISTRATION AND DELIVERY OF HEALTH SERVICES.—The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

''(1) title to;

''(2) a leasehold interest in; or

''(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes, and such leases shall be considered as operating leases for the purposes of scoring under the Budget Enforcement Act, notwithstanding any other provision of law. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable pursuant to regulations under section 105(l) of the Indian Self-Determination and Education Assistance Act.

''SEC. 310. LOANS, LOAN GUARANTEES AND LOAN REPAYMENT.

''(a) HEALTH CARE FACILITIES LOAN FUND.—There is established in the Treasury of the United States a fund to be known as the 'Health Care Facilities Loan Fund' (referred to in this Act as the 'HCFLF') to provide to Indian Tribes and tribal organizations direct loans, or guarantees for loans, for the construction of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities such as behavioral health and elder care facilities).

''(b) STANDARDS AND PROCEDURES.—The Secretary may promulgate regulations, developed through rulemaking as provided for in section 802, to establish standards and procedures for governing loans and loan guarantees under this section, subject to the following conditions:

''(1) The principal amount of a loan or loan guarantee may cover up to 100 percent of eligible costs, including costs for the planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, improvements, medical equipment and furnishings, other facility related costs and capital purchase (but excluding staffing).

''(2) The cumulative total of the principal of direct loans and loan guarantees, respectively, outstanding at any one time shall not

exceed such limitations as may be specified in appropriation Acts.

''(3) In the discretion of the Secretary, the program under this section may be administered by the Service or the Health Resources and Services Administration (which shall be specified by regulation).

''(4) The Secretary may make or guarantee a loan with a term of the useful estimated life of the facility, or 25 years, whichever is less.

''(5) The Secretary may allocate up to 100 percent of the funds available for loans or loan guarantees in any year for the purpose of planning and applying for a loan or loan guarantee.

''(6) The Secretary may accept an assignment of the revenue of an Indian tribe or tribal organization as security for any direct loan or loan guarantee under this section.

''(7) In the planning and design of health facilities under this section, users eligible under section 807(b) may be included in any projection of patient population.

''(8) The Secretary shall not collect loan application, processing or other similar fees from Indian tribes or tribal organizations applying for direct loans or loan guarantees under this section.

''(9) Service funds authorized under loans or loan guarantees under this section may be used in matching other Federal funds.

''(c) FUNDING.—

''(1) IN GENERAL.—The HCFLF shall consist of—

''(A) such sums as may be initially appropriated to the HCFLF and as may be subsequently appropriated under paragraph (2);

''(B) such amounts as may be collected from borrowers; and

''(C) all interest earned on amounts in the HCFLF.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to initiate the HCFLF. For each fiscal year after the initial year in which funds are appropriated to the HCFLF, there is authorized to be appropriated an amount equal to the sum of the amount collected by the HCFLF during the preceding fiscal year, and all accrued interest on such amounts.

''(3) AVAILABILITY OF FUNDS.—Amounts appropriated, collected or earned relative to the HCFLF shall remain available until expended.

''(d) FUNDING AGREEMENTS.—Amounts in the HCFLF and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make loans under this section to an Indian tribe or tribal organization pursuant to a funding agreement entered into under the Indian Self-Determination and Education Assistance Act.

''(e) INVESTMENTS.—The Secretary of the Treasury shall invest such amounts of the HCFLF as such Secretary determines are not required to meet current withdrawals from the HCFLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the fund may be sold by the Secretary of the Treasury at the market price.

''(f) GRANTS.—The Secretary is authorized to establish a program to provide grants to Indian tribes and tribal organizations for the purpose of repaying all or part of any loan obtained by an Indian tribe or tribal organization for construction and renovation of health care facilities (including inpatient facilities, outpatient facilities, associated staff quarters and specialized care facilities). Loans eligible for such repayment grants shall include loans that have been obtained under this section or otherwise.

''SEC. 311. TRIBAL LEASING.

''Indian Tribes and tribal organizations providing health care services pursuant to a funding agreement contract entered into under the Indian Self-Determination and Education Assistance Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.

''SEC. 312. INDIAN HEALTH SERVICE/TRIBAL FACILITIES JOINT VENTURE PROGRAM.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall make arrangements with Indian tribes and tribal organizations to establish joint venture demonstration projects under which an Indian tribe or tribal organization shall expend tribal, private, or other available funds, for the acquisition or construction of a health facility for a minimum of 10 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility.

''(2) USE OF RESOURCES.—A tribe or tribal organization may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

''(3) ELIGIBILITY OF CERTAIN ENTITIES.—A tribe that has begun and substantially completed the process of acquisition or construction of a health facility shall be eligible to establish a joint venture project with the Service using such health facility.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall enter into an arrangement under subsection (a)(1) with an Indian tribe or tribal organization only if—

''(A) the Secretary first determines that the Indian tribe or tribal organization has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in subsection (a)(1); and

''(B) the Indian tribe or tribal organization meets the needs criteria that shall be developed through the negotiated rulemaking process provided for under section 802.

''(2) CONTINUED OPERATION OF FACILITY.—The Secretary shall negotiate an agreement with the Indian tribe or tribal organization regarding the continued operation of a facility under this section at the end of the initial 10 year no-cost lease period.

''(3) BREACH OR TERMINATION OF AGREEMENT.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe or tribal organization, or paid to a third party on the tribe's or tribal organization's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence shall not apply to any funds expended for the delivery of health care services, or for personnel or staffing.

''(d) RECOVERY FOR NON-USE.—An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this section shall be entitled to recover from the United States an amount that is proportional to the value of such facility should at any time within 10 years the Service ceases to use the facility or otherwise breaches the agreement.

''(e) DEFINITION.—In this section, the terms 'health facility' or 'health facilities' include staff quarters needed to provide housing for the staff of the tribal health program.

''SEC. 313. LOCATION OF FACILITIES.

''(a) PRIORITY.—The Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian owner and the Indian tribe with jurisdiction over such lands or other lands owned or leased by the Indian tribe or tribal organization so long as priority is given to Indian land owned by an Indian tribe or tribes.

''(b) DEFINITION.—In this section, the term 'Indian lands' means—

''(1) all lands within the exterior boundaries of any Indian reservation;

''(2) any lands title to which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power; and

''(3) all lands in Alaska owned by any Alaska Native village, or any village or regional corporation under the Alaska Native Claims Settlement Act, or any land allotted to any Alaska Native.

''SEC. 314. MAINTENANCE AND IMPROVEMENT OF HEALTH CARE FACILITIES.

''(a) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 801, a report that identifies the backlog of maintenance and repair work required at both Service and tribal facilities, including new facilities expected to be in operation in the fiscal year after the year for which the report is being prepared. The report shall identify the need for renovation and expansion of existing facilities to support the growth of health care programs.

''(b) MAINTENANCE OF NEWLY CONSTRUCTED SPACE.—

''(1) IN GENERAL.—The Secretary may expend maintenance and improvement funds to support the maintenance of newly constructed space only if such space falls within the approved supportable space allocation for the Indian tribe or tribal organization.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'supportable space allocation' shall be defined through the negotiated rulemaking process provided for under section 802.

''(c) CONSTRUCTION OF REPLACEMENT FACILITIES.—

''(1) IN GENERAL.—In addition to using maintenance and improvement funds for the maintenance of facilities under subsection (b)(1), an Indian tribe or tribal organization may use such funds for the construction of a replacement facility if the costs of the renovation of such facility would exceed a maximum renovation cost threshold.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'maximum renovation cost threshold' shall be defined through the negotiated rulemaking process provided for under section 802.

''SEC. 315. TRIBAL MANAGEMENT OF FEDERALLY-OWNED QUARTERS.

''(a) ESTABLISHMENT OF RENTAL RATES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an Indian tribe or tribal organization which operates a hospital or other health facility and the Federally-owned quarters associated therewith, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, may establish the rental rates charged to the occupants of such quarters by

providing notice to the Secretary of its election to exercise such authority.

''(2) OBJECTIVES.—In establishing rental rates under paragraph (1), an Indian tribe or tribal organization shall attempt to achieve the following objectives:

''(A) The rental rates should be based on the reasonable value of the quarters to the occupants thereof.

''(B) The rental rates should generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and, subject to the discretion of the Indian tribe or tribal organization, to supply reserve funds for capital repairs and replacement of the quarters.

''(3) ELIGIBILITY FOR QUARTERS IMPROVEMENT AND REPAIR.—Any quarters whose rental rates are established by an Indian tribe or tribal organization under this subsection shall continue to be eligible for quarters improvement and repair funds to the same extent as other Federally-owned quarters that are used to house personnel in Service-supported programs.

''(4) NOTICE OF CHANGE IN RATES.—An Indian tribe or tribal organization that exercises the authority provided under this subsection shall provide occupants with not less than 60 days notice of any change in rental rates.

''(b) COLLECTION OF RENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, and subject to paragraph (2), an Indian tribe or a tribal organization that operates Federally-owned quarters pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act shall have the authority to collect rents directly from Federal employees who occupy such quarters in accordance with the following:

''(A) The Indian tribe or tribal organization shall notify the Secretary and the Federal employees involved of its election to exercise its authority to collect rents directly from such Federal employees.

''(B) Upon the receipt of a notice described in subparagraph (A), the Federal employees involved shall pay rents for the occupancy of such quarters directly to the Indian tribe or tribal organization and the Secretary shall have no further authority to collect rents from such employees through payroll deduction or otherwise.

''(C) Such rent payments shall be retained by the Indian tribe or tribal organization and shall not be made payable to or otherwise be deposited with the United States.

''(D) Such rent payments shall be deposited into a separate account which shall be used by the Indian tribe or tribal organization for the maintenance (including capital repairs and replacement expenses) and operation of the quarters and facilities as the Indian tribe or tribal organization shall determine appropriate.

''(2) RETROCESSION.—If an Indian tribe or tribal organization which has made an election under paragraph (1) requests retrocession of its authority to directly collect rents from Federal employees occupying Federally-owned quarters, such retrocession shall become effective on the earlier of—

''(A) the first day of the month that begins not less than 180 days after the Indian tribe or tribal organization notifies the Secretary of its desire to retrocede; or

''(B) such other date as may be mutually agreed upon by the Secretary and the Indian tribe or tribal organization.

''(c) RATES.—To the extent that an Indian tribe or tribal organization, pursuant to authority granted in subsection (a), establishes rental rates for Federally-owned quarters provided to a Federal employee in Alaska, such rents may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

''SEC. 316. APPLICABILITY OF BUY AMERICAN REQUIREMENT.

''(a) IN GENERAL.—The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 318, except that Indian tribes and tribal organizations shall be exempt from such requirements.

''(b) FALSE OR MISLEADING LABELING.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 318, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(c) DEFINITION.—In this section, the term 'Buy American Act' means title III of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933 (41 U.S.C. 10a et seq.).

''SEC. 317. OTHER FUNDING FOR FACILITIES.

''Notwithstanding any other provision of law—

''(1) the Secretary may accept from any source, including Federal and State agencies, funds that are available for the construction of health care facilities and use such funds to plan, design and construct health care facilities for Indians and to place such funds into funding agreements authorized under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) between the Secretary and an Indian tribe or tribal organization, except that the receipt of such funds shall not have an effect on the priorities established pursuant to section 301;

''(2) the Secretary may enter into interagency agreements with other Federal or State agencies and other entities and to accept funds from such Federal or State agencies or other entities to provide for the planning, design and construction of health care facilities to be administered by the Service or by Indian tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act in order to carry out the purposes of this Act, together with the purposes for which such funds are appropriated to such other Federal or State agency or for which the funds were otherwise provided;

''(3) any Federal agency to which funds for the construction of health care facilities are appropriated is authorized to transfer such funds to the Secretary for the construction of health care facilities to carry out the purposes of this Act as well as the purposes for which such funds are appropriated to such other Federal agency; and

''(4) the Secretary, acting through the Service, shall establish standards under regulations developed through rulemaking under section 802, for the planning, design and construction of health care facilities serving Indians under this Act.

''SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE IV—ACCESS TO HEALTH SERVICES

''SEC. 401. TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM.

''(a) IN GENERAL.—Any payments received by the Service, by an Indian tribe or tribal organization pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization pursuant to title V of this Act for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

''(b) EQUAL TREATMENT.—Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act in preference to an Indian beneficiary without such coverage.

''(c) SPECIAL FUND.—

''(1) USE OF FUNDS.—Notwithstanding any other provision of this title or of title XVIII of the Social Security Act, payments to which any facility of the Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of this title and of title XVIII of the Social Security Act. Any funds to be reimbursed which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes.

''(2) NONAPPLICATION IN CASE OF ELECTION FOR DIRECT BILLING.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for benefits under title XVIII of the Social Security Act.

''SEC. 402. TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM.

''(a) SPECIAL FUND.—

''(1) USE OF FUNDS.—Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and first used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of such title. Any payments which are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to the consultation with tribes being served by the service unit, be used for reducing the health resource deficiencies of the Indian tribes. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives 100 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act.

''(2) NONAPPLICATION IN CASE OF ELECTION FOR DIRECT BILLING.—Paragraph (1) shall not apply upon the election of an Indian tribe or tribal organization under section 405 to receive direct payments for services provided to Indians eligible for medical assistance under title XIX of the Social Security Act.

''(b) PAYMENTS DISREGARDED FOR APPROPRIATIONS.—Any payments received under section 1911 of the Social Security Act for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.

''(c) DIRECT BILLING.—For provisions relating to the authority of certain Indian tribes and tribal organizations to elect to directly bill for, and receive payment for, health care services provided by a hospital or clinic of such tribes or tribal organizations and for which payment may be made under this title, see section 405.

''SEC. 403. REPORT.

''(a) INCLUSION IN ANNUAL REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801, an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements under titles XVIII and XIX of the Social Security Act.

''(b) IDENTIFICATION OF SOURCE OF PAYMENTS.—If an Indian tribe or tribal organization receives funding from the Service under the Indian Self-Determination and Education Assistance Act or an urban Indian organization receives funding from the Service under Title V of this Act and receives reimbursements or payments under title XVIII, XIX, or XXI of the Social Security Act, such Indian tribe or tribal organization, or urban Indian organization, shall provide to the Service a list of each provider enrollment number (or other identifier) under which it receives such reimbursements or payments.

''SEC. 404. GRANTS TO AND FUNDING AGREEMENTS WITH THE SERVICE, INDIAN TRIBES OR TRIBAL ORGANIZATIONS, AND URBAN INDIAN ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary shall make grants to or enter into funding agreements with Indian tribes and tribal organizations to assist such organizations in establishing and administering programs on or near Federal Indian reservations and trust areas and in or near Alaska Native villages to assist individual Indians to—

''(1) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

''(2) pay premiums for health insurance coverage; and

''(3) apply for medical assistance provided pursuant to titles XIX and XXI of the Social Security Act.

''(b) CONDITIONS.—The Secretary shall place conditions as deemed necessary to effect the purpose of this section in any funding agreement or grant which the Secretary makes with any Indian tribe or tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to—

''(1) determine the population of Indians to be served that are or could be recipients of benefits or assistance under titles XVIII, XIX, and XXI of the Social Security Act;

''(2) assist individual Indians in becoming familiar with and utilizing such benefits and assistance;

''(3) provide transportation to such individual Indians to the appropriate offices for enrollment or applications for such benefits and assistance;

''(4) develop and implement—

''(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for health insurance coverage of needy individuals; and

''(B) methods of improving the participation of Indians in receiving the benefits and assistance provided under titles XVIII, XIX, and XXI of the Social Security Act.

''(c) AGREEMENTS FOR RECEIPT AND PROCESSING OF APPLICATIONS.—The Secretary may enter into an agreement with an Indian tribe or tribal organization, or an urban Indian organization, which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act, child health assistance under title XXI of such Act and benefits under title XVIII of such Act by a Service facility or a health care program administered by such Indian tribe or tribal organization, or urban Indian organization, pursuant to a funding agreement under the Indian Self-Determination and Education Assistance Act or a grant or contract entered into with an urban Indian organization under title V of this Act. Notwithstanding any other provision of law, such agreements shall provide for reimbursement of the cost of outreach, education regarding eligibility and benefits, and translation when such services are provided. The reimbursement may be included in an encounter rate or be made on a fee-for-service basis as appropriate for the provider. When necessary to carry out the terms of this section, the Secretary, acting through the Health Care Financing Administration or the Service, may enter into agreements with a State (or political subdivision thereof) to facilitate cooperation between the State and the Service, an Indian tribe or tribal organization, and an urban Indian organization.

''(d) GRANTS.—

''(1) IN GENERAL.—The Secretary shall make grants or enter into contracts with urban Indian organizations to assist such organizations in establishing and administering programs to assist individual urban Indians to—

''(A) enroll under sections 1818, 1836, and 1837 of the Social Security Act;

''(B) pay premiums on behalf of such individuals for coverage under title XVIII of such Act; and

''(C) apply for medical assistance provided under title XIX of such Act and for child health assistance under title XXI of such Act.

''(2) REQUIREMENTS.—The Secretary shall include in the grants or contracts made or entered into under paragraph (1) requirements that are—

''(A) consistent with the conditions imposed by the Secretary under subsection (b);

''(B) appropriate to urban Indian organizations and urban Indians; and

''(C) necessary to carry out the purposes of this section.

''SEC. 405. DIRECT BILLING AND REIMBURSEMENT OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS.

''(a) ESTABLISHMENT OF DIRECT BILLING PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a program under which Indian tribes, tribal organizations, and Alaska Native health organizations that contract or compact for the operation of a hospital or clinic of the Service under the Indian Self-Determination and Education Assistance Act may elect to directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or from any other third party payor.

''(2) APPLICATION OF 100 PERCENT FMAP.—The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) shall apply for purposes of reimbursement under title XIX of the Social Security Act for health care services directly billed under the program established under this section.

''(b) DIRECT REIMBURSEMENT.—

''(1) USE OF FUNDS.—Each hospital or clinic participating in the program described in subsection (a) of this section shall be reimbursed directly under titles XVIII and XIX of the Social Security Act for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) and sections 402(a) and 807(b)(2)(A), but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under title XVIII or XIX of the Social Security Act. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions shall be used—

''(A) solely for improving the health resources deficiency level of the Indian tribe; and

''(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

''(2) AUDITS.—The amounts paid to the hospitals and clinics participating in the program established under this section shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act.

''(3) SECRETARIAL OVERSIGHT.—The Secretary shall monitor the performance of hospitals and clinics participating in the program established under this section, and shall require such hospitals and clinics to submit reports on the program to the Secretary on an annual basis.

''(4) NO PAYMENTS FROM SPECIAL FUNDS.—Notwithstanding section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) or section 402(a), no payment may be made out of the special funds described in such sections for the benefit of any hospital or clinic during the period that the hospital or clinic participates in the program established under this section.

''(c) REQUIREMENTS FOR PARTICIPATION.—

''(1) APPLICATION.—Except as provided in paragraph (2)(B), in order to be eligible for participation in the program established under this section, an Indian tribe, tribal organization, or Alaska Native health organization shall submit an application to the Secretary that establishes to the satisfaction of the Secretary that—

''(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts or compacts for the operation of a facility of the Service;

''(B) the facility is eligible to participate in the medicare or medicaid programs under section 1880 or 1911 of the Social Security Act (42 U.S.C. 1395qq; 1396j);

''(C) the facility meets the requirements that apply to programs operated directly by the Service; and

''(D) the facility—

''(i) is accredited by an accrediting body as eligible for reimbursement under the medicare or medicaid programs; or

''(ii) has submitted a plan, which has been approved by the Secretary, for achieving such accreditation.

''(2) APPROVAL.—

''(A) IN GENERAL.—The Secretary shall review and approve a qualified application not later than 90 days after the date the application is submitted to the Secretary unless the Secretary determines that any of the criteria set forth in paragraph (1) are not met.

''(B) GRANDFATHER OF DEMONSTRATION PROGRAM PARTICIPANTS.—Any participant in the demonstration program authorized under

this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000 shall be deemed approved for participation in the program established under this section and shall not be required to submit an application in order to participate in the program.

''(C) DURATION.—An approval by the Secretary of a qualified application under subparagraph (A), or a deemed approval of a demonstration program under subparagraph (B), shall continue in effect as long as the approved applicant or the deemed approved demonstration program meets the requirements of this section.

''(d) EXAMINATION AND IMPLEMENTATION OF CHANGES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, and with the assistance of the Administrator of the Health Care Financing Administration, shall examine on an ongoing basis and implement—

''(A) any administrative changes that may be necessary to facilitate direct billing and reimbursement under the program established under this section, including any agreements with States that may be necessary to provide for direct billing under title XIX of the Social Security Act; and

''(B) any changes that may be necessary to enable participants in the program established under this section to provide to the Service medical records information on patients served under the program that is consistent with the medical records information system of the Service.

''(2) ACCOUNTING INFORMATION.—The accounting information that a participant in the program established under this section shall be required to report shall be the same as the information required to be reported by participants in the demonstration program authorized under this section as in effect on the day before the date of enactment of the Alaska Native and American Indian Direct Reimbursement Act of 2000. The Secretary may from time to time, after consultation with the program participants, change the accounting information submission requirements.

''(e) WITHDRAWAL FROM PROGRAM.—A participant in the program established under this section may withdraw from participation in the same manner and under the same conditions that a tribe or tribal organization may retrocede a contracted program to the Secretary under authority of the Indian Self-Determination Act (25 U.S.C. 450 et seq.). All cost accounting and billing authority under the program established under this section shall be returned to the Secretary upon the Secretary's acceptance of the withdrawal of participation in this program.

''SEC. 406. REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.

''(a) RIGHT OF RECOVERY.—Except as provided in subsection (g), the United States, an Indian tribe or tribal organization shall have the right to recover the reasonable charges billed or expenses incurred by the Secretary or an Indian tribe or tribal organization in providing health services, through the Service or an Indian tribe or tribal organization to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if—

''(1) such services had been provided by a nongovernmental provider; and

''(2) such individual had been required to pay such charges or expenses and did pay such expenses.

''(b) URBAN INDIAN ORGANIZATIONS.—Except as provided in subsection (g), an urban Indian organization shall have the right to recover the reasonable charges billed or expenses incurred by the organization in providing health services to any individual to the same extent that such individual, or any other nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such charges or expenses if such individual had been required to pay such charges or expenses and did pay such charges or expenses.

''(c) LIMITATIONS ON RECOVERIES FROM STATES.—Subsections (a) and (b) shall provide a right of recovery against any State, only if the injury, illness, or disability for which health services were provided is covered under—

''(1) workers' compensation laws; or

''(2) a no-fault automobile accident insurance plan or program.

''(d) NONAPPLICATION OF OTHER LAWS.—No law of any State, or of any political subdivision of a State and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States or an Indian tribe or tribal organization under subsection (a), or an urban Indian organization under subsection (b).

''(e) NO EFFECT ON PRIVATE RIGHTS OF ACTION.—No action taken by the United States or an Indian tribe or tribal organization to enforce the right of recovery provided under subsection (a), or by an urban Indian organization to enforce the right of recovery provided under subsection (b), shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

''(f) METHODS OF ENFORCEMENT.—

''(1) IN GENERAL.—The United States or an Indian tribe or tribal organization may enforce the right of recovery provided under subsection (a), and an urban Indian organization may enforce the right of recovery provided under subsection (b), by—

''(A) intervening or joining in any civil action or proceeding brought—

''(i) by the individual for whom health services were provided by the Secretary, an Indian tribe or tribal organization, or urban Indian organization; or

''(ii) by any representative or heirs of such individual; or

''(B) instituting a civil action.

''(2) NOTICE.—All reasonable efforts shall be made to provide notice of an action instituted in accordance with paragraph (1)(B) to the individual to whom health services were provided, either before or during the pendency of such action.

''(g) LIMITATION.—Notwithstanding this section, absent specific written authorization by the governing body of an Indian tribe for the period of such authorization (which may not be for a period of more than 1 year and which may be revoked at any time upon written notice by the governing body to the Service), neither the United States through the Service, nor an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, nor an urban Indian organization funded under title V, shall have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization, or urban Indian organization. Where such tribal authorization is provided, the Service may receive and expend such funds for the provision of additional health services.

''(h) COSTS AND ATTORNEYS' FEES.—In any action brought to enforce the provisions of this section, a prevailing plaintiff shall be awarded reasonable attorneys' fees and costs of litigation.

''(i) RIGHT OF ACTION AGAINST INSURERS AND EMPLOYEE BENEFIT PLANS.—

''(1) IN GENERAL.—Where an insurance company or employee benefit plan fails or refuses to pay the amount due under subsection (a) for services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the United States or an Indian tribe or tribal organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal, State or tribal law.

''(2) URBAN INDIAN ORGANIZATIONS.—Where an insurance company or employee benefit plan fails or refuses to pay the amounts due under subsection (b) for health services provided to an individual who is a beneficiary, participant, or insured of such company or plan, the urban Indian organization shall have a right to assert and pursue all the claims and remedies against such company or plan, and against the fiduciaries of such company or plan, that the individual could assert or pursue under applicable Federal or State law.

''(j) NONAPPLICATION OF CLAIMS FILING REQUIREMENTS.—Notwithstanding any other provision in law, the Service, an Indian tribe or tribal organization, or an urban Indian organization shall have a right of recovery for any otherwise reimbursable claim filed on a current HCFA–1500 or UB–92 form, or the current NSF electronic format, or their successors. No health plan shall deny payment because a claim has not been submitted in a unique format that differs from such forms.

''SEC. 407. CREDITING OF REIMBURSEMENTS.

''(a) RETENTION OF FUNDS.—Except as provided in section 202(d), this title, and section 807, all reimbursements received or recovered under the authority of this Act, Public Law 87–693, or any other provision of law, by reason of the provision of health services by the Service or by an Indian tribe or tribal organization under a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act, or by an urban Indian organization funded under title V, shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

''(b) NO OFFSET OF FUNDS.—The Service may not offset or limit the amount of funds obligated to any service unit or entity receiving funding from the Service because of the receipt of reimbursements under subsection (a).

''SEC. 408. PURCHASING HEALTH CARE COVERAGE.

''An Indian tribe or tribal organization, and an urban Indian organization may utilize funding from the Secretary under this Act to purchase managed care coverage for Service beneficiaries (including insurance to limit the financial risks of managed care entities) from—

''(1) a tribally owned and operated managed care plan;

''(2) a State or locally-authorized or licensed managed care plan; or

''(3) a health insurance provider.

''SEC. 409. INDIAN HEALTH SERVICE, DEPARTMENT OF VETERAN'S AFFAIRS, AND OTHER FEDERAL AGENCY HEALTH FACILITIES AND SERVICES SHARING.

''(a) EXAMINATION OF FEASIBILITY OF ARRANGEMENTS.—

''(1) IN GENERAL.—The Secretary shall examine the feasibility of entering into arrangements or expanding existing arrangements for the sharing of medical facilities

and services between the Service and the Veterans' Administration, and other appropriate Federal agencies, including those within the Department, and shall, in accordance with subsection (b), prepare a report on the feasibility of such arrangements.

''(2) SUBMISSION OF REPORT.—Not later than September 30, 2003, the Secretary shall submit the report required under paragraph (1) to Congress.

''(3) CONSULTATION REQUIRED.—The Secretary may not finalize any arrangement described in paragraph (1) without first consulting with the affected Indian tribes.

''(b) LIMITATIONS.—The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

''(1) the priority access of any Indian to health care services provided through the Service;

''(2) the quality of health care services provided to any Indian through the Service;

''(3) the priority access of any veteran to health care services provided by the Veterans' Administration;

''(4) the quality of health care services provided to any veteran by the Veteran's Administration;

''(5) the eligibility of any Indian to receive health services through the Service; or

''(6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration provided, however, the Service or the Indian tribe or tribal organization shall be reimbursed by the Veterans' Administration where services are provided through the Service or Indian tribes or tribal organizations to beneficiaries eligible for services from the Veterans' Administration, notwithstanding any other provision of law.

''(c) AGREEMENTS FOR PARITY IN SERVICES.—The Service may enter into agreements with other Federal agencies to assist in achieving parity in services for Indians. Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Service.

"SEC. 410. PAYOR OF LAST RESORT.

''The Service, and programs operated by Indian tribes or tribal organizations, or urban Indian organizations shall be the payor of last resort for services provided to individuals eligible for services from the Service and such programs, notwithstanding any Federal, State or local law to the contrary, unless such law explicitly provides otherwise.

"SEC. 411. RIGHT TO RECOVER FROM FEDERAL HEALTH CARE PROGRAMS.

''Notwithstanding any other provision of law, the Service, Indian tribes or tribal organizations, and urban Indian organizations (notwithstanding limitations on who is eligible to receive services from such entities) shall be entitled to receive payment or reimbursement for services provided by such entities from any Federally funded health care program, unless there is an explicit prohibition on such payments in the applicable authorizing statute.

"SEC. 412. TUBA CITY DEMONSTRATION PROJECT.

''(a) IN GENERAL.—Notwithstanding any other provision of law, including the Anti-Deficiency Act, provided the Indian tribes to be served approve, the Service in the Tuba City Service Unit may—

''(1) enter into a demonstration project with the State of Arizona under which the Service would provide certain specified medicaid services to individuals dually eligible for services from the Service and for medical assistance under title XIX of the Social Security Act in return for payment on a capitated basis from the State of Arizona; and

''(2) purchase insurance to limit the financial risks under the project.

''(b) EXTENSION OF PROJECT.—The demonstration project authorized under subsection (a) may be extended to other service units in Arizona, subject to the approval of the Indian tribes to be served in such service units, the Service, and the State of Arizona.

"SEC. 413. ACCESS TO FEDERAL INSURANCE.

''Notwithstanding the provisions of title 5, United States Code, Executive Order, or administrative regulation, an Indian tribe or tribal organization carrying out programs under the Indian Self-Determination and Education Assistance Act or an urban Indian organization carrying out programs under title V of this Act shall be entitled to purchase coverage, rights and benefits for the employees of such Indian tribe or tribal organization, or urban Indian organization, under chapter 89 of title 5, United States Code, and chapter 87 of such title if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with such Indian tribe or tribal organization, or urban Indian organization, are currently deposited in the applicable Employee's Fund under such title.

"SEC. 414. CONSULTATION AND RULEMAKING.

''(a) CONSULTATION.—Prior to the adoption of any policy or regulation by the Health Care Financing Administration, the Secretary shall require the Administrator of that Administration to—

''(1) identify the impact such policy or regulation may have on the Service, Indian tribes or tribal organizations, and urban Indian organizations;

''(2) provide to the Service, Indian tribes or tribal organizations, and urban Indian organizations the information described in paragraph (1);

''(3) engage in consultation, consistent with the requirements of Executive Order 13084 of May 14, 1998, with the Service, Indian tribes or tribal organizations, and urban Indian organizations prior to enacting any such policy or regulation.

''(b) RULEMAKING.—The Administrator of the Health Care Financing Administration shall participate in the negotiated rulemaking provided for under title VIII with regard to any regulations necessary to implement the provisions of this title that relate to the Social Security Act.

"SEC. 415. LIMITATIONS ON CHARGES.

''No provider of health services that is eligible to receive payments or reimbursements under titles XVIII, XIX, or XXI of the Social Security Act or from any Federally funded (whether in whole or part) health care program may seek to recover payment for services—

''(1) that are covered under and furnished to an individual eligible for the contract health services program operated by the Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization, in an amount in excess of the lowest amount paid by any other payor for comparable services; or

''(2) for examinations or other diagnostic procedures that are not medically necessary if such procedures have already been performed by the referring Indian health program and reported to the provider.

"SEC. 416. LIMITATION ON SECRETARY'S WAIVER AUTHORITY.

''Notwithstanding any other provision of law, the Secretary may not waive the application of section 1902(a)(13)(D) of the Social Security Act to any State plan under title XIX of the Social Security Act.

"SEC. 417. WAIVER OF MEDICARE AND MEDICAID SANCTIONS.

''Notwithstanding any other provision of law, the Service or an Indian tribe or tribal organization or an urban Indian organization operating a health program under the Indian Self-Determination and Education Assistance Act shall be entitled to seek a waiver of sanctions imposed under title XVIII, XIX, or XXI of the Social Security Act as if such entity were directly responsible for administering the State health care program.

"SEC. 418. MEANING OF 'REMUNERATION' FOR PURPOSES OF SAFE HARBOR PROVISIONS; ANTITRUST IMMUNITY.

''(a) MEANING OF REMUNERATION.—Notwithstanding any other provision of law, the term 'remuneration' as used in sections 1128A and 1128B of the Social Security Act shall not include any exchange of anything of value between or among—

''(1) any Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act;

''(2) any such Indian tribe or tribal organization or urban Indian organization and the Service;

''(3) any such Indian tribe or tribal organization or urban Indian organization and any patient served or eligible for service under such programs, including patients served or eligible for service pursuant to section 813 of this Act (as in effect on the day before the date of enactment of the Indian Health Care Improvement Act Reauthorization of 2003); or

''(4) any such Indian tribe or tribal organization or urban Indian organization and any third party required by contract, section 206 or 207 of this Act (as so in effect), or other applicable law, to pay or reimburse the reasonable health care costs incurred by the United States or any such Indian tribe or tribal organization or urban Indian organization;

provided the exchange arises from or relates to such health programs.

''(b) ANTITRUST IMMUNITY.—An Indian tribe or tribal organization or an urban Indian organization that administers health programs under the authority of the Indian Self-Determination and Education Assistance Act or title V shall be deemed to be an agency of the United States and immune from liability under the Acts commonly known as the Sherman Act, the Clayton Act, the Robinson-Patman Anti-Discrimination Act, the Federal Trade Commission Act, and any other Federal, State, or local antitrust laws, with regard to any transaction, agreement, or conduct that relates to such programs.

"SEC. 419. CO-INSURANCE, CO-PAYMENTS, DEDUCTIBLES AND PREMIUMS.

''(a) EXEMPTION FROM COST-SHARING REQUIREMENTS.—Notwithstanding any other provision of Federal or State law, no Indian who is eligible for services under title XVIII, XIX, or XXI of the Social Security Act, or under any other Federally funded health care programs, may be charged a deductible, co-payment, or co-insurance for any service provided by or through the Service, an Indian tribe or tribal organization or urban Indian organization, nor may the payment or reimbursement due to the Service or an Indian tribe or tribal organization or urban Indian organization be reduced by the amount of the deductible, co-payment, or co-insurance that would be due from the Indian but for the operation of this section. For the purposes of this section, the term 'through' shall include services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian tribe or tribal organization or an urban Indian organization and another health provider.

''(b) EXEMPTION FROM PREMIUMS.—

''(1) MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAM.—Notwithstanding any other provision of Federal or State law, no Indian who is otherwise eligible for medical assistance under title XIX of the Social Security Act or child health assistance under title XXI of such Act may be charged a premium as a condition of receiving such assistance under title XIX of XXI of such Act.

''(2) MEDICARE ENROLLMENT PREMIUM PENALTIES.—Notwithstanding section 1839(b) of the Social Security Act or any other provision of Federal or State law, no Indian who is eligible for benefits under part B of title XVIII of the Social Security Act, but for the payment of premiums, shall be charged a penalty for enrolling in such part at a time later than the Indian might otherwise have been first eligible to do so. The preceding sentence applies whether an Indian pays for premiums under such part directly or such premiums are paid by another person or entity, including a State, the Service, an Indian Tribe or tribal organization, or an urban Indian organization.

''SEC. 420. INCLUSION OF INCOME AND RESOURCES FOR PURPOSES OF MEDICALLY NEEDY MEDICAID ELIGIBILITY.

''For the purpose of determining the eligibility under section 1902(a)(10)(A)(ii)(IV) of the Social Security Act of an Indian for medical assistance under a State plan under title XIX of such Act, the cost of providing services to an Indian in a health program of the Service, an Indian Tribe or tribal organization, or an urban Indian organization shall be deemed to have been an expenditure for health care by the Indian.

''SEC. 421. ESTATE RECOVERY PROVISIONS.

''Notwithstanding any other provision of Federal or State law, the following property may not be included when determining eligibility for services or implementing estate recovery rights under title XVIII, XIX, or XXI of the Social Security Act, or any other health care programs funded in whole or part with Federal funds:

''(1) Income derived from rents, leases, or royalties of property held in trust for individuals by the Federal Government.

''(2) Income derived from rents, leases, royalties, or natural resources (including timber and fishing activities) resulting from the exercise of Federally protected rights, whether collected by an individual or a tribal group and distributed to individuals.

''(3) Property, including interests in real property currently or formerly held in trust by the Federal Government which is protected under applicable Federal, State or tribal law or custom from recourse, including public domain allotments.

''(4) Property that has unique religious or cultural significance or that supports subsistence or traditional life style according to applicable tribal law or custom.

''SEC. 422. MEDICAL CHILD SUPPORT.

''Notwithstanding any other provision of law, a parent shall not be responsible for reimbursing the Federal Government or a State for the cost of medical services provided to a child by or through the Service, an Indian tribe or tribal organization or an urban Indian organization. For the purposes of this subsection, the term 'through' includes services provided directly, by referral, or under contracts or other arrangements between the Service, an Indian Tribe or tribal organization or an urban Indian organization and another health provider.

''SEC. 423. PROVISIONS RELATING TO MANAGED CARE.

''(a) RECOVERY FROM MANAGED CARE PLANS.—Notwithstanding any other provision in law, the Service, an Indian Tribe or tribal organization or an urban Indian organization shall have a right of recovery under section 408 from all private and public health plans or programs, including the medicare, medicaid, and State children's health insurance programs under titles XVIII, XIX, and XXI of the Social Security Act, for the reasonable costs of delivering health services to Indians entitled to receive services from the Service, an Indian Tribe or tribal organization or an urban Indian organization.

''(b) LIMITATION.—No provision of law or regulation, or of any contract, may be relied upon or interpreted to deny or reduce payments otherwise due under subsection (a), except to the extent the Service, an Indian tribe or tribal organization, or an urban Indian organization has entered into an agreement with a managed care entity regarding services to be provided to Indians or rates to be paid for such services, provided that such an agreement may not be made a prerequisite for such payments to be made.

''(c) PARITY.—Payments due under subsection (a) from a managed care entity may not be paid at a rate that is less than the rate paid to a 'preferred provider' by the entity or, in the event there is no such rate, the usual and customary fee for equivalent services.

''(d) NO CLAIM REQUIREMENT.—A managed care entity may not deny payment under subsection (a) because an enrollee with the entity has not submitted a claim.

''(e) DIRECT BILLING.—Notwithstanding the preceding subsections of this section, the Service, an Indian tribe or tribal organization, or an urban Indian organization that provides a health service to an Indian entitled to medical assistance under the State plan under title XIX of the Social Security Act or enrolled in a child health plan under title XXI of such Act shall have the right to be paid directly by the State agency administering such plans notwithstanding any agreements the State may have entered into with managed care organizations or providers.

''(f) REQUIREMENT FOR MEDICAID MANAGED CARE ENTITIES.—A managed care entity (as defined in section 1932(a)(1)(B) of the Social Security Act shall, as a condition of participation in the State plan under title XIX of such Act, offer a contract to health programs administered by the Service, an Indian tribe or tribal organization or an urban Indian organization that provides health services in the geographic area served by the managed care entity and such contract (or other provider participation agreement) shall contain terms and conditions of participation and payment no more restrictive or onerous than those provided for in this section.

''(g) PROHIBITION.—Notwithstanding any other provision of law or any waiver granted by the Secretary no Indian may be assigned automatically or by default under any managed care entity participating in a State plan under title XIX or XXI of the Social Security Act unless the Indian had the option of enrolling in a managed care plan or health program administered by the Service, an Indian tribe or tribal organization, or an urban Indian organization.

''(h) INDIAN MANAGED CARE PLANS.—Notwithstanding any other provision of law, any State entering into agreements with one or more managed care organizations to provide services under title XIX or XXI of the Social Security Act shall enter into such an agreement with the Service, an Indian tribe or tribal organization or an urban Indian organization under which such an entity may provide services to Indians who may be eligible or required to enroll with a managed care organization through enrollment in an Indian managed care organization that provides services similar to those offered by other managed care organizations in the State. The Secretary and the State are hereby authorized to waive requirements regarding discrimination, capitalization, and other matters that might otherwise prevent an Indian managed care organization or health program from meeting Federal or State standards applicable to such organizations, provided such Indian managed care organization or health program offers Indian enrollees services of an equivalent quality to that required of other managed care organizations.

''(i) ADVERTISING.—A managed care organization entering into a contract to provide services to Indians on or near an Indian reservation shall provide a certificate of coverage or similar type of document that is written in the Indian language of the majority of the Indian population residing on such reservation.

''SEC. 424. NAVAJO NATION MEDICAID AGENCY.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may treat the Navajo Nation as a State under title XIX of the Social Security Act for purposes of providing medical assistance to Indians living within the boundaries of the Navajo Nation.

''(b) ASSIGNMENT AND PAYMENT.—Notwithstanding any other provision of law, the Secretary may assign and pay all expenditures related to the provision of services to Indians living within the boundaries of the Navajo Nation under title XIX of the Social Security Act (including administrative expenditures) that are currently paid to or would otherwise be paid to the States of Arizona, New Mexico, and Utah, to an entity established by the Navajo Nation and approved by the Secretary, which shall be denominated the Navajo Nation Medicaid Agency.

''(c) AUTHORITY.—The Navajo Nation Medicaid Agency shall serve Indians living within the boundaries of the Navajo Nation and shall have the same authority and perform the same functions as other State agency responsible for the administration of the State plan under title XIX of the Social Security Act.

''(d) TECHNICAL ASSISTANCE.—The Secretary may directly assist the Navajo Nation in the development and implementation of a Navajo Nation Medicaid Agency for the administration, eligibility, payment, and delivery of medical assistance under title XIX of the Social Security Act (which shall, for purposes of reimbursement to such Nation, include Western and traditional Navajo healing services) within the Navajo Nation. Such assistance may include providing funds for demonstration projects conducted with such Nation.

''(e) FMAP.—Notwithstanding section 1905(b) of the Social Security Act, the Federal medical assistance percentage shall be 100 per cent with respect to amounts the Navajo Nation Medicaid agency expends for medical assistance and related administrative costs.

''(f) WAIVER AUTHORITY.—The Secretary shall have the authority to waive applicable provisions of Title XIX of the Social Security Act to establish, develop and implement the Navajo Nation Medicaid Agency.

''(g) SCHIP.—At the option of the Navajo Nation, the Secretary may treat the Navajo Nation as a State for purposes of title XXI of the Social Security Act under terms equivalent to those described in the preceding subsections of this section.

''SEC. 425. INDIAN ADVISORY COMMITTEES.

''(a) NATIONAL INDIAN TECHNICAL ADVISORY GROUP.—The Administrator of the Health Care Financing Administration shall establish and fund the expenses of a National Indian Technical Advisory Group which shall

have no fewer than 14 members, including at least 1 member designated by the Indian tribes and tribal organizations in each service area, 1 urban Indian organization representative, and 1 member representing the Service. The scope of the activities of such group shall be established under section 802 provided that such scope shall include providing comment on and advice regarding the programs funded under titles XVIII, XIX, and XXI of the Social Security Act or regarding any other health care program funded (in whole or part) by the Health Care Financing Administration.

''(b) INDIAN MEDICAID ADVISORY COMMITTEES.—The Administrator of the Health Care Financing Administration shall establish and provide funding for a Indian Medicaid Advisory Committee made up of designees of the Service, Indian tribes and tribal organizations and urban Indian organizations in each State in which the Service directly operates a health program or in which there is one or more Indian tribe or tribal organization or urban Indian organization.

''SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 through 2015 to carry out this title.''.

''TITLE V—HEALTH SERVICES FOR URBAN INDIANS

''SEC. 501. PURPOSE.

''The purpose of this title is to establish programs in urban centers to make health services more accessible and available to urban Indians.

''SEC. 502. CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS.

''Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, through the Service, shall enter into contracts with, or make grants to, urban Indian organizations to assist such organizations in the establishment and administration, within urban centers, of programs which meet the requirements set forth in this title. The Secretary, through the Service, subject to section 506, shall include such conditions as the Secretary considers necessary to effect the purpose of this title in any contract which the Secretary enters into with, or in any grant the Secretary makes to, any urban Indian organization pursuant to this title.

''SEC. 503. CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES.

''(a) AUTHORITY.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, shall enter into contracts with, and make grants to, urban Indian organizations for the provision of health care and referral services for urban Indians. Any such contract or grant shall include requirements that the urban Indian organization successfully undertake to—

''(1) estimate the population of urban Indians residing in the urban center or centers that the organization proposes to serve who are or could be recipients of health care or referral services;

''(2) estimate the current health status of urban Indians residing in such urban center or centers;

''(3) estimate the current health care needs of urban Indians residing in such urban center or centers;

''(4) provide basic health education, including health promotion and disease prevention education, to urban Indians;

''(5) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

''(6) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

''(b) CRITERIA.—The Secretary, acting through the Service, shall by regulation adopted pursuant to section 520 prescribe the criteria for selecting urban Indian organizations to enter into contracts or receive grants under this section. Such criteria shall, among other factors, include—

''(1) the extent of unmet health care needs of urban Indians in the urban center or centers involved;

''(2) the size of the urban Indian population in the urban center or centers involved;

''(3) the extent, if any, to which the activities set forth in subsection (a) would duplicate any project funded under this title;

''(4) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary or to meet the requirements for receiving a grant under this section;

''(5) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

''(6) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center or centers; and

''(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

''(c) HEALTH PROMOTION AND DISEASE PREVENTION.—The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a).

''(d) IMMUNIZATION SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

''(2) DEFINITION.—In this section, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

''(e) MENTAL HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into, or receiving grants, under this section.

''(2) ASSESSMENT.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

''(3) USE OF FUNDS.—Grants may be made under this subsection—

''(A) to prepare assessments required under paragraph (2);

''(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct behavioral health services, to educate urban Indians about behavioral health issues and services, and effect coordination with existing behavioral health providers in order to improve services to urban Indians;

''(C) to provide outpatient behavioral health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

''(D) to develop innovative behavioral health service delivery models which incorporate Indian cultural support systems and resources.

''(f) CHILD ABUSE.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section or receiving grants under subsection (a) to prevent and treat child abuse (including sexual abuse) among urban Indians.

''(2) ASSESSMENT.—A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

''(3) USE OF FUNDS.—Grants may be made under this subsection—

''(A) to prepare assessments required under paragraph (2);

''(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

''(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

''(4) CONSIDERATIONS.—In making grants to carry out this subsection, the Secretary shall take into consideration—

''(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, including committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

''(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

''(C) the assessment required under paragraph (2).

''(g) MULTIPLE URBAN CENTERS.—The Secretary, acting through the Service, may enter into a contract with, or make grants to, an urban Indian organization that provides or arranges for the provision of health care services (through satellite facilities, provider networks, or otherwise) to urban Indians in more than one urban center.

''SEC. 504. CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS.

''(a) AUTHORITY.—

''(1) IN GENERAL.—Under authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary, acting through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been

entered into, or grants have not been made, under section 503.

''(2) PURPOSE.—The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.

''(b) REQUIREMENTS.—Any contract entered into, or grant made, by the Secretary under this section shall include requirements that—

''(1) the urban Indian organization successfully undertake to—

''(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

''(B) with respect to urban Indians in the urban center involved, determine the matters described in paragraphs (2), (3), (4), and (7) of section 503(b); and

''(2) the urban Indian organization complete performance of the contract, or carry out the requirements of the grant, within 1 year after the date on which the Secretary and such organization enter into such contract, or within 1 year after such organization receives such grant, whichever is applicable.

''(c) LIMITATION ON RENEWAL.—The Secretary may not renew any contract entered into, or grant made, under this section.

''SEC. 505. EVALUATIONS; RENEWALS.

''(a) PROCEDURES.—The Secretary, acting through the Service, shall develop procedures to evaluate compliance with grant requirements under this title and compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

''(b) COMPLIANCE WITH TERMS.—The Secretary, acting through the Service, shall evaluate the compliance of each urban Indian organization which has entered into a contract or received a grant under section 503 with the terms of such contract or grant. For purposes of an evaluation under this subsection, the Secretary, in determining the capacity of an urban Indian organization to deliver quality patient care shall, at the option of the organization—

''(1) conduct, through the Service, an annual onsite evaluation of the organization; or

''(2) accept, in lieu of an onsite evaluation, evidence of the organization's provisional or full accreditation by a private independent entity recognized by the Secretary for purposes of conducting quality reviews of providers participating in the medicare program under Title XVIII of the Social Security Act.

''(c) NONCOMPLIANCE.—

''(1) IN GENERAL.—If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with the requirements of a grant or complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract or grant, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract or grant to prevent future occurrences of such noncompliance or unsatisfactory performance.

''(2) NONRENEWAL.—If the Secretary determines, under an evaluation under this section, that noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract or grant with such organization and is authorized to enter into a contract or make a grant under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract or grant is not renewed under this section.

''(d) DETERMINATION OF RENEWAL.—In determining whether to renew a contract or grant with an urban Indian organization under section 503 which has completed performance of a contract or grant under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract or grant under section 503, shall consider the results of the onsite evaluations or accreditation under subsection (b).

''SEC. 506. OTHER CONTRACT AND GRANT REQUIREMENTS.

''(a) APPLICATION OF FEDERAL LAW.—Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations relating to procurement except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

''(b) PAYMENTS.—Payments under any contracts or grants pursuant to this title shall, notwithstanding any term or condition of such contract or grant—

''(1) be made in their entirety by the Secretary to the urban Indian organization by not later than the end of the first 30 days of the funding period with respect to which the payments apply, unless the Secretary determines through an evaluation under section 505 that the organization is not capable of administering such payments in their entirety; and

''(2) if unexpended by the urban Indian organization during the funding period with respect to which the payments initially apply, be carried forward for expenditure with respect to allowable or reimbursable costs incurred by the organization during 1 or more subsequent funding periods without additional justification or documentation by the organization as a condition of carrying forward the expenditure of such funds.

''(c) REVISING OR AMENDING CONTRACT.—Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

''(d) FAIR AND UNIFORM PROVISION OF SERVICES.—Contracts with, or grants to, urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts or grants by such organizations.

''(e) ELIGIBILITY OF URBAN INDIANS.—Urban Indians, as defined in section 4(f), shall be eligible for health care or referral services provided pursuant to this title.

''SEC. 507. REPORTS AND RECORDS.

''(a) REPORT.—For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract entered into, or a grant received, pursuant to this title, such organization shall submit to the Secretary, on a basis no more frequent than every 6 months, a report including—

''(1) in the case of a contract or grant under section 503, information gathered pursuant to paragraph (5) of subsection (a) of such section;

''(2) information on activities conducted by the organization pursuant to the contract or grant;

''(3) an accounting of the amounts and purposes for which Federal funds were expended; and

''(4) a minimum set of data, using uniformly defined elements, that is specified by the Secretary, after consultations consistent with section 514, with urban Indian organizations.

''(b) AUDITS.—The reports and records of the urban Indian organization with respect to a contract or grant under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

''(c) COST OF AUDIT.—The Secretary shall allow as a cost of any contract or grant entered into or awarded under section 502 or 503 the cost of an annual independent financial audit conducted by—

''(1) a certified public accountant; or

''(2) a certified public accounting firm qualified to conduct Federal compliance audits.

''SEC. 508. LIMITATION ON CONTRACT AUTHORITY.

''The authority of the Secretary to enter into contracts or to award grants under this title shall be to the extent, and in an amount, provided for in appropriation Acts.

''SEC. 509. FACILITIES.

''(a) GRANTS.—The Secretary may make grants to contractors or grant recipients under this title for the lease, purchase, renovation, construction, or expansion of facilities, including leased facilities, in order to assist such contractors or grant recipients in complying with applicable licensure or certification requirements.

''(b) LOANS OR LOAN GUARANTEES.—The Secretary, acting through the Service or through the Health Resources and Services Administration, may provide loans to contractors or grant recipients under this title from the Urban Indian Health Care Facilities Revolving Loan Fund (referred to in this section as the 'URLF') described in subsection (c), or guarantees for loans, for the construction, renovation, expansion, or purchase of health care facilities, subject to the following requirements:

''(1) The principal amount of a loan or loan guarantee may cover 100 percent of the costs (other than staffing) relating to the facility, including planning, design, financing, site land development, construction, rehabilitation, renovation, conversion, medical equipment, furnishings, and capital purchase.

''(2) The total amount of the principal of loans and loan guarantees, respectively, outstanding at any one time shall not exceed such limitations as may be specified in appropriations Acts.

''(3) The loan or loan guarantee may have a term of the shorter of the estimated useful life of the facility, or 25 years.

''(4) An urban Indian organization may assign, and the Secretary may accept assignment of, the revenue of the organization as security for a loan or loan guarantee under this subsection.

''(5) The Secretary shall not collect application, processing, or similar fees from urban Indian organizations applying for loans or loan guarantees under this subsection.

''(c) URBAN INDIAN HEALTH CARE FACILITIES REVOLVING LOAN FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the Urban Indian Health Care Facilities Revolving Loan Fund. The URLF shall consist of—

''(A) such amounts as may be appropriated to the URLF;

''(B) amounts received from urban Indian organizations in repayment of loans made to such organizations under paragraph (2); and

''(C) interest earned on amounts in the URLF under paragraph (3).

''(2) USE OF URLF.—Amounts in the URLF may be expended by the Secretary, acting through the Service or the Health Resources and Services Administration, to make loans available to urban Indian organizations receiving grants or contracts under this title for the purposes, and subject to the requirements, described in subsection (b). Amounts appropriated to the URLF, amounts received from urban Indian organizations in repayment of loans, and interest on amounts in the URLF shall remain available until expended.

''(3) INVESTMENTS.—The Secretary of the Treasury shall invest such amounts of the URLF as such Secretary determines are not required to meet current withdrawals from the URLF. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Any obligation acquired by the URLF may be sold by the Secretary of the Treasury at the market price.

''SEC. 510. OFFICE OF URBAN INDIAN HEALTH.

''There is hereby established within the Service an Office of Urban Indian Health which shall be responsible for—

''(1) carrying out the provisions of this title;

''(2) providing central oversight of the programs and services authorized under this title; and

''(3) providing technical assistance to urban Indian organizations.

''SEC. 511. GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES.

''(a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201.

''(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

''(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

''(1) size of the urban Indian population;

''(2) capability of the organization to adequately perform the activities required under the grant;

''(3) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

''(4) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

''(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

''SEC. 512. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.

''(a) TULSA AND OKLAHOMA CITY CLINICS.—Notwithstanding any other provision of law, the Tulsa and Oklahoma City Clinic demonstration projects shall become permanent programs within the Service's direct care program and continue to be treated as service units in the allocation of resources and coordination of care, and shall continue to meet the requirements and definitions of an urban Indian organization in this title, and as such will not be subject to the provisions of the Indian Self-Determination and Education Assistance Act.

''(b) REPORT.—The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a).

''SEC. 513. URBAN NIAAA TRANSFERRED PROGRAMS.

''(a) GRANTS AND CONTRACTS.—The Secretary, acting through the Office of Urban Indian Health of the Service, shall make grants or enter into contracts, effective not later than September 30, 2004, with urban Indian organizations for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (referred to in this section to as 'NIAAA') and transferred to the Service.

''(b) USE OF FUNDS.—Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

''(c) ELIGIBILITY.—Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

''(d) EVALUATION AND REPORT.—The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every 5 years.

''SEC. 514. CONSULTATION WITH URBAN INDIAN ORGANIZATIONS.

''(a) IN GENERAL.—The Secretary shall ensure that the Service, the Health Care Financing Administration, and other operating divisions and staff divisions of the Department consult, to the maximum extent practicable, with urban Indian organizations (as defined in section 4) prior to taking any action, or approving Federal financial assistance for any action of a State, that may affect urban Indians or urban Indian organizations.

''(b) REQUIREMENT.—In subsection (a), the term 'consultation' means the open and free exchange of information and opinion among urban Indian organizations and the operating and staff divisions of the Department which leads to mutual understanding and comprehension and which emphasizes trust, respect, and shared responsibility.

''SEC. 515. FEDERAL TORT CLAIMS ACT COVERAGE.

''For purposes of section 224 of the Public Health Service Act (42 U.S.C. 233), with respect to claims by any person, initially filed on or after October 1, 1999, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations, for personal injury (including death) resulting from the performance prior to, including, or after October 1, 1999, of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, or for purposes of section 2679 of title 28, United States Code, with respect to claims by any such person, on or after October 1, 1999, for personal injury (including death) resulting from the operation of an emergency motor vehicle, an urban Indian organization that has entered into a contract or received a grant pursuant to this title is deemed to be part of the Public Health Service while carrying out any such contract or grant and its employees (including those acting on behalf of the organization as provided for in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with an urban Indian organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or grant, except that such employees shall be deemed to be acting within the scope of their employment in carrying out the contract or grant when they are required, by reason of their employment, to perform medical, surgical, dental or related functions at a facility other than a facility operated by the urban Indian organization pursuant to such contract or grant, but only if such employees are not compensated for the performance of such functions by a person or entity other than the urban Indian organization.

''SEC. 516. URBAN YOUTH TREATMENT CENTER DEMONSTRATION.

''(a) CONSTRUCTION AND OPERATION.—The Secretary, acting through the Service, shall, through grants or contracts, make payment for the construction and operation of at least 2 residential treatment centers in each State described in subsection (b) to demonstrate the provision of alcohol and substance abuse treatment services to urban Indian youth in a culturally competent residential setting.

''(b) STATES.—A State described in this subsection is a State in which—

''(1) there reside urban Indian youth with a need for alcohol and substance abuse treatment services in a residential setting; and

''(2) there is a significant shortage of culturally competent residential treatment services for urban Indian youth.

''SEC. 517. USE OF FEDERAL GOVERNMENT FACILITIES AND SOURCES OF SUPPLY.

''(a) IN GENERAL.—The Secretary shall permit an urban Indian organization that has entered into a contract or received a grant pursuant to this title, in carrying out such contract or grant, to use existing facilities and all equipment therein or pertaining thereto and other personal property owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

''(b) DONATION OF PROPERTY.—Subject to subsection (d), the Secretary may donate to an urban Indian organization that has entered into a contract or received a grant pursuant to this title any personal or real property determined to be excess to the needs of the Service or the General Services Administration for purposes of carrying out the contract or grant.

''(c) ACQUISITION OF PROPERTY.—The Secretary may acquire excess or surplus government personal or real property for donation, subject to subsection (d), to an urban Indian organization that has entered into a contract or received a grant pursuant to this title if the Secretary determines that the property is appropriate for use by the urban Indian organization for a purpose for which a contract or grant is authorized under this title.

''(d) PRIORITY.—In the event that the Secretary receives a request for a specific item of personal or real property described in subsections (b) or (c) from an urban Indian organization and from an Indian tribe or tribal

organization, the Secretary shall give priority to the request for donation to the Indian tribe or tribal organization if the Secretary receives the request from the Indian tribe or tribal organization before the date on which the Secretary transfers title to the property or, if earlier, the date on which the Secretary transfers the property physically, to the urban Indian organization.

''(e) RELATION TO FEDERAL SOURCES OF SUPPLY.—For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines, and other transportation providers), an urban Indian organization that has entered into a contract or received a grant pursuant to this title shall be deemed an executive agency when carrying out such contract or grant, and the employees of the urban Indian organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

''SEC. 518. GRANTS FOR DIABETES PREVENTION, TREATMENT AND CONTROL.

''(a) AUTHORITY.—The Secretary may make grants to those urban Indian organizations that have entered into a contract or have received a grant under this title for the provision of services for the prevention, treatment, and control of the complications resulting from, diabetes among urban Indians.

''(b) GOALS.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished under the grant. The goals shall be specific to each grant as agreed upon between the Secretary and the grantee.

''(c) CRITERIA.—The Secretary shall establish criteria for the awarding of grants made under subsection (a) relating to—

''(1) the size and location of the urban Indian population to be served;

''(2) the need for the prevention of, treatment of, and control of the complications resulting from diabetes among the urban Indian population to be served;

''(3) performance standards for the urban Indian organization in meeting the goals set forth in such grant that are negotiated and agreed to by the Secretary and the grantee;

''(4) the capability of the urban Indian organization to adequately perform the activities required under the grant; and

''(5) the willingness of the urban Indian organization to collaborate with the registry, if any, established by the Secretary under section 204(e) in the area office of the Service in which the organization is located.

''(d) APPLICATION OF CRITERIA.—Any funds received by an urban Indian organization under this Act for the prevention, treatment, and control of diabetes among urban Indians shall be subject to the criteria developed by the Secretary under subsection (c).

''SEC. 519. COMMUNITY HEALTH REPRESENTATIVES.

''The Secretary, acting through the Service, may enter into contracts with, and make grants to, urban Indian organizations for the use of Indians trained as health service providers through the Community Health Representatives Program under section 107(b) in the provision of health care, health promotion, and disease prevention services to urban Indians.

''SEC. 520. REGULATIONS.

''(a) EFFECT OF TITLE.—This title shall be effective on the date of enactment of this Act regardless of whether the Secretary has promulgated regulations implementing this title.

''(b) PROMULGATION.—

''(1) IN GENERAL.—The Secretary may promulgate regulations to implement the provisions of this title.

''(2) PUBLICATION.—Proposed regulations to implement this title shall be published by the Secretary in the Federal Register not later than 270 days after the date of enactment of this Act and shall have a comment period of not less than 120 days.

''(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this title shall expire on the date that is 18 months after the date of enactment of this Act.

''(c) NEGOTIATED RULEMAKING COMMITTEE.—A negotiated rulemaking committee shall be established pursuant to section 565 of title 5, United States Code, to carry out this section and shall, in addition to Federal representatives, have as the majority of its members representatives of urban Indian organizations from each service area.

''(d) ADAPTION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of this Act.

''SEC. 521. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE VI—ORGANIZATIONAL IMPROVEMENTS

''SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

''(2) ASSISTANT SECRETARY OF INDIAN HEALTH.—The Service shall be administered by an Assistance Secretary of Indian Health, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Assistant Secretary shall be 4 years. An Assistant Secretary may serve more than 1 term.

''(b) AGENCY.—The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

''(c) FUNCTIONS AND DUTIES.—The Secretary shall carry out through the Assistant Secretary of the Service—

''(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Service on such day;

''(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians;

''(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

''(A) this Act;

''(B) the Act of November 2, 1921 (25 U.S.C. 13);

''(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

''(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

''(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.); and

''(4) all scholarship and loan functions carried out under title I.

''(d) AUTHORITY.—

''(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary, shall have the authority—

''(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

''(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

''(C) to manage, expend, and obligate all funds appropriated for the Service.

''(2) PERSONNEL ACTIONS.—Notwithstanding any other provision of law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

''SEC. 602. AUTOMATED MANAGEMENT INFORMATION SYSTEM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, in consultation with tribes, tribal organizations, and urban Indian organizations, shall establish an automated management information system for the Service.

''(2) REQUIREMENTS OF SYSTEM.—The information system established under paragraph (1) shall include—

''(A) a financial management system;

''(B) a patient care information system;

''(C) a privacy component that protects the privacy of patient information;

''(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service;

''(E) an interface mechanism for patient billing and accounts receivable system; and

''(F) a training component.

''(b) PROVISION OF SYSTEMS TO TRIBES AND ORGANIZATIONS.—The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which—

''(1) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service; and

''(2) meet the management information needs of the Service.

''(c) ACCESS TO RECORDS.—Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

''(d) AUTHORITY TO ENHANCE INFORMATION TECHNOLOGY.—The Secretary, acting through the Assistant Secretary, shall have the authority to enter into contracts, agreements or joint ventures with other Federal agencies, States, private and nonprofit organizations, for the purpose of enhancing information technology in Indian health programs and facilities.

''SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE VII—BEHAVIORAL HEALTH PROGRAMS

''SEC. 701. BEHAVIORAL HEALTH PREVENTION AND TREATMENT SERVICES.

''(a) PURPOSES.—It is the purpose of this section to—

''(1) authorize and direct the Secretary, acting through the Service, Indian tribes,

tribal organizations, and urban Indian organizations to develop a comprehensive behavioral health prevention and treatment program which emphasizes collaboration among alcohol and substance abuse, social services, and mental health programs;

''(2) provide information, direction and guidance relating to mental illness and dysfunction and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and family welfare, alcohol and substance abuse, law enforcement and judicial services;

''(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

''(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based programs which include identification, prevention, education, referral, and treatment services, including through multi-disciplinary resource teams;

''(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to behavioral health services to which all citizens have access; and

''(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).

''(b) BEHAVIORAL HEALTH PLANNING.—

''(1) AREA-WIDE PLANS.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations, shall encourage Indian tribes and tribal organizations to develop tribal plans, encourage urban Indian organizations to develop local plans, and encourage all such groups to participate in developing area-wide plans for Indian Behavioral Health Services. The plans shall, to the extent feasible, include—

''(A) an assessment of the scope of the problem of alcohol or other substance abuse, mental illness, dysfunctional and self-destructive behavior, including suicide, child abuse and family violence, among Indians, including—

''(i) the number of Indians served who are directly or indirectly affected by such illness or behavior; and

''(ii) an estimate of the financial and human cost attributable to such illness or behavior;

''(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior, including an assessment of the progress toward achieving the availability of the full continuum of care described in subsection (c); and

''(C) an estimate of the additional funding needed by the Service, Indian tribes, tribal organizations and urban Indian organizations to meet their responsibilities under the plans.

''(2) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse of plans and reports on the outcomes of such plans developed under this section by Indian tribes, tribal organizations and by areas relating to behavioral health. The Secretary shall ensure access to such plans and outcomes by any Indian tribe, tribal organization, urban Indian organization or the Service.

''(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Indian tribes, tribal organizations, and urban Indian organizations in preparation of plans under this section and in developing standards of care that may be utilized and adopted locally.

''(c) CONTINUUM OF CARE.—The Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, to the extent feasible and to the extent that funding is available, for the implementation of programs including—

''(1) a comprehensive continuum of behavioral health care that provides for—

''(A) community based prevention, intervention, outpatient and behavioral health aftercare;

''(B) detoxification (social and medical);

''(C) acute hospitalization;

''(D) intensive outpatient or day treatment;

''(E) residential treatment;

''(F) transitional living for those needing a temporary stable living environment that is supportive of treatment or recovery goals;

''(G) emergency shelter;

''(H) intensive case management;

''(I) traditional health care practices; and

''(J) diagnostic services, including the utilization of neurological assessment technology; and

''(2) behavioral health services for particular populations, including—

''(A) for persons from birth through age 17, child behavioral health services, that include—

''(i) pre-school and school age fetal alcohol disorder services, including assessment and behavioral intervention);

''(ii) mental health or substance abuse services (emotional, organic, alcohol, drug, inhalant and tobacco);

''(iii) services for co-occurring disorders (multiple diagnosis);

''(iv) prevention services that are focused on individuals ages 5 years through 10 years (alcohol, drug, inhalant and tobacco);

''(v) early intervention, treatment and aftercare services that are focused on individuals ages 11 years through 17 years;

''(vi) healthy choices or life style services (related to STD's, domestic violence, sexual abuse, suicide, teen pregnancy, obesity, and other risk or safety issues);

''(vii) co-morbidity services;

''(B) for persons ages 18 years through 55 years, adult behavioral health services that include—

''(i) early intervention, treatment and aftercare services;

''(ii) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

''(iii) services for co-occurring disorders (dual diagnosis) and co-morbidity;

''(iv) healthy choices and life style services (related to parenting, partners, domestic violence, sexual abuse, suicide, obesity, and other risk related behavior);

''(v) female specific treatment services for—

''(I) women at risk of giving birth to a child with a fetal alcohol disorder;

''(II) substance abuse requiring gender specific services;

''(III) sexual assault and domestic violence; and

''(IV) healthy choices and life style (parenting, partners, obesity, suicide and other related behavioral risk); and

''(vi) male specific treatment services for—

''(I) substance abuse requiring gender specific services;

''(II) sexual assault and domestic violence; and

''(III) healthy choices and life style (parenting, partners, obesity, suicide and other risk related behavior);

''(C) family behavioral health services, including—

''(i) early intervention, treatment and aftercare for affected families;

''(ii) treatment for sexual assault and domestic violence; and

''(iii) healthy choices and life style (related to parenting, partners, domestic violence and other abuse issues);

''(D) for persons age 56 years and older, elder behavioral health services including—

''(i) early intervention, treatment and aftercare services that include—

''(I) mental health and substance abuse services (emotional, alcohol, drug, inhalant and tobacco);

''(II) services for co-occurring disorders (dual diagnosis) and co-morbidity; and

''(III) healthy choices and life style services (managing conditions related to aging);

''(ii) elder women specific services that include—

''(I) treatment for substance abuse requiring gender specific services and

''(II) treatment for sexual assault, domestic violence and neglect;

''(iii) elder men specific services that include—

''(I) treatment for substance abuse requiring gender specific services; and

''(II) treatment for sexual assault, domestic violence and neglect; and

''(iv) services for dementia regardless of cause.

''(d) COMMUNITY BEHAVIORAL HEALTH PLAN.—

''(1) IN GENERAL.—The governing body of any Indian tribe or tribal organization or urban Indian organization may, at its discretion, adopt a resolution for the establishment of a community behavioral health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat alcohol and other substance abuse, mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members or its service population. Such plan should include behavioral health services, social services, intensive outpatient services, and continuing after care.

''(2) TECHNICAL ASSISTANCE.—In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the Indian tribe or tribal organization in the development of a plan under paragraph (1). Upon the establishment of such a plan and at the request of the Indian tribe or tribal organization, such officials shall cooperate with the Indian tribe or tribal organization in the implementation of such plan.

''(3) FUNDING.—The Secretary, acting through the Service, may make funding available to Indian tribes and tribal organizations adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community behavioral health plan and to provide administrative support in the implementation of such plan.

''(e) COORDINATED PLANNING.—The Secretary, acting through the Service, Indian tribes, tribal organizations, and urban Indian organizations shall coordinate behavioral health planning, to the extent feasible, with other Federal and State agencies, to ensure that comprehensive behavioral health services are available to Indians without regard to their place of residence.

''(f) FACILITIES ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service

hospital beds into psychiatric units to meet such need.

"SEC. 702. MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT OF THE INTERIOR.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement, or review and update any existing memoranda of agreement as required under section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411), and under which the Secretaries address—

''(1) the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

''(2) the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

''(3) the unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1);

''(4)(A) the right of Indians, as citizens of the United States and of the States in which they reside, to have access to mental health services to which all citizens have access;

''(B) the right of Indians to participate in, and receive the benefit of, such services; and

''(C) the actions necessary to protect the exercise of such right;

''(5) the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

''(6) a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including—

''(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various Indian tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with the mental health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

''(B) ensuring that Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

''(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 701(c) and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412); and

''(8) provide for an annual review of such agreement by the 2 Secretaries and a report which shall be submitted to Congress and made available to the Indian tribes.

''(b) SPECIFIC PROVISIONS.—The memorandum of agreement updated or entered into pursuant to subsection (a) shall include specific provisions pursuant to which the Service shall assume responsibility for—

''(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

''(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

''(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

''(c) CONSULTATION.—The Secretary and the Secretary of the Interior shall, in developing the memorandum of agreement under subsection (a), consult with and solicit the comments of—

''(1) Indian tribes and tribal organizations;

''(2) Indian individuals;

''(3) urban Indian organizations and other Indian organizations;

''(4) behavioral health service providers.

''(d) PUBLICATION.—The memorandum of agreement under subsection (a) shall be published in the Federal Register. At the same time as the publication of such agreement in the Federal Register, the Secretary shall provide a copy of such memorandum to each Indian tribe, tribal organization, and urban Indian organization.

"SEC. 703. COMPREHENSIVE BEHAVIORAL HEALTH PREVENTION AND TREATMENT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian tribes and tribal organizations consistent with section 701, shall provide a program of comprehensive behavioral health prevention and treatment and aftercare, including systems of care and traditional health care practices, which shall include—

''(A) prevention, through educational intervention, in Indian communities;

''(B) acute detoxification or psychiatric hospitalization and treatment (residential and intensive outpatient);

''(C) community-based rehabilitation and aftercare;

''(D) community education and involvement, including extensive training of health care, educational, and community-based personnel;

''(E) specialized residential treatment programs for high risk populations including pregnant and post partum women and their children;

''(F) diagnostic services utilizing, when appropriate, neuropsychiatric assessments which include the use of the most advances technology available; and

''(G) a telepsychiatry program that uses experts in the field of pediatric psychiatry, and that incorporates assessment, diagnosis and treatment for children, including those children with concurrent neurological disorders.

''(2) TARGET POPULATIONS.—The target population of the program under paragraph (1) shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

''(b) CONTRACT HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service (with the consent of the Indian tribe to be served), Indian tribes and tribal organizations, may enter into contracts with public or private providers of behavioral health treatment services for the purpose of carrying out the program required under subsection (a).

''(2) PROVISION OF ASSISTANCE.—In carrying out this subsection, the Secretary shall provide assistance to Indian tribes and tribal organizations to develop criteria for the certification of behavioral health service providers and accreditation of service facilities which meet minimum standards for such services and facilities.

"SEC. 704. MENTAL HEALTH TECHNICIAN PROGRAM.

''(a) IN GENERAL.—Under the authority of the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act), the Secretary shall establish and maintain a Mental Health Technician program within the Service which—

''(1) provides for the training of Indians as mental health technicians; and

''(2) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

''(b) TRAINING.—In carrying out subsection (a)(1), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

''(c) SUPERVISION AND EVALUATION.—The Secretary shall supervise and evaluate the mental health technicians in the training program under this section.

''(d) TRADITIONAL CARE.—The Secretary shall ensure that the program established pursuant to this section involves the utilization and promotion of the traditional Indian health care and treatment practices of the Indian tribes to be served.

"SEC. 705. LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.

''Subject to section 220, any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a funding agreement pursuant to the Indian Self-Determination and Education Assistance Act shall—

''(1) in the case of a person employed as a psychologist to provide health care services, be licensed as a clinical or counseling psychologist, or working under the direct supervision of a clinical or counseling psychologist;

''(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

''(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

"SEC. 706. INDIAN WOMEN TREATMENT PROGRAMS.

''(a) FUNDING.—The Secretary, consistent with section 701, shall make funding available to Indian tribes, tribal organizations and urban Indian organization to develop and implement a comprehensive behavioral health program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the spiritual, cultural, historical, social, and child care needs of Indian women, regardless of age.

''(b) USE OF FUNDS.—Funding provided pursuant to this section may be used to—

''(1) develop and provide community training, education, and prevention programs for Indian women relating to behavioral health issues, including fetal alcohol disorders;

''(2) identify and provide psychological services, counseling, advocacy, support, and relapse prevention to Indian women and their families; and

''(3) develop prevention and intervention models for Indian women which incorporate

traditional health care practices, cultural values, and community and family involvement.

''(c) CRITERIA.—The Secretary, in consultation with Indian tribes and tribal organizations, shall establish criteria for the review and approval of applications and proposals for funding under this section.

''(d) EARMARK OF CERTAIN FUNDS.—Twenty percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

''SEC. 707. INDIAN YOUTH PROGRAM.

''(a) DETOXIFICATION AND REHABILITATION.—The Secretary shall, consistent with section 701, develop and implement a program for acute detoxification and treatment for Indian youth that includes behavioral health services. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis and programs developed and implemented by Indian tribes or tribal organizations at the local level under the Indian Self-Determination and Education Assistance Act. Regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

''(b) ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTERS OR FACILITIES.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary, acting through the Service, Indian tribes, or tribal organizations, shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, at least 1 youth regional treatment center or treatment network in each area under the jurisdiction of an area office.

''(B) AREA OFFICE IN CALIFORNIA.—For purposes of this subsection, the area office in California shall be considered to be 2 area offices, 1 office whose jurisdiction shall be considered to encompass the northern area of the State of California, and 1 office whose jurisdiction shall be considered to encompass the remainder of the State of California for the purpose of implementing California treatment networks.

''(2) FUNDING.—For the purpose of staffing and operating centers or facilities under this subsection, funding shall be made available pursuant to the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act).

''(3) LOCATION.—A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) that is agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

''(4) SPECIFIC PROVISION OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

''(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska;

''(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l));

''(iii) the Southern Indian Health Council, for the purpose of staffing, operating, and maintaining a residential youth treatment facility in San Diego County, California; and

''(iv) the Navajo Nation, for the staffing, operation, and maintenance of the Four Corners Regional Adolescent Treatment Center, a residential youth treatment facility in New Mexico.

''(B) PROVISION OF SERVICES TO ELIGIBLE YOUTH.—Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State.

''(c) INTERMEDIATE ADOLESCENT BEHAVIORAL HEALTH SERVICES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, Indian Tribes and tribal organizations, may provide intermediate behavioral health services, which may incorporate traditional health care practices, to Indian children and adolescents, including—

''(A) pre-treatment assistance;

''(B) inpatient, outpatient, and after-care services;

''(C) emergency care;

''(D) suicide prevention and crisis intervention; and

''(E) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

''(2) USE OF FUNDS.—Funds provided under this subsection may be used—

''(A) to construct or renovate an existing health facility to provide intermediate behavioral health services;

''(B) to hire behavioral health professionals;

''(C) to staff, operate, and maintain an intermediate mental health facility, group home, sober housing, transitional housing or similar facilities, or youth shelter where intermediate behavioral health services are being provided; and

''(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units; and

''(E) to provide intensive home- and community-based services, including collaborative systems of care.

''(3) CRITERIA.—The Secretary shall, in consultation with Indian tribes and tribal organizations, establish criteria for the review and approval of applications or proposals for funding made available pursuant to this subsection.

''(d) FEDERALLY OWNED STRUCTURES.—

''(1) IN GENERAL.—The Secretary, acting through the Service, shall, in consultation with Indian tribes and tribal organizations—

''(A) identify and use, where appropriate, federally owned structures suitable for local residential or regional behavioral health treatment for Indian youth; and

''(B) establish guidelines, in consultation with Indian tribes and tribal organizations, for determining the suitability of any such Federally owned structure to be used for local residential or regional behavioral health treatment for Indian youth.

''(2) TERMS AND CONDITIONS FOR USE OF STRUCTURE.—Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure and any Indian tribe or tribal organization operating the program.

''(e) REHABILITATION AND AFTERCARE SERVICES.—

''(1) IN GENERAL.—The Secretary, an Indian tribe or tribal organization, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit, community-based rehabilitation and follow-up services for Indian youth who have significant behavioral health problems, and require long-term treatment, community reintegration, and monitoring to support the Indian youth after their return to their home community.

''(2) ADMINISTRATION.—Services under paragraph (1) shall be administered within each service unit or tribal program by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff may include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

''(f) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youth authorized by this section, the Secretary, an Indian tribe or tribal organization shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (e) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

''(g) MULTIDRUG ABUSE PROGRAM.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall provide, consistent with section 701, programs and services to prevent and treat the abuse of multiple forms of substances, including alcohol, drugs, inhalants, and tobacco, among Indian youth residing in Indian communities, on Indian reservations, and in urban areas and provide appropriate mental health services to address the incidence of mental illness among such youth.

''SEC. 708. INPATIENT AND COMMUNITY-BASED MENTAL HEALTH FACILITIES DESIGN, CONSTRUCTION AND STAFFING ASSESSMENT.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Service, Indian tribes and tribal organizations, shall provide, in each area of the Service, not less than 1 inpatient mental health care facility, or the equivalent, for Indians with behavioral health problems.

''(b) TREATMENT OF CALIFORNIA.—For purposes of this section, California shall be considered to be 2 areas of the Service, 1 area whose location shall be considered to encompass the northern area of the State of California and 1 area whose jurisdiction shall be considered to encompass the remainder of the State of California.

''(c) CONVERSION OF CERTAIN HOSPITAL BEDS.—The Secretary shall consider the possible conversion of existing, under-utilized Service hospital beds into psychiatric units to meet needs under this section.

''SEC. 709. TRAINING AND COMMUNITY EDUCATION.

''(a) COMMUNITY EDUCATION.—

''(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement, or provide funding to enable Indian tribes and tribal organization to develop and implement, within each service unit or tribal program a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community.

''(2) EDUCATION.—A program under paragraph (1) shall include education concerning behavioral health for political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

''(3) TRAINING.—Community-based training (oriented toward local capacity development) under a program under paragraph (1) shall include tribal community provider training (designed for adult learners from

the communities receiving services for prevention, intervention, treatment and aftercare).

''(b) TRAINING.—The Secretary shall, either directly or through Indian tribes or tribal organization, provide instruction in the area of behavioral health issues, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, child sexual abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol disorders, to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

''(c) COMMUNITY-BASED TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with Indian tribes, tribal organizations, Indian behavioral health experts, and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

''(1) the elevated risk of alcohol and behavioral health problems faced by children of alcoholics;

''(2) the cultural, spiritual, and multigenerational aspects of behavioral health problem prevention and recovery; and

''(3) community-based and multidisciplinary strategies for preventing and treating behavioral health problems.

''SEC. 710. BEHAVIORAL HEALTH PROGRAM.

''(a) PROGRAMS FOR INNOVATIVE SERVICES.—The Secretary, acting through the Service, Indian Tribes or tribal organizations, consistent with Section 701, may develop, implement, and carry out programs to deliver innovative community-based behavioral health services to Indians.

''(b) CRITERIA.—The Secretary may award funding for a project under subsection (a) to an Indian tribe or tribal organization and may consider the following criteria:

''(1) Whether the project will address significant unmet behavioral health needs among Indians.

''(2) Whether the project will serve a significant number of Indians.

''(3) Whether the project has the potential to deliver services in an efficient and effective manner.

''(4) Whether the tribe or tribal organization has the administrative and financial capability to administer the project.

''(5) Whether the project will deliver services in a manner consistent with traditional health care.

''(6) Whether the project is coordinated with, and avoids duplication of, existing services.

''(c) FUNDING AGREEMENTS.—For purposes of this subsection, the Secretary shall, in evaluating applications or proposals for funding for projects to be operated under any funding agreement entered into with the Service under the Indian Self-Determination Act and Education Assistance Act, use the same criteria that the Secretary uses in evaluating any other application or proposal for such funding.

''SEC. 711. FETAL ALCOHOL DISORDER FUNDING.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—The Secretary, consistent with Section 701, acting through Indian tribes, tribal organizations, and urban Indian organizations, shall establish and operate fetal alcohol disorders programs as provided for in this section for the purposes of meeting the health status objective specified in section 3(b).

''(2) USE OF FUNDS.—Funding provided pursuant to this section shall be used to—

''(A) develop and provide community and in-school training, education, and prevention programs relating to fetal alcohol disorders;

''(B) identify and provide behavioral health treatment to high-risk women;

''(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to fetal alcohol disorder affected persons and their families or caretakers;

''(D) develop and implement counseling and support programs in schools for fetal alcohol disorder affected children;

''(E) develop prevention and intervention models which incorporate traditional practitioners, cultural and spiritual values and community involvement;

''(F) develop, print, and disseminate education and prevention materials on fetal alcohol disorders;

''(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools including dysmorphology clinics and multidisciplinary fetal alcohol disorder clinics for use in tribal and urban Indian communities;

''(H) develop early childhood intervention projects from birth on to mitigate the effects of fetal alcohol disorders; and

''(I) develop and fund community-based adult fetal alcohol disorder housing and support services.

''(3) CRITERIA.—The Secretary shall establish criteria for the review and approval of applications for funding under this section.

''(b) PROVISION OF SERVICES.—The Secretary, acting through the Service, Indian tribes, tribal organizations and urban Indian organizations, shall—

''(1) develop and provide services for the prevention, intervention, treatment, and aftercare for those affected by fetal alcohol disorders in Indian communities; and

''(2) provide supportive services, directly or through an Indian tribe, tribal organization or urban Indian organization, including services to meet the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians with fetal alcohol disorders.

''(c) TASK FORCE.—

''(1) IN GENERAL.—The Secretary shall establish a task force to be known as the Fetal Alcohol Disorders Task Force to advise the Secretary in carrying out subsection (b).

''(2) COMPOSITION.—The task force under paragraph (1) shall be composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the National Institute of Child Health & Human Development, the Centers for Disease Control and Prevention, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian fetal alcohol disorders experts.

''(d) APPLIED RESEARCH.—The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make funding available to Indian Tribes, tribal organizations and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide rehabilitation and behavioral health aftercare for Indians and urban Indians affected by fetal alcohol disorders.

''(e) URBAN INDIAN ORGANIZATIONS.—The Secretary shall ensure that 10 percent of the amounts appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

''SEC. 712. CHILD SEXUAL ABUSE AND PREVENTION TREATMENT PROGRAMS.

''(a) ESTABLISHMENT.—The Secretary and the Secretary of the Interior, acting through the Service, Indian tribes and tribal organizations, shall establish, consistent with section 701, in each service area, programs involving treatment for—

''(1) victims of child sexual abuse; and

''(2) perpetrators of child sexual abuse.

''(b) USE OF FUNDS.—Funds provided under this section shall be used to—

''(1) develop and provide community education and prevention programs related to child sexual abuse;

''(2) identify and provide behavioral health treatment to children who are victims of sexual abuse and to their families who are affected by sexual abuse;

''(3) develop prevention and intervention models which incorporate traditional health care practitioners, cultural and spiritual values, and community involvement;

''(4) develop and implement, though the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

''(5) identify and provide behavioral health treatment to perpetrators of child sexual abuse with efforts being made to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated, and to provide treatment after release to the community until it is determined that the perpetrator is not a threat to children.

''SEC. 713. BEHAVIORAL MENTAL HEALTH RESEARCH.

''(a) IN GENERAL.—The Secretary, acting through the Service and in consultation with appropriate Federal agencies, shall provide funding to Indian Tribes, tribal organizations and urban Indian organizations or, enter into contracts with, or make grants to appropriate institutions, for the conduct of research on the incidence and prevalence of behavioral health problems among Indians served by the Service, Indian Tribes or tribal organizations and among Indians in urban areas. Research priorities under this section shall include—

''(1) the inter-relationship and inter-dependence of behavioral health problems with alcoholism and other substance abuse, suicide, homicides, other injuries, and the incidence of family violence; and

''(2) the development of models of prevention techniques.

''(b) SPECIAL EMPHASIS.—The effect of the inter-relationships and interdependencies referred to in subsection (a)(1) on children, and the development of prevention techniques under subsection (a)(2) applicable to children, shall be emphasized.

''SEC. 714. DEFINITIONS.

''In this title:

''(1) ASSESSMENT.—The term 'assessment' means the systematic collection, analysis and dissemination of information on health status, health needs and health problems.

''(2) ALCOHOL RELATED NEURODEVELOPMENTAL DISORDERS.—The term 'alcohol related neurodevelopmental disorders' or 'ARND' with respect to an individual means the individual has a history of maternal alcohol consumption during pregnancy, central nervous system involvement such as developmental delay, intellectual deficit, or neurologic abnormalities, that behaviorally, there may be problems with irritability, and failure to thrive as infants, and

that as children become older there will likely be hyperactivity, attention deficit, language dysfunction and perceptual and judgment problems.

''(3) BEHAVIORAL HEALTH.—The term 'behavioral health' means the blending of substances (alcohol, drugs, inhalants and tobacco) abuse and mental health prevention and treatment, for the purpose of providing comprehensive services. Such term includes the joint development of substance abuse and mental health treatment planning and coordinated case management using a multidisciplinary approach.

''(4) BEHAVIORAL HEALTH AFTERCARE.—

''(A) IN GENERAL.—The term 'behavioral health aftercare' includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse or mental health outpatient or outpatient treatment, to help prevent or treat relapse, including the development of an aftercare plan.

''(B) AFTERCARE PLAN.—Prior to the time at which an individual is discharged from a level of care, such as outpatient treatment, an aftercare plan shall have been developed for the individual. Such plan may use such resources as community base therapeutic group care, transitional living, a 12-step sponsor, a local 12-step or other related support group, or other community based providers (such as mental health professionals, traditional health care practitioners, community health aides, community health representatives, mental health technicians, or ministers).

''(5) DUAL DIAGNOSIS.—The term 'dual diagnosis' means coexisting substance abuse and mental illness conditions or diagnosis. In individual with a dual diagnosis may be referred to as a mentally ill chemical abuser.

''(6) FETAL ALCOHOL DISORDERS.—The term 'fetal alcohol disorders' means fetal alcohol syndrome, partial fetal alcohol syndrome, or alcohol related neural developmental disorder.

''(7) FETAL ALCOHOL SYNDROME.—The term 'fetal alcohol syndrome' or 'FAS' with respect to an individual means a syndrome in which the individual has a history of maternal alcohol consumption during pregnancy, and with respect to which the following criteria should be met:

''(A) Central nervous system involvement such as developmental delay, intellectual deficit, microencephaly, or neurologic abnormalities.

''(B) Craniofacial abnormalities with at least 2 of the following: microphthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, and short upturned nose.

''(C) Prenatal or postnatal growth delay.

''(8) PARTIAL FAS.—The term 'partial FAS' with respect to an individual means a history of maternal alcohol consumption during pregnancy having most of the criteria of FAS, though not meeting a minimum of at least 2 of the following: micro-ophthalmia, short palpebral fissures, poorly developed philtrum, thin upper lip, flat nasal bridge, short upturned nose.

''(9) REHABILITATION.—The term 'rehabilitation' means to restore the ability or capacity to engage in usual and customary life activities through education and therapy.–

''(10) SUBSTANCE ABUSE.—The term 'substance abuse' includes inhalant abuse.

''SEC. 715. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.

''TITLE VIII—MISCELLANEOUS

''SEC. 801. REPORTS.

''The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

''(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population, including specific comparisons of appropriations provided and those required for such parity;

''(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact, including a report on proposed changes in the allocation of funding pursuant to section 808;

''(3) a report on the use of health services by Indians—

''(A) on a national and area or other relevant geographical basis;

''(B) by gender and age;

''(C) by source of payment and type of service;

''(D) comparing such rates of use with rates of use among comparable non-Indian populations; and

''(E) on the services provided under funding agreements pursuant to the Indian Self-Determination and Education Assistance Act;

''(4) a report of contractors concerning health care educational loan repayments under section 110;

''(5) a general audit report on the health care educational loan repayment program as required under section 110(n);

''(6) a separate statement that specifies the amount of funds requested to carry out the provisions of section 201;

''(7) a report on infectious diseases as required under section 212;

''(8) a report on environmental and nuclear health hazards as required under section 214;

''(9) a report on the status of all health care facilities needs as required under sections 301(c)(2) and 301(d);

''(10) a report on safe water and sanitary waste disposal facilities as required under section 302(h)(1);

''(11) a report on the expenditure of non-service funds for renovation as required under sections 305(a)(2) and 305(a)(3);

''(12) a report identifying the backlog of maintenance and repair required at Service and tribal facilities as required under section 314(a);

''(13) a report providing an accounting of reimbursement funds made available to the Secretary under titles XVIII and XIX of the Social Security Act as required under section 403(a);

''(14) a report on services sharing of the Service, the Department of Veteran's Affairs, and other Federal agency health programs as required under section 412(c)(2);

''(15) a report on the evaluation and renewal of urban Indian programs as required under section 505;

''(16) a report on the findings and conclusions derived from the demonstration project as required under section 512(a)(2);

''(17) a report on the evaluation of programs as required under section 513; and

''(18) a report on alcohol and substance abuse as required under section 701(f).

''SEC. 802. REGULATIONS.

''(a) INITIATION OF RULEMAKING PROCEDURES.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations or amendments thereto that are necessary to carry out this Act.

''(2) PUBLICATION.—Proposed regulations to implement this Act shall be published in the Federal Register by the Secretary not later than 270 days after the date of enactment of this Act and shall have not less than a 120 day comment period.

''(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this Act shall expire 18 months from the date of enactment of this Act.

''(b) RULEMAKING COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of Title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and representatives of Indian tribes, and tribal organizations, a majority of whom shall be nominated by and be representatives of Indian tribes, tribal organizations, and urban Indian organizations from each service area.

''(c) ADAPTION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

''(d) FAILURE TO PROMULGATE REGULATIONS.—The lack of promulgated regulations shall not limit the effect of this Act.

''(e) SUPREMACY OF PROVISIONS.—The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation that is inconsistent with the provisions of this Act.

''SEC. 803. PLAN OF IMPLEMENTATION.

''Not later than 240 days after the date of enactment of this Act, the Secretary, in consultation with Indian tribes, tribal organizations, and urban Indian organizations, shall prepare and submit to Congress a plan that shall explain the manner and schedule (including a schedule of appropriate requests), by title and section, by which the Secretary will implement the provisions of this Act.

''SEC. 804. AVAILABILITY OF FUNDS.

''Amounts appropriated under this Act shall remain available until expended.

''SEC. 805. LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE.

''Any limitation on the use of funds contained in an Act providing appropriations for the Department for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Service.

''SEC. 806. ELIGIBILITY OF CALIFORNIA INDIANS.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service:

''(1) Any member of a Federally recognized Indian tribe.

''(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

''(A) is a member of the Indian community served by a local program of the Service; and

''(B) is regarded as an Indian by the community in which such descendant lives.

''(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

''(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

''(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.

''SEC. 807. HEALTH SERVICES FOR INELIGIBLE PERSONS.

''(a) INELIGIBLE PERSONS.—

''(1) IN GENERAL.—Any individual who—

''(A) has not attained 19 years of age;

''(B) is the natural or adopted child, stepchild, foster-child, legal ward, or orphan of an eligible Indian; and

''(C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

''(2) SPOUSES.—Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses or spouses who are married to members of the Indian tribe being served are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe or tribal organization providing such services. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

''(b) PROGRAMS AND SERVICES.—

''(1) PROGRAMS.—

''(A) IN GENERAL.—The Secretary may provide health services under this subsection through health programs operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

''(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals; and

''(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

''(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians; and

''(II) there is no reasonable alternative health program or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

''(B) FUNDING AGREEMENTS.—In the case of health programs operated under a funding agreement entered into under the Indian Self-Determination and Educational Assistance Act, the governing body of the Indian tribe or tribal organization providing health services under such funding agreement is authorized to determine whether health services should be provided under such funding agreement to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

''(2) LIABILITY FOR PAYMENT.—

''(A) IN GENERAL.—Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880 of the Social Security Act, section 402(a) of this Act, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of the program providing the service and shall be used solely for the provision of health services within that program. Amounts collected under this subsection shall be available for expenditure within such program for not to exceed 1 fiscal year after the fiscal year in which collected.

''(B) SERVICES FOR INDIGENT PERSONS.—Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

''(3) SERVICE AREAS.—

''(A) SERVICE TO ONLY ONE TRIBE.—In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

''(B) MULTI-TRIBAL AREAS.—In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

''(c) PURPOSE FOR PROVIDING SERVICES.—The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to—

''(1) achieve stability in a medical emergency;

''(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard;

''(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum; or

''(4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

''(d) HOSPITAL PRIVILEGES.—Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Education Assistance Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

''(e) DEFINITION.—In this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.

''SEC. 808. REALLOCATION OF BASE RESOURCES.

''(a) REQUIREMENT OF REPORT.—Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.

''(b) NONAPPLICATION OF SECTION.—Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.

''SEC. 809. RESULTS OF DEMONSTRATION PROJECTS.

''The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.

''SEC. 810. PROVISION OF SERVICES IN MONTANA.

''(a) IN GENERAL.—The Secretary, acting through the Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cr. 1987).

''(b) RULE OF CONSTRUCTION.—The provisions of subsection (a) shall not be construed to be an expression of the sense of the Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

''SEC. 811. MORATORIUM.

''During the period of the moratorium imposed by Public Law 100–446 on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration, relating to eligibility for the health care services of the Service, the Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of sections 806 and 807 until such time as new criteria governing eligibility for services are developed in accordance with section 802.

''SEC. 812. TRIBAL EMPLOYMENT.

''For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, Chapter 372), an Indian tribe or tribal organization carrying out a funding agreement under the Self-Determination and Education Assistance Act shall not be considered an employer.

''SEC. 813. PRIME VENDOR.

''For purposes of section 4 of Public Law 102–585 (38 U.S.C. 812) Indian tribes and tribal organizations carrying out a grant, cooperative agreement, or funding agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall be deemed to be an executive agency and part of the Service and, as such, may act

as an ordering agent of the Service and the employees of the tribe or tribal organization may order supplies on behalf thereof on the same basis as employees of the Service.

"SEC. 814. NATIONAL BI-PARTISAN COMMISSION ON INDIAN HEALTH CARE ENTITLEMENT.

''(a) ESTABLISHMENT.—There is hereby established the National Bi-Partisan Indian Health Care Entitlement Commission (referred to in this Act as the 'Commission').

''(b) MEMBERSHIP.—The Commission shall be composed of 25 members, to be appointed as follows:

''(1) Ten members of Congress, of which—

''(A) three members shall be from the House of Representatives and shall be appointed by the majority leader;

''(B) three members shall be from the House of Representatives and shall be appointed by the minority leader;

''(C) two members shall be from the Senate and shall be appointed by the majority leader; and

''(D) two members shall be from the Senate and shall be appointed by the minority leader;

who shall each be members of the committees of Congress that consider legislation affecting the provision of health care to Indians and who shall elect the chairperson and vice-chairperson of the Commission.

''(2) Twelve individuals to be appointed by the members of the Commission appointed under paragraph (1), of which at least 1 shall be from each service area as currently designated by the Director of the Service, to be chosen from among 3 nominees from each such area as selected by the Indian tribes within the area, with due regard being given to the experience and expertise of the nominees in the provision of health care to Indians and with due regard being given to a reasonable representation on the Commission of members who are familiar with various health care delivery modes and who represent tribes of various size populations.

''(3) Three individuals shall be appointed by the Director of the Service from among individual who are knowledgeable about the provision of health care to Indians, at least 1 of whom shall be appointed from among 3 nominees from each program that is funded in whole or in part by the Service primarily or exclusively for the benefit of urban Indians.

All those persons appointed under paragraphs (2) and (3) shall be members of Federally recognized Indian Tribes.

''(c) TERMS.—

''(1) IN GENERAL.—Members of the Commission shall serve for the life of the Commission.

''(2) APPOINTMENT OF MEMBERS.—Members of the Commission shall be appointed under subsection (b)(1) not later than 90 days after the date of enactment of this Act, and the remaining members of the Commission shall be appointed not later than 60 days after the date on which the members are appointed under such subsection.

''(3) VACANCY.—A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

''(d) DUTIES OF THE COMMISSION.—The Commission shall carry out the following duties and functions:

''(1) Review and analyze the recommendations of the report of the study committee established under paragraph (3) to the Commission.

''(2) Make recommendations to Congress for providing health services for Indian persons as an entitlement, giving due regard to the effects of such a programs on existing health care delivery systems for Indian persons and the effect of such programs on the sovereign status of Indian Tribes;

''(3) Establish a study committee to be composed of those members of the Commission appointed by the Director of the Service and at least 4 additional members of Congress from among the members of the Commission which shall—

''(A) to the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Indian needs with regard to the provision of health services, regardless of the location of Indians, including holding hearings and soliciting the views of Indians, Indian tribes, tribal organizations and urban Indian organizations, and which may include authorizing and funding feasibility studies of various models for providing and funding health services for all Indian beneficiaries including those who live outside of a reservation, temporarily or permanently;

''(B) make recommendations to the Commission for legislation that will provide for the delivery of health services for Indians as an entitlement, which shall, at a minimum, address issues of eligibility, benefits to be provided, including recommendations regarding from whom such health services are to be provided, and the cost, including mechanisms for funding of the health services to be provided;

''(C) determine the effect of the enactment of such recommendations on the existing system of the delivery of health services for Indians;

''(D) determine the effect of a health services entitlement program for Indian persons on the sovereign status of Indian tribes;

''(E) not later than 12 months after the appointment of all members of the Commission, make a written report of its findings and recommendations to the Commission, which report shall include a statement of the minority and majority position of the committee and which shall be disseminated, at a minimum, to each Federally recognized Indian tribe, tribal organization and urban Indian organization for comment to the Commission; and

''(F) report regularly to the full Commission regarding the findings and recommendations developed by the committee in the course of carrying out its duties under this section.

''(4) Not later than 18 months after the date of appointment of all members of the Commission, submit a written report to Congress containing a recommendation of policies and legislation to implement a policy that would establish a health care system for Indians based on the delivery of health services as an entitlement, together with a determination of the implications of such an entitlement system on existing health care delivery systems for Indians and on the sovereign status of Indian tribes.

''(e) ADMINISTRATIVE PROVISIONS.—

''(1) COMPENSATION AND EXPENSES.—

''(A) CONGRESSIONAL MEMBERS.—Each member of the Commission appointed under subsection (b)(1) shall receive no additional pay, allowances, or benefits by reason of their service on the Commission and shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

''(B) OTHER MEMBERS.—The members of the Commission appointed under paragraphs (2) and (3) of subsection (b), while serving on the business of the Commission (including travel time) shall be entitled to receive compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, be allowed travel expenses, as authorized by the chairperson of the Commission. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

''(2) MEETINGS AND QUORUM.—

''(A) MEETINGS.—The Commission shall meet at the call of the chairperson.

''(B) QUORUM.—A quorum of the Commission shall consist of not less than 15 members, of which not less than 6 of such members shall be appointees under subsection (b)(1) and not less than 9 of such members shall be Indians.

''(3) DIRECTOR AND STAFF.—

''(A) EXECUTIVE DIRECTOR.—The members of the Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay equal to that for level V of the Executive Schedule.

''(B) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

''(C) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

''(D) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(E) FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

''(f) POWERS.—

''(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, except that at least 6 regional hearings shall be held in different areas of the United States in which large numbers of Indians are present. Such hearings shall be held to solicit the views of Indians regarding the delivery of health care services to them. To constitute a hearing under this paragraph, at least 5 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established under this section may be counted towards the number of regional hearings required by this paragraph.

''(2) STUDIES BY GAO.—Upon request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

''(3) COST ESTIMATES.—

''(A) IN GENERAL.—The Director of the Congressional Budget Office or the Chief Actuary of the Health Care Financing Administration, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

''(B) REIMBURSEMENTS.—The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary

for the Director to comply with requests by the Commission under subparagraph (A).

''(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any federal Agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the federal employee.

''(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal Agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

''(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal Agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

''(7) OBTAINING INFORMATION.—The Commission may secure directly from the any Federal Agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 4, United States Code. Upon request of the chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

''(8) SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $4,000,000 to carry out this section. The amount appropriated under this subsection shall not be deducted from or affect any other appropriation for health care for Indian persons.

''SEC. 815. APPROPRIATIONS; AVAILABILITY.

''Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

''SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2015 to carry out this title.''.

TITLE II—CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

Subtitle A—Medicare

SEC. 201. LIMITATIONS ON CHARGES.

Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subparagraph (R), by striking ''and'' at the end;

(2) in subparagraph (S), by striking the period and inserting '', and''; and

(3) by adding at the end the following:

''(T) in the case of hospitals and critical access hospitals which provide inpatient hospital services for which payment may be made under this title, to accept as payment in full for services that are covered under and furnished to an individual eligible for the contract health services program operated by the Indian Health Service, by an Indian tribe or tribal organization, or furnished to an urban Indian eligible for health services purchased by an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), in accordance with such admission practices and such payment methodology and amounts as are prescribed under regulations issued by the Secretary.''.

SEC. 202. QUALIFIED INDIAN HEALTH PROGRAM.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1880 the following:

''QUALIFIED INDIAN HEALTH PROGRAM

''SEC. 1880A. (a) DEFINITION OF QUALIFIED INDIAN HEALTH PROGRAM.—In this section:

''(1) IN GENERAL.—The term 'qualified Indian health program' means a health program operated by—

''(A) the Indian Health Service;

''(B) an Indian tribe or tribal organization or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act) and which is funded in whole or part by the Indian Health Service under the Indian Self Determination and Education Assistance Act; or

''(C) an urban Indian organization (as so defined) and which is funded in whole or in part under title V of the Indian Health Care Improvement Act.

''(2) INCLUDED PROGRAMS AND ENTITIES.—Such term may include 1 or more hospital, nursing home, home health program, clinic, ambulance service or other health program that provides a service for which payments may be made under this title and which is covered in the cost report submitted under this title or title XIX for the qualified Indian health program.

''(b) ELIGIBILITY FOR PAYMENTS.—A qualified Indian health program shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as the program meets all the conditions and requirements set forth in this section.

''(c) DETERMINATION OF PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision in the law, a qualified Indian health program shall be entitled to receive payment based on an all-inclusive rate which shall be calculated to provide full cost recovery for the cost of furnishing services provided under this section.

''(2) DEFINITION OF FULL COST RECOVERY.—

''(A) IN GENERAL.—Subject to subparagraph (B), in this section, the term 'full cost recovery' means the sum of—

''(i) the direct costs, which are reasonable, adequate and related to the cost of furnishing such services, taking into account the unique nature, location, and service population of the qualified Indian health program, and which shall include direct program, administrative, and overhead costs, without regard to the customary or other charge or any fee schedule that would otherwise be applicable; and

''(ii) indirect costs which, in the case of a qualified Indian health program—

''(I) for which an indirect cost rate (as that term is defined in section 4(g) of the Indian Self-Determination and Education Assistance Act) has been established, shall be not less than an amount determined on the basis of the indirect cost rate; or

''(II) for which no such rate has been established, shall be not less than the administrative costs specifically associated with the delivery of the services being provided.

''(B) LIMITATION.—Notwithstanding any other provision of law, the amount determined to be payable as full cost recovery may not be reduced for co-insurance, co-payments, or deductibles when the service was provided to an Indian entitled under Federal law to receive the service from the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization or because of any limitations on payment provided for in any managed care plan.

''(3) OUTSTATIONING COSTS.—In addition to full cost recovery, a qualified Indian health program shall be entitled to reasonable outstationing costs, which shall include all administrative costs associated with outreach and acceptance of eligibility applications for any Federal or State health program including the programs established under this title, title XIX, and XXI.

''(4) DETERMINATION OF ALL-INCLUSIVE ENCOUNTER OR PER DIEM AMOUNT.—

''(A) IN GENERAL.—Costs identified for services addressed in a cost report submitted by a qualified Indian health program shall be used to determine an all-inclusive encounter or per diem payment amount for such services.

''(B) NO SINGLE REPORT REQUIREMENT.—Not all qualified Indian health programs provided or administered by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization need be combined into a single cost report.

''(C) PAYMENT FOR ITEMS NOT COVERED BY A COST REPORT.—A full cost recovery payment for services not covered by a cost report shall be made on a fee-for-service, encounter, or per diem basis.

''(5) OPTIONAL DETERMINATION.—The full cost recovery rate provided for in paragraphs (1) through (3) may be determined, at the election of the qualified Indian health program, by the Health Care Financing Administration or by the State agency responsible for administering the State plan under title XIX and shall be valid for reimbursements made under this title, title XIX, and title XXI. The costs described in paragraph (2)(A) shall be calculated under whatever methodology yields the greatest aggregate payment for the cost reporting period, provided that such methodology shall be adjusted to include adjustments to such payment to take into account for those qualified Indian health programs that include hospitals—

''(A) a significant decrease in discharges;

''(B) costs for graduate medical education programs;

''(C) additional payment as a disproportionate share hospital with a payment adjustment factor of 10; and

''(D) payment for outlier cases.

''(6) ELECTION OF PAYMENT.—A qualified Indian health program may elect to receive payment for services provided under this section—

''(A) on the full cost recovery basis provided in paragraphs (1) through (5);

''(B) on the basis of the inpatient or outpatient encounter rates established for Indian Health Service facilities and published annually in the Federal Register;

''(C) on the same basis as other providers are reimbursed under this title, provided that the amounts determined under paragraph (c)(2)(B) shall be added to any such amount;

''(D) on the basis of any other rate or methodology applicable to the Indian Health Service or an Indian Tribe or tribal organization; or

''(E) on the basis of any rate or methodology negotiated with the agency responsible for making payment.

''(d) ELECTION OF REIMBURSEMENT FOR OTHER SERVICES.—

''(1) IN GENERAL.—A qualified Indian health program may elect to be reimbursed for any service the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization may be reimbursed for under section 1880 and section 1911.

''(2) OPTION TO INCLUDE ADDITIONAL SERVICES.—An election under paragraph (1) may

include, at the election of the qualified Indian health program—

''(A) any service when furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service to the same extent that such service would be reimbursable if performed by a physician and any service or supplies furnished as incident to a physician's service as would otherwise be covered if furnished by a physician or as an incident to a physician's service;

''(B) screening, diagnostic, and therapeutic outpatient services including part-time or intermittent screening, diagnostic, and therapeutic skilled nursing care and related medical supplies (other than drugs and biologicals), furnished by an employee of the qualified Indian health program who is licensed or certified to perform such a service for an individual in the individual's home or in a community health setting under a written plan of treatment established and periodically reviewed by a physician, when furnished to an individual as an outpatient of a qualified Indian health program;

''(C) preventive primary health services as described under section 330 of the Public Health Service Act, when provided by an employee of the qualified Indian health program who is licensed or certified to perform such a service, regardless of the location in which the service is provided;

''(D) with respect to services for children, all services specified as part of the State plan under title XIX, the State child health plan under title XXI, and early and periodic screening, diagnostic, and treatment services as described in section 1905(r);

''(E) influenza and pneumococcal immunizations;

''(F) other immunizations for prevention of communicable diseases when targeted; and

''(G) the cost of transportation for providers or patients necessary to facilitate access for patients.''.

Subtitle B—Medicaid

SEC. 211. STATE CONSULTATION WITH INDIAN HEALTH PROGRAMS.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (64), by striking ''and'' at the end:

(2) in paragraph (65), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (65), the following:

''(66) if the Indian Health Service operates or funds health programs in the State or if there are Indian tribes or tribal organizations or urban Indian organizations (as those terms are defined in Section 4 of the Indian Health Care Improvement Act) present in the State, provide for meaningful consultation with such entities prior to the submission of, and as a precondition of approval of, any proposed amendment, waiver, demonstration project, or other request that would have the effect of changing any aspect of the State's administration of the State plan under this title, so long as—

''(A) the term 'meaningful consultation' is defined through the negotiated rulemaking process provided for under section 802 of the Indian Health Care Improvement Act; and

''(B) such consultation is carried out in collaboration with the Indian Medicaid Advisory Committee established under section 415(a)(3) of that Act.''.

SEC. 212. FMAP FOR SERVICES PROVIDED BY INDIAN HEALTH PROGRAMS.

The third sentence of Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended to read as follows:

''Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per cent with respect to amounts expended as medical assistance for services which are received through the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as defined in section 4 of the Indian Health Care Improvement Act) under section 1911, whether directly, by referral, or under contracts or other arrangements between the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization and another health provider.''.

SEC. 213. INDIAN HEALTH SERVICE PROGRAMS.

Section 1911 of the Social Security Act (42 U.S.C. 1396j) is amended to read as follows:

''INDIAN HEALTH SERVICE PROGRAMS

''SEC. 1911. (a) IN GENERAL.—The Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan by such entities if and for so long as the Service, Indian tribe or tribal organization, or urban Indian organization provides services or provider types of a type otherwise covered under the State plan and meets the conditions and requirements which are applicable generally to the service for which it seeks reimbursement under this title and for services provided by a qualified Indian health program under section 1880A.

''(b) PERIOD FOR BILLING.—Notwithstanding subsection (a), if the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization which provides services of a type otherwise covered under the State plan does not meet all of the conditions and requirements of this title which are applicable generally to such services submits to the Secretary within 6 months after the date on which such reimbursement is first sought an acceptable plan for achieving compliance with such conditions and requirements, the Service, an Indian tribe or tribal organization, or urban Indian organization shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of actual compliance with such conditions and requirements during the first 12 months after the month in which such plan is submitted.

''(c) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided by the Indian Health Service, Indian tribes or tribal organizations, or urban Indian organizations, directly, through referral, or under contracts or other arrangements between the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization and another health care provider to Indians who are eligible for medical assistance under the State plan.''.

Subtitle C—State Children's Health Insurance Program

SEC. 221. ENHANCED FMAP FOR STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

(a) IN GENERAL.—Section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)) is amended—

(1) by striking ''For purposes'' and inserting the following:

''(1) IN GENERAL.—Subject to paragraph (2), for purposes''; and

(2) by adding at the end the following:

''(2) SERVICES PROVIDED BY INDIAN PROGRAMS.—Without regard to which option a State chooses under section 2101(a), the 'enhanced FMAP' for a State for a fiscal year shall be 100 per cent with respect to expenditures for child health assistance for services provided through a health program operated by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act).''.

(b) CONFORMING AMENDMENT.—Section 2105(c)(6)(B) of such Act (42 U.S.C. 1397ee(c)(6)(B)) is amended by inserting ''an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act),'' after ''Service,''.

SEC. 222. DIRECT FUNDING OF STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

Title XXI of Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. DIRECT FUNDING OF INDIAN HEALTH PROGRAMS.

''(a) IN GENERAL.—The Secretary may enter into agreements directly with the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act) for such entities to provide child health assistance to Indians who reside in a service area on or near an Indian reservation. Such agreements may provide for funding under a block grant or such other mechanism as is agreed upon by the Secretary and the Indian Health Service, Indian tribe or tribal organization, or urban Indian organization. Such agreements may not be made contingent on the approval of the State in which the Indians to be served reside.

''(b) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, a State may transfer funds to which it is, or would otherwise be, entitled to under this title to the Indian Health Service, an Indian tribe or tribal organization or an urban Indian organization—

''(1) to be administered by such entity to achieve the purposes and objectives of this title under an agreement between the State and the entity; or

''(2) under an agreement entered into under subsection (a) between the entity and the Secretary.''.

Subtitle D—Authorization of Appropriations

SEC. 231. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 through 2015 to carry out this title and the amendments by this title.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REPEALS.

The following are repealed:

(1) Section 506 of Public Law 101–630 (25 U.S.C. 1653 note) is repealed.

(2) Section 712 of the Indian Health Care Amendments of 1988 is repealed.

SEC. 302. SEVERABILITY PROVISIONS.

If any provision of this Act, any amendment made by the Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SEC. 303. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on October 1, 2003.

By Ms. COLLINS (for herself, Mr. GRASSLEY, Mr. BINGAMAN, Mr. COCHRAN, Mr. DASCHLE, Mr. SARBANES, and Mr. SMITH):

S. 557. A bill to amend the Internal Revenue Code of 1986 to exclude from

gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise to introduce the Civil Rights Tax Relief Act of 2003, a bill designed to promote the fair and equitable settlement of civil rights claims. I am very pleased to be joined today by Senators GRASSLEY, DASCHLE, BINGAMAN, COCHRAN, and SARBANES.

The primary purpose of this bill is to remedy an unintended consequence of the Small Business Job Protection Act of 1996, which made damage awards that are not based on ''physical injuries or physical sickness'' part of a plaintiff's taxable income. Because most acts of employment discrimination and civil rights violations do not cause physical injuries, this provision has had a direct and negative impact on plaintiffs who successfully prove that they have been subjected to intentional employment discrimination or other intentional violations of their civil rights.

The problem is compounded by the fact that plaintiffs are now taxed on the entirety of their settlements or damage awards in civil rights cases, despite the fact that a portion of a settlement or award must be paid to the plaintiff's attorney, who in turn is taxed on the same funds. This double taxation of attorneys' fees awards penalizes Americans who win their civil rights cases.

I would like to share one example of how individuals can be harmed by the current taxation scheme, and even discouraged from challenging workplace discrimination. The example was brought to my attention by David Webbert, an attorney who practices in Augusta, ME—my State's capital. In one of his cases, David represented a person who successfully challenged a business' policy of discriminating against persons with a particular type of disability. As a result of the case, the discriminatory policy was declared illegal and was ended. Although the plaintiff did not receive any monetary damages in the case, the law did provide for payment of attorney's fees, which were paid by the defendant's insurance company. Because of the current law's double taxation of attorney's fees, they were taxable to the plaintiff in this case, despite the fact that they were also taxable to the attorney. In short, plaintiffs in civil rights cases like this could have to pay taxes even though they receive no monetary award. Or, in other words, under current law, a plaintiff can actually be penalized financially for bringing a meritorious case against a company's discriminatory policies.

Our bill would eliminate the unfair taxation of civil rights victims' settlements and court awards—taxation that adds insult to a civil rights victim's injury and serves as a barrier to the just settlement of civil rights claims.

Our bill would change the taxation of awards received by individuals that result from judgments in or settlements of employment discrimination cases. First, the bill excludes from gross income amounts awarded other than for punitive damages and compensation attributable to services that were to be performed, known as ''backpay,'' or that would have been performed but for a claimed violation of law by the employer, known as ''frontpay.'' Second, award amounts for frontpay or backpay would be included in income, but would be eligible for income averaging according to the time period covered by the award. This correction would allow individuals to pay taxes at the same marginal rates that would have applied to them had they not suffered discrimination. Third, the bill would change the tax code so that people who bring civil rights cases are not taxed on the portion of any award paid as fees to their attorney. This provision would eliminate the double-taxation of such fees, which would still be taxable income to the attorney.

The Civil Rights Tax Relief Act would encourage the fair settlement of costly and protracted litigation of employment discrimination claims. Our legislation would allow both plaintiffs and defendants to settle claims based on the damages suffered, not on the excessive taxes that are now levied.

Our bill has been endorsed by the U.S. Chamber of Commerce, AARP, the National Employment Lawyers Association, the No FEAR Coalition, the Religious Action Committee for Reform Judaism, the Society for Human Resource Management, and others. This bill is a ''win-win'' for civil rights plaintiffs and defendant businesses. I invite my colleagues to join in support of this common sense legislation.

By Mr. MCCAIN (for himself, Mr. BINGAMAN, Mr. CAMPBELL, Mrs. MURRAY, Mr. JOHNSON, and Mr. DOMENICI):

S. 558. A bill to elevate the position Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, I rise to introduce legislation to designate the Director of the Indian Health Service as an Assistant Secretary for Indian Health within the Department of Health and Human Services. I'm pleased that my colleagues, Senators BINGAMAN, CAMPBELL, MURRAY, JOHNSON, and DOMENICI are joining me in this effort as original co-sponsors.

The purpose of this legislation is simple. It will redesignate the current Director of the Indian Health Service, IHS, as a new Assistant Secretary within the Department of Health and Human Services to be responsible for Indian health policy and budgetary matters.

The Indian Health Service is the primary health care delivery system and principal advocate for Indian health care needs, both on the reservation level and for urban populations. More than 1.6 million Indian people are served every year by the IHS, yet the agency has not had the necessary resources to fully meet tribal health care needs. The IHS will continue to be challenged by a growing Indian population as well as an increasing disparity between the health status of Indian people as compared to other Americans. Thousands of Indian people continue to suffer from the worst imaginable health care conditions in Indian country—from diabetes to cancer to infant mortality. In nearly every category, the health status of Native Americans falls far below the national standard.

The purpose of this bill is to respond to the desire by Indian people for a stronger leadership and policy role within the primary health care agency, the Department of Health and Human Services. The Assistant Secretary for Indian Health will ensure that critical policy and budgetary decisions will be made with the full involvement and consultation of not only the Indian Health Service, but also the direct involvement of tribal governments.

This legislation is long overdue in bringing focus and national attention to the health care status of Indian people and fulfilling the Federal trust responsibility toward Indian tribes. Implementation of this bill is intended to support the long-standing policies of Indian self-determination and tribal self-governance and assist Indian tribes who are making positive strides in providing direct health care to their own communities.

Tribal communities are in dire need of a senior policy official who is knowledgeable about the programs administered by the IHS and who can provide the leadership for the health care needs of American Indians and Alaska Natives. We continue to pursue passage of this legislation as many believe that the priority of Indian health issues within the Department should be raised to the highest levels within our federal government.

I look forward to working with my colleagues on both sides of the aisle and the Administration to ensure prompt passage of this legislation. 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. 558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH.

(a) DEFINITIONS.—In this section:

(1) ASSISTANT SECRETARY.—The term ''Assistant Secretary'' means the Assistant Secretary for Indian Health appointed under subsection (b)(2)(A).

(2) DEPARTMENT.—The term ''Department'' means the Department of Health and Human Services.

(3) OFFICE.—The term ''Office'' means the Office of the Assistant Secretary for Indian Health established by subsection (b)(1).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department the Office of the Assistant Secretary for Indian Health.

(2) ASSISTANT SECRETARY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Office shall be headed by an Assistant Secretary for Indian Health, to be appointed by the President, by and with the advice and consent of the Senate.

(B) CONTINUED SERVICE BY INCUMBENT.—The individual serving in the position of Director of the Indian Health Service on the day before the date of enactment of this Act may serve as Assistant Secretary at the pleasure of the President after the date of enactment of this Act.

(3) DUTIES.—The position of Assistant Secretary is established to, in a manner consistent with the government-to-government relationship between the United States and Indian tribes—

(A) facilitate advocacy for the development of appropriate Indian health policy; and

(B) promote consultation on matters relating to Indian health.

(c) ASSISTANT SECRETARY FOR INDIAN HEALTH.—In addition to the functions performed as of the date of enactment of this Act by the Director of the Indian Health Service, the Assistant Secretary shall—

(1) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

(2) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(3) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(4) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

(5) coordinate the activities of the Department concerning matters of Indian health; and

(6) perform such other functions as the Secretary may designate.

(d) RATE OF PAY.—

(1) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Health and Human Services (6).'' and inserting ''Assistant Secretaries of Health and Human Services (7).''.

(2) POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended by striking ''Director, Indian Health Service, Department of Health and Human Services.''.

(e) DUTIES OF ASSISTANT SECRETARY FOR INDIAN HEALTH.—Section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1661) is amended by striking the section heading and all that follows through subsection (a) and inserting the following:

''SEC. 601. ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service.

''(2) ADMINISTRATION.—The Indian Health Service shall be administered by the Assistant Secretary for Indian Health.

''(3) DUTIES.—In carrying out paragraph (2), the Assistant Secretary shall—

''(A) report directly to the Secretary concerning all policy- and budget-related matters affecting Indian health;

''(B) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

''(C) advise each Assistant Secretary of the Department of Health and Human Services concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

''(D) advise the heads of other agencies and programs of the Department of Health and Human Services concerning matters of Indian health with respect to which those heads have authority and responsibility;

''(E) coordinate the activities of the Department of Health and Human Services concerning matters of Indian health; and

''(F) perform such other functions as the Secretary may designate.''.

(f) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.—The Indian Health Care Improvement Act is amended—

(A) in section 601 (25 U.S.C. 1661)—

(i) in subsection (c), by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''; and

(ii) in subsection (d)(1), by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''; and

(B) in section 816(c)(1) (25 U.S.C. 1680f(c)(1)), by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(2) AMENDMENTS TO OTHER PROVISIONS OF LAW.—

(A) Section 3307(b)(1)(C) of the Children's Health Act of 2000 (25 U.S.C. 1671 note; Public Law 106–310) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(B) The Indian Lands Open Dump Cleanup Act of 1994 is amended—

(i) in section 3 (25 U.S.C. 3902)—

(I) by striking paragraph (2);

(II) by redesignating paragraphs (1), (3), (4), (5), and (6) as paragraphs (4), (5), (2), (6), and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(III) by inserting before paragraph (4) (as redesignated by subclause (II)) the following:

''(3) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary for Indian Health.'';

(ii) in section 5 (25 U.S.C. 3904), by striking the section heading and inserting the following:

''SEC. 5. AUTHORITY OF ASSISTANT SECRETARY FOR INDIAN HEALTH.'';

(iii) in section 6(a) (25 U.S.C. 3905(a)), in the subsection heading, by striking ''DIRECTOR'' and inserting ''ASSISTANT SECRETARY'';

(iv) in section 9(a) (25 U.S.C. 3908(a)), in the subsection heading, by striking ''DIRECTOR'' and inserting ''ASSISTANT SECRETARY''; and

(v) by striking ''Director'' each place it appears and inserting ''Assistant Secretary''.

(C) Section 5504(d)(2) of the Augustus F. Hawkins–Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note; Public Law 100–297) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(D) Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 763(a)(1)) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(E) Subsections (b) and (e) of section 518 of the Federal Water Pollution Control Act (33 U.S.C. 1377) are amended by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''.

(F) Section 317M(b) of the Public Health Service Act (42 U.S.C. 247b–14(b)) is amended—

(i) by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''; and

(ii) in paragraph (2)(A), by striking ''the Directors referred to in such paragraph'' and inserting ''the Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Indian Health''.

(G) Section 417C(b) of the Public Health Service Act (42 U.S.C. 285–9(b)) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(H) Section 1452(i) of the Safe Drinking Water Act (42 U.S.C. 300j–12(i)) is amended by striking ''Director of the Indian Health Service'' each place it appears and inserting ''Assistant Secretary for Indian Health''.

(I) Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(d)(1)) is amended in the last sentence by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(J) Section 203(b) of the Michigan Indian Land Claims Settlement Act (Public Law 105–143; 111 Stat. 2666) is amended by striking ''Director of the Indian Health Service'' and inserting ''Assistant Secretary for Indian Health''.

(g) REFERENCES.—Any reference to the Director of the Indian Health Service in any other Federal law, Executive order, rule, regulation, or delegation of authority, or in any document of or relating to the Director of the Indian Health Service, shall be deemed to refer to the Assistant Secretary.

By Mr. CAMPBELL:

S. 559. A bill to amend title 49, United States Code, to permit an individual to operate a commercial motor vehicle solely within the borders of a State if the individual meets certain minimum standards prescribed by the State, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. CAMPBELL. Mr. President, today I am introducing the Commercial Driver's License Devolution Act of 2003. This bill is identical to that which I introduced in the 107th Congress as a companion bill to language originally brought to the floor of the House of Representatives by my friend from North Carolina, Representative HOWARD COBLE.

I believe it is no secret to my colleagues here in the Senate, that I support small business and returning power to the States. The traditional, one-size-fits-all approach to governing has done more harm than good, and this bill is an attempt to remedy some of that.

This legislation will give States the option to establish their own commercial driver's license, CDL, requirements for intrastate drivers. It will return power to the States by giving them the option to license intrastate drivers of commercial motor vehicles based upon testing standards determined by the individual States. And I stress, it will be an ''option.''

I want to emphasize that this legislation is not a Federal mandate imposed on States. States that choose not to participate would remain under Federal guidelines. A State that chooses to exercise this option would in no way diminish the role of the CDL in the long-haul trucking industry. Additionally, this legislation effectively precludes two or more States from using this option as the basis for an interstate compact.

As I am sure my colleagues are aware, the Commercial Motor Vehicle Safety Act of 1986, CMVSA, required States to establish a new and uniform program of testing and licensure for all operators of commercial vehicles both intra and interstate. The principal objectives of the Act have been met, and would not be harmed by this legislation I'm introducing here today.

I have no issue with the CMVSA. It is a good law, and at the time the provisions it contained were necessary and timely for improving the standards of performance for long-haul truck drivers in this country. However, I, like my counterpart in the House, believe the CMVSA was imposed upon intrastate commerce where the operation of trucks may be a small but necessary part of an individual's job. Therefore, the reality was that Washington imposed its will on thousands of small businesses across this country who aren't involved in long-haul trucking and we expected them to adjust to any circumstance that might arise. That's unfair and not what government is supposed to be about.

When you have conditions such as these, I believe it should be within a State's discretion to determine what kind of commercial vehicle licensure and testing is required for commerce taking place solely within its borders.

This legislation is important to our nation's small businesses, especially those dependent upon commercial truck travel, which means it's important to the consumers. I urge my colleagues in the Senate to support it.

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. 559

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 ''Commercial Driver's License Devolution Act of 2003''.

SEC. 2. INTRASTATE OPERATION OF COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Paragraph (1) of section 31305(b) of title 49, United States Code, is amended—

(1) by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following:

''(3) An individual may operate a commercial motor vehicle solely within the borders of a State if the individual—

''(A) meets the minimum standards prescribed under the laws of that State for ensuring the fitness of an individual to operate a commercial motor vehicle; and

''(B) has passed written and driving tests to operate a commercial motor vehicle that meet the minimum standards prescribed under the laws of that State.''.

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) of such title is amended—

(1) in paragraph (1)—

(A) by striking ''with'' and inserting ''with either''; and

(B) by striking ''under section 31305(a)'' and inserting ''or by the State under section 31305''; and

(2) in paragraph (2), by striking ''the minimum standards'' and inserting ''either the minimum standards prescribed by the Secretary of Transportation or by the State under section 31305 of this title''.

By Mr. CRAIG (for himself, Mr. DAYTON, Mr. COLEMAN, Mr. LEAHY, Mr. BOND, Mr. BINGAMAN, Ms. SNOWE, Mrs. LINCOLN, Mr. SHELBY, Mr. JEFFORDS, Mr. DOMENICI, Mr. LEVIN, Ms. COLLINS, Mr. JOHNSON, Mr. SPECTER, Mr. FEINGOLD, and Mr. KOHL):

S. 560. A bill to impose tariff-rate quotas on certain casein and milk protein concentrates; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, I am pleased today to show my support for the Milk Import Tariff Equity Act of 2003 by being an original cosponsor of Senator CRAIG'S bill. This legislation will prevent foreign dairy products from continuing to circumvent U.S. trade laws.

Currently, milk protein concentrate, MPC, is not subject to the same quotas required of other dairy products. Foreign dairy producers have begun exploiting this loophole by blending previously processed dairy proteins with nonfat dry milk to boost its protein content so that it qualifies as milk protein concentrate. This allows the milk protein concentrate to circumvent any laws that would subject the imports to tariff rate quotas.

The result has been a flood of foreign dairy blends being imported in the U.S. market, displacing sales of domestic dairy products and lowering prices for American dairy farmers.

As milk prices are at historic lows, down about 38 percent from prices last year, this flood of foreign dairy products has put a strain on many of the dairy farmers in my State of Wisconsin.

Since many of the blended products imported into this country are heavily subsidized, American farmers are forced to compete on an unfair playing field. This loophole in our tariff schedule allows certain heavily subsidized foreign dairy products nearly unfettered access to our dairy markets, hurting the American dairy farmers.

As I travel across Wisconsin, I have heard from any dairy farmers who are struggling to stay in business. Many of these farmers are concerned about the flood of unfair imports that are hurting our American dairy markets.

In March of 2001, the General Accounting Office, GAO, released a report that highlighted the increase of milk protein concentrates coming into this country under outdated trade laws. The report pointed to a loophole in our trade laws that has resulted in increased imports of blended dairy proteins. The importing of blended dairy proteins is being done solely for the purpose of avoiding the U.S. tariff rate quota for nonfat dry milk.

The GAO study determined that MPC imports surged by more than 600 percent in the six years before the report was released. MPC imports lower prices for U.S. dairy farmers by displacing sales of domestic dairy products.

Since I have received the results from the General Accounting Office study that reported this loophole in U.S. trade laws, I have participated in a bipartisan effort to amend this loophole, so that we may protect our dairy farmers from unfair trade practices and help them in the struggle to farm on such an unfair playing field.

This bill would close this loophole by regulating milk protein concentrate imports in the same manner all other dairy import products are regulated. It would correct a loophole that exists in U.S. trade law that is contributing to such low dairy prices experienced in my state of Wisconsin and across the Nation.

This loophole depresses the price of milk for farmers, costs U.S. taxpayers money, and gives foreign dairy producers an unfair advantage over our own dairy farmers. It is time for this Congress to stand behind our farmers and that is why I support the Milk Import Tariff Equity Act of 2003.

Mr. LEAHY. Mr. President, I am pleased to join my colleagues Senator MARK DAYTON and Senator LARRY CRAIG in introducing the bipartisan Milk Import Tariff Equity Act. Our bill will prevent importers of dairy products from circumventing U.S. trade laws.

Although I opposed it at the time, during the Uruguay Round multilateral trade negotiations, the United States agreed to allow a substantial increase in dairy product imports into this country. Tariff rate quotas were established to allow imports of most dairy products to rise from an average of 2 percent of domestic consumption to as much as five percent. At least initially, these controls appeared to be effective. But foreign competitors have found ways to circumvent these quotas by adjusting the protein content of nonfat dry milk so that it is classified

by the U.S. Customs Service as milk protein concentrate, MPC. While nonfat dry milk imports are strictly regulated, there are no quotas on MPCs and duties are low.

A recent GAO study requested by Congress determined that MPC imports surged by more than 600 percent over a six year period. MPC imports lower prices for U.S. dairy farmers by displacing sales of nonfat dry milk. According to the GAO study, some exporters are blending previously processed dairy proteins, such as casein, whey and nonfat dry milk into MPC solely for the purpose of avoiding the U.S. tariff rate quota for nonfat dry milk. This practice, specifically cited in the GAO report, circumvents statutory U.S. trade provisions designed to regulate imports of nonfat dry milk powder.

It is time to close this loophole. Under our bill, MPCs would be regulated in the same manner as all other dairy products: by imposing tariff-rate quotas on MPC imports. This legislation also closes a similar loophole that exists for casein used in the production of food or feed, while continuing to allow unrestricted access for imports of casein used in the manufacture of glues and for other industrial purposes.

Most Americans probably don't realize it, because retail fluid milk prices have hardly changed, but dairy farmers in Vermont and across this Nation are really struggling. Farm-gate milk prices have fallen more than 30 percent over the past 18 months and are now at the lowest levels in 25 years. Even the most efficient producers are unable to make a profit at these prices. Prices are low in part due to these imports. Others will argue that MPC imports represent just a small fraction of U.S. milk production. But when you are dealing with a perishable commodity like milk, even a slight increase in supply can have a dramatic effect on prices.

Closing the MPC loophole is one of the most important steps we can take to help our nation's dairy farmers. I commend Senators DAYTON and CRAIG for their leadership on this issue, and I urge my colleagues to join me in cosponsoring this important legislation.

By Mr. CRAPO (for himself, Mr. ENZI, Mr. CRAIG, Mr. DOMENICI, Mr. BURNS, and Mr. SMITH):

S. 561. A bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes; to the Committee on the Judiciary.

Mr. CRAPO. Mr. President, I rise to introduce the State Water Sovereignty Protection Act, a bill to preserve the authority of the States over waters within their boundaries, to delegate the authority of the Congress to the States to regulate water, and for other purposes.

Since 1866, Congress has recognized and deferred to the States the authority to allocate and administer water within their borders. The Supreme Court has confirmed that this is an appropriate role for the States. Additionally, in 1952, the Congress passed the McCarran amendment which provides for the adjudication of State and Federal Water claims in State water courts.

However, despite both judicial and legislative edicts, I am deeply concerned that the administration, Federal agencies, and some in the Congress are setting the stage for ignoring long established statutory provisions concerning State water rights and State water contracts. The Endangered Species Act, the Clean Water Act, the Federal Land Policy Management Act, and wilderness designations have all been vehicles used to erode State sovereignty over its water.

It is imperative that States maintain sovereignty over management and control of their water and river systems. All rights to water or reservations of rights for any purposes in States should be subject to the substantive and procedural laws of that State, not the Federal Government. To protect State water rights, I am introducing the State Water Sovereignty Protection Act.

The State Water Sovereignty Protection Act provides that whenever the United States seeks to appropriate water or acquire a water right, it will be subject to State procedural and substantive water law. The Act further holds that States control the water within their boundaries and that the Federal Government may exercise management or control over water only in compliance with State law. Finally, in any administrative or judicial proceeding in which the United States participates pursuant to the McCarran Amendment, the United States is subject to all costs and fees to the same extent as costs and fees may be imposed on a private party.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. INHOFE, and Mr. SMITH):

S. 562. A bill to amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes; to the Committee on the Judiciary.

Ms. MURKOWSKI. Mr. President, earlier this week, the Senate, in a 94–0 vote, went on record expressing its unanimous opposition to last week's decision by the Ninth Circuit Court of Appeals refusing to review a three-judge panel ruling that bars children in public schools from voluntarily reciting the Pledge of Allegiance.

The Pledge decision rendered by the court is not an aberration. It is symptomatic of a court that has become dysfunctional and out-of-touch with American jurisprudence, common sense, and constitutional values. Unfortunately, citizens in the states that are within the Ninth Circuit's jurisdiction have had to contend with the court's idiosyncratic jurisprudence for decades.

One should not be surprised that the full Ninth Circuit refused to reconsider this ill-conceived decision. The recent history of the court suggests a judicial activism that is close to the fringe of legal reasoning. And it is for that reason that the Ninth Circuit has, by far, the highest reversal rate in the country. During the 1990s, almost 90 percent of cases from the Ninth Circuit reviewed by the Supreme Court were reversed. In 1997, a startling 27 of the 28 cases brought before the Supreme Court were reversed—two-thirds by a unanimous vote.

Over the last three years, one-third of all cases reversed by the Supreme Court came from the 9th Circuit. That's three times the number of reversals for the next nearest circuit. And 33 times higher than the reversal rate for the 10th Circuit

Last November, on a single day, the Supreme Court summarily and unanimously reversed three Ninth Circuit decisions. In one of those three cases, the Supreme Court ruled that the circuit had overreached its authority and stated that the Court ''exceed[ed] the limits imposed on federal habeas review substitut[ing] its own judgment for that of the state court.''

One of the reasons the Ninth Circuit is reversed so often is because the circuit has become too large and unwieldy. The Circuit serves a population of more than 54 million people, almost 60 percent more than are served by the next largest circuit. By 2010, the Census Bureau estimates that the Ninth Circuit's population will be more than 63 million.

According to the Administrative Office of the U.S. Courts, the Ninth Circuit alone accounts for more than 60 percent of all appeals pending for more than a year. And with its huge caseload, the judges on the Court just do not have the opportunity to keep up with decisions within the circuit, let alone decisions from other circuits

Another problem unique to the Ninth Circuit is that it never speaks with one voice. All other circuits sit as one entity to hear full-court, en banc, cases. The Ninth Circuit sits in panels of 11. Clearly, such a procedure injects unnecessary randomness into decisions. If an en banc case is decided 6 to 5, there is no reason to think it represents the views of the majority of the court's 24 active members.

In fact, some commentators believe a majority of the 24 members of the court may have disagreed with the Pledge decision, but were concerned that a random pick of 11 members of the Court to hear the case, en banc, might have resulted in the decision being affirmed.

It is inconceivable to me that a circuit court could render a decision based on its concern about the potential makeup of an en banc panel. What

kind of jurisprudence is that? Citizens in no other circuit face that type of coin-flip justice. That is fundamentally unfair to every single one of the 54 million people who live within the jurisdiction of the Ninth Circuit and is reason alone to restructure the circuit.

It is time that Congress finally faces the fact that the Ninth Circuit is no longer a viable and functioning circuit. It is for that reason that I am today introducing the Ninth Circuit Court of Appeals Reorganization Act of 2003. I am pleased to be joined in this effort by Senators, STEVENS, BURNS, CRAIG, CRAPO, INHOFE, and SMITH.

The bill we are introducing today would divide the Ninth Circuit into two independent circuits. The restructured Ninth Circuit would contain California, and Nevada. A new Twelfth Circuit would be composed of Alaska, Hawaii, Arizona, Idaho, Montana, Oregon, Washington, Guam, and the Northern Mariana Islands.

Earlier I indicated a number of reasons why I believe the Circuit needs to be reorganized. Let us not forget the scope of this circuit and the 54 million people who live within it. The Ninth Circuit extends from the Arctic Circle to the Mexican border, spans the tropics of Hawaii and across the International Dateline to Guam and the Mariana Islands. Encompassing some 14 million square miles, the Ninth Circuit, by any means of measure, is the largest of all U.S. Circuit Courts of Appeal. It is larger than the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eleventh Circuits combined!

Moreover, because of the sheer magnitude of cases brought before the Court, citizens within the court's jurisdiction face unprecedented delays in getting their cases heard. Whereas the national average time to get a final disposition of an appellate case is nearly 11 months, an appeal in the Ninth Circuit takes nearly 50 percent longer—almost one year and four months.

This is not the first time that Congress has recognized that the Ninth Circuit needs restructuring. Numerous proposals to divide the Ninth Circuit were debated in Congress even before World War II.

In 1973, the Congressional Commission on the Revision of the Federal Court of Appellate System Commission, commonly known as the Hruska Commission, recommended that the Ninth Circuit be divided. Also that year, the American Bar Association adopted a resolution in support of dividing the Ninth Circuit.

In 1995, a bill was reported from the Senate Judiciary Committee in which Chairman ORRIN HATCH of Utah declared in his Committee's report that the time for a split had arrived: ''The legislative history, in conjunction with available statistics and research concerning the Ninth Circuit, provides an ample record for an informed decision at this point as to whether to divide the Ninth Circuit . . . Upon careful consideration the time has indeed come.''

In 1997, Congress commissioned a report on structural alternatives for the Federal courts of appeals. The Commission, chaired by former Supreme Court Justice Byron R. White, found numerous faults within the Ninth Circuit and recommended major reforms and a fundamental reorganization of the Circuit.

On the day my legislation is enacted into law, the concerns of the White Commission will be addressed. A more cohesive, efficient, and predictable judiciary will emerge.

Many who oppose legislation to reorganize the Ninth Circuit, contend that all the Circuit needs is the appropriation of more Federal dollars for more Federal judges. However, I do not believe more money will solve the inherent problems that exist in a circuit of such magnitude. As former Senator and Alabama Supreme Court Chief Justice, Howell Heflin, a Democrat from Alabama, remarked after Congress divided the former Fifth Circuit: ''congress recognized that a point is reached where the addition of judges decreases the effectiveness of the court, complicates the administration of uniform law, and potentially diminishes the quality of justice within a Circuit.'' in the case of the Ninth Circuit, there can be little doubt that we are at that point in time that former Senator Heflin cited.

Former Oregon Senator Bob Packwood believed that a Ninth Circuit split would enable judges to achieve a greater mastery of applicable, but unique, State law and State issues. He believed such mastery was necessary because ''burgeoning conflicts in the area of natural resources and the continuing expansion of international trade efforts will all expand the demand for judicial excellence . . . By reforming our courts now, they will be better able to dispense justice in a fair and expeditious manner.''

I agree with the former Senator. The uniqueness of the Northwest, and in particular, Alaska, cannot be overstated. An effective appellate process demands mastery of State law and State issues relative to the geographic land mass, population and native cultures that are unique to the relevant region. Presently, California is responsible for almost 50 percent of the appellate court's filings, which means that California judges and California judicial philosophy dominate judicial decisions on issues that are fundamentally unique to the Pacific Northwest. This need for greater regional representation is demonstrated by the fact that the East Coast is comprised of five Federal circuits. A division of the Ninth Circuit will enable judges, lawyers and parties to master a more manageable and predictable universe of relevant case law.

Further, a division of the Ninth Circuit would honor Congress' original intent in establishing appellate court boundaries that respect and reflect a regional identity. In spite of efforts to modernize the administration of the Ninth Circuit, its size works against the original purpose of its creation: the uniform, coherent and efficient development and application of Federal law in the region. Establishing a circuit comprised solely of States in the Northwest region would adhere to Congressional intent. And the State of Hawaii should rightfully be included in this circuit, for like Alaska, there are unique issues that are faced by the two States that are not part of the contiguous lower 48.

A new Twelfth Circuit, comprised of states of the Pacific Northwest, would respect the economic, historical, cultural and legal ties which philosophically unite this region.

No single Court can effectively exercise its power in an area that extends from the Arctic Circle to the tropics. Legislation dividing the Ninth Circuit will create a regional commonality that will lead to greater uniformity and consistency in the development of federal law, and will ultimately strengthen the constitutional guarantee of equal justice for all.

It is my hope that this Congress will finally approve this necessary reorganization. It is long overdue.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 562

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 ''Ninth Circuit Court of Appeals Reorganization Act of 2003''.

SEC. 2. DEFINITIONS.

In this Act:

(1) FORMER NINTH CIRCUIT.—The term ''former ninth circuit'' means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act.

(2) NEW NINTH CIRCUIT.—The term ''new ninth circuit'' means the ninth judicial circuit of the United States established by the amendment made by section 3(2)(A).

(3) TWELFTH CIRCUIT.—The term ''twelfth circuit'' means the twelfth judicial circuit of the United States established by the amendment made by section 3(2)(C).

SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking ''thirteen'' and inserting ''fourteen''; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... California, Nevada.'';

(B) by inserting between the last 2 items the following:

''Twelfth .... Alaska, Arizona, Guam, Hawaii, Idaho, Montana, Northern Mariana Islands, Oregon, Washington.''.

SEC. 4. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... 25'';

(2) by inserting between the last 2 items the following:

''Twelfth ..... 13.''

SEC. 5. PLACES OF CIRCUIT COURT.

The table in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

''Ninth ..... San Francisco, Los Angeles.'';

and

(2) by inserting between the last 2 items at the end the following:

''Twelfth .... Portland, Seattle.''.

SEC. 6. ELECTION OF ASSIGNMENT BY CIRCUIT JUDGES.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding section 44(c) of title 28, United States Code, each circuit judge who is in regular active service, and each judge who is a senior judge, of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 7. SENIORITY OF JUDGES.

The seniority of each judge who elects to be assigned under section 6 shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 8. APPLICATION TO CASES.

(a) IN GENERAL.—The provisions of the following paragraphs of this subsection apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for re-hearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1), shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

SEC. 9. ADMINISTRATION.

(a) ACTIONS.—The former ninth circuit as constituted on the day before the effective date of this Act may take such administrative actions as may be required to carry out this Act and the amendments made by this Act.

(b) TERMINATION.—The former ninth circuit shall cease to exist for administrative purposes on July 1, 2005.

(c) MEETINGS.—During the 10 years following the date of enactment of this Act, the new ninth circuit and the twelfth circuit may meet in either circuit's jurisdiction.

SEC. 10. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 2003.

By Ms. LANDRIEU (for herself, Mr. SUNUNU, Mr. BURNS, Mr. DODD, Mr. GREGG, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, Mr. LIEBERMAN, Mr. LOTT, Ms. MIKULSKI, Mr. KENNEDY, Mr. MILLER, Mr. DORGAN, and Mr. KERRY):

S. 564. A bill to facilitate the deployment of wireless telecommunications networks I order to further the availability of the Emergency Alert System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, today I rise to introduce the Emergency Communications and Competition Act, ECCA, along with my colleague from New Hampshire, Senator Sununu. We are joined by twelve of our colleagues, led by Senator BURNS, the distinguished chairman of the Commerce Communications Subcommittee, as well as Senators DODD, GREGG, HUTCHISON, INOUYE, JEFFORDS, LOTT, KENNEDY, LEAHY, LIEBERMAN, MIKULSKI, and MILLER.

The bill we introduce today is identical to S. 2922, the measure which Senator BURNS and I co-authored in the 107th Congress. I was very pleased and grateful for the tremendous support this legislation received from local television broadcasters and a wide range of public interest groups that speak for consumers, minority groups, rural Americans, health care, public safety, and property rights.

This bill will ensure that consumers will soon be able to avail themselves of an innovative new wireless technology that has been approved by the Federal Communications Commission. It is called the Multichannel Video Distribution and Data Service, MVDDS, a title which accurately describes what this new service will provide consumers: cable competition and high speed access to the Internet.

As I indicated in my introductory remarks to S. 2922 last September, unless Congress enacts this legislation, it may be years before MVDDS is actually deployed to the public. That would be a lost opportunity for consumers. We need to improve our communications infrastructure, not only for greater access to cable and the Internet, but also for public safety purposes. MVDDS technology can address all of these needs, and we should remove unnecessary and counterproductive regulatory obstacles that prevent its swift deployment.

The Consumers Union, like many, has supported ECCA because it will help ensure that competition rapidly emerges for video programming as well as high speed Internet services. Earlier this year, the Consumers Union issued a report, ''Cable Mergers, Monopoly Power and Price Increases,'' which documents the most recent steep rate increases imposed by cable operators. The report noted, for instance, that cable rates in Baton Rouge soared 7 percent last November. This was typical of rate increases throughout the country.

According to the most recent data from the Bureau of Labor Statistics, cable rates rose 11.4 percent in just the last two years. This compares to a 3.8 percent increase in the Consumer Price Index over the same period. According to the FCC, just one percent of cable communities enjoy ''effective competition.'' I submit that this startling lack of competition, more than anything else, explains why local cable rates have increased at three times the inflation rate.

If MVDDS can go head-to-head with incumbent cable systems in all parts of the country, I believe that this good old fashioned competition will result in lower prices and better service for consumers—even for those who don't choose to subscribe to MVDDS.

Rural organizations recognize the extraordinary opportunity this new wireless technology can offer rural Americans. They understand that the FCC's Order, which authorized MVDDS, will likely fail to ensure this new technology will indeed adequately serve rural America.

Local television broadcasters support this measure because it will ensure consumers in their markets can view all local television stations. Today, satellite operators DirecTV and EchoStar do not carry over 1,000 local TV channels—and no stations from ten States: Alaska, Arkansas, Idaho, Maine, Montana, Mississippi, North and South Dakota, West Virginia, and Wyoming. As you know, the satellite operators sought to merge so that they would have sufficient capacity to carry all local TV stations, but federal regulators rejected the merger on anticompetitive grounds.

The Emergency Communications and Competition Act, which we are re-introducing today, will restore fairness in the FCC licensing process, and in so doing, speed the deployment of MVDDS to applicants that are ready to launch service to the public now.

The bill provides that MVDDS applicants will be licensed in the same manner as satellite companies who applied on the same day to share the same spectrum. Currently, the FCC plans to subject only MVDDS applicants to an auction process. This would impose a discriminatory tax on an innovative new technology. Unfortunately, this is more of the same burdensome regulation that I believe has contributed to the collapse of the telecommunications sector. Government regulation is necessary, certainly, but we must be smart in how we regulate business. We must ensure that our laws and regulations are technologically neutral so

that government policies don't replace the role of the marketplace in determining the fate of consumer products and services.

In an Order released last month, the FCC recognized the need to prevent disparity in licensing when it authorized certain satellite spectrum to be re-used for mobile terrestrial service without requiring a spectrum auction. Similarly, the ECCA would prohibit the FCC from conducting an auction for licenses that re-use satellite spectrum for fixed terrrestrial operations.

Furthermore, an action would drastically delay the introduction of service to the public. Mr. President, this is quite the opposite of what spectrum auctions are supposed to do. In this case, industry incumbents can abuse the auction process to block the introduction of new competition. A company with vast resources available could easily trounce a small startup in an auction—and then, under the terms of the FCC's Order, it would not have to deploy service for 10 years. Consumers cannot and should not have to wait while this spectrum is ''shelved'' for an entire decade.

The ECCA solves this problem by ensuring that only qualified applicants will be licensed. That is, within six months of enactment, the FCC would issue licenses to any applicant that can demonstrate through independent testing that it will employ a technology that won't cause harmful interference to DBS operators with whom they would share spectrum. Then, to be sure that service is in fact deployed, the ECCA requires licensees to provide service to consumers within five rather than ten years.

This legislation also requires that parties who apply for licenses under this provision must assume specific public interest obligations in exchange for their prompt licensing. The bill requires full must-carry of local television stations, and an additional set aside of 4 percent of system capacity for other pubic interest purposes such as telemedicine and distance learning. I can assure my colleagues that these are issues particularly important in rural areas in states like Louisiana.

The ECCA will also promote public safety, in two ways. First, it will require MVDDS licensees to air Emergency Alert System warnings, including AMBER alerts for missing children. EAS warnings are presently carried by cable systems and over-the-air broadcasters, but they are not seen by those who get their programming from DBS unless the viewer happens to be watching a local channel. Obviously, the need for greater dissemination of EAS warnings is particularly important for the ten states in which no local stations are carried via satellite.

Second, this legislation requires MVDDS licensees to make their transmission systems available to national security and emergency preparedness personnel on a top-priority basis in times of need. We all know that when emergencies strike, the need for public safety personnel to communicate with one another skyrockets. MVDDS wireless networks, which will be deployed ubiquitously throughout the country, can help alleviate this thirst for spectrum.

For these reasons, I believe that Congress should act on this matter as soon as possible. I urge my colleagues to support his bill and vote for enactment. I as, 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. 564

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 ''Emergency Communications and Competition Act of 2003''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To facilitate the deployment of new wireless telecommunications networks in order to extend the reach of the Emergency Alert System (EAS) to viewers of multichannel video programming who may not receive Emergency Alert System warnings from other communications technologies.

(2) To ensure that emergency personnel have priority access to communications facilities in times of emergency.

(3) To promote the rapid deployment of low cost multi-channel video programming and broadband Internet services to the public, without causing harmful interference to existing telecommunications services.

(4) To ensure the universal carriage of local television stations, including any Emergency Alert System warnings, by multichannel video programming distributors in all markets, regardless of population.

(5) To advance the public interest by making available new high speed data and video services to unserved and underserved populations, including schools, libraries, tribal lands, community centers, senior centers, and low-income housing.

(6) To ensure that new technologies capable of fulfilling the purposes set forth in paragraphs (1) through (5) are licensed and deployed promptly after such technologies have been determined to be technologically feasible.

SEC. 3. LICENSING.

(a) GRANT OF CERTAIN LICENSES.—

(1) IN GENERAL.—The Federal Communications Commission shall assign licenses in the 12.2–12.7 GHz band for the provision of fixed terrestrial services using the rules, policies, and procedures used by the Commission to assign licenses in the 12.2–12.7 GHz band for the provision of international or global satellite communications services in accordance with section 647 of the Open-market Reorganization for the Betterment of International Telecommunications Act (47 U.S.C. 765f).

(2) DEADLINE.—The Commission shall accept for filing and grant licenses under paragraph (1) to any applicant that is qualified pursuant to subsection (b) not later than six months after the date of the enactment of this Act. The preceding sentence shall not be construed to preclude the Commission from granting licenses under paragraph (1) after the deadline specified in that sentence to applicants that qualify after that deadline.

(b) QUALIFICATIONS.—

(1) NON-INTERFERENCE WITH DIRECT BROADCAST SATELLITE SERVICE.—A license may be granted under this section only if operations under the license will not cause harmful interference to direct broadcast satellite service.

(2) ACCEPTANCE OF APPLICATIONS.—The Commission shall accept an application for a license to operate a fixed terrestrial service in the 12.2–12.7 GHz band if the applicant—

(A) successfully demonstrates the terrestrial technology it will employ under the license with operational equipment that it furnishes, or has furnished, for independent testing pursuant to section 1012 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110); and

(B) certifies in its application that it has authority to use such terrestrial service technology under the license.

(3) CLARIFICATION.—Section 1012(a) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110(a); 114 Stat. 2762A–141) is amended by inserting '', or files,'' after ''has filed''.

(4) PCS OR CELLULAR SERVICES.—A license granted under this section may not be used for the provision of Personal Communications Service or terrestrial cellular telephony service.

(c) PROMPT COMMENCEMENT OF SERVICE.—In order to facilitate and ensure the prompt deployment of service to unserved and underserved areas and to prevent stockpiling or warehousing of spectrum by licensees, the Commission shall require that any licensee under this section commence service to consumers within five years of the grant of the license under this section.

(d) EXPANSION OF EMERGENCY ALERT SYSTEM.—Each licensee under this section shall disseminate Federal, State, and local Emergency Alert System warnings to all subscribers of the licensee under the license under this section.

(e) ACCESS FOR EMERGENCY PERSONNEL.—

(1) REQUIREMENT.—Each licensee under this section shall provide immediate access for national security and emergency preparedness personnel to the terrestrial services covered by the license under this section as follows:

(A) Whenever the Emergency Alert System is activated.

(B) Otherwise at the request of the Secretary of Homeland Security.

(2) NATURE OF ACCESS.—Access under paragraph (1) shall ensure that emergency data is transmitted to the public, or between emergency personnel, at a higher priority than any other data transmitted by the service concerned.

(f) ADDITIONAL PUBLIC INTEREST OBLIGATIONS.—

(1) ADDITIONAL OBLIGATIONS.—Each licensee under this section shall—

(A) adhere to rules governing carriage of local television station signals and rules concerning obscenity and indecency consistent with sections 614, 615, 616, 624(d)(2), 639, 640, and 641 of the Communications Act of 1934 (47 U.S.C. 534, 535, 536, 544(d)(2), 559, 560, and 561);

(B) make its facilities available for candidates for public office consistent with sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315); and

(C) allocate 4 percent of its capacity for services that promote the public interest, in addition to the capacity utilized to fulfill the obligations required of subparagraphs (A) and (B), such as—

(i) telemedicine;

(ii) educational programming, including distance learning;

(iii) high speed Internet access to unserved and underserved populations; and

(iv) specialized local data and video services intended to facilitate public participation in local government and community life.

(2) LICENSE BOUNDARIES.—In order to ensure compliance with paragraph (1), the Commission shall establish boundaries for licenses under this section that conform to existing television markets, as determined by the Commission for purposes of section 652(h)(1)(C)(i) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)(i)).

(g) REDESIGNATION OF MULTICHANNEL VIDEO DISTRIBUTION AND DATA SERVICE.—The Commission shall redesignate the Multichannel Video Distribution and Data Service (MVDDS) as the Terrestrial Direct Broadcast Service (TDBS).

By Mr. EDWARDS:

S. 565. A bill to improve homeland security, prevent tax increases, support education and health care, and strengthen the economy; to the Committee on Appropriations.

Mr. EDWARDS. Mr. President, I rise today to introduce the Homeland Protection and Tax Hike Prevention Act of 2003.

As I speak, State governments face a budget gap of $80 billion in 2004, according to the National Governors Association. My own State of North Carolina must close a $2 billion deficit this year, the third year in a row that we have faced a deficit of $1 billion or more. There is an additional $30 billion deficit in 2003 that, for most States, must be closed before the fiscal year ends in June. Cities and towns face a similar budget pinch. The likely result in many States will be steep tax increases and budget cuts.

Because most States have seen two or three lean years in a row, the easiest cuts and sources of revenue have already been tapped. States already closed nearly $50 billion in deficits for 2003. According to Standard and Poor's, ''With rainy day funds having been depleted rapidly over the past three years, few options remain other than tough cuts or revenue increases.''

The State and local budget crisis is a serious threat to our economy. State spending cuts and tax increases equaling $100 billion would directly lower GDP growth by one percentage point, according to the Center on Budget and Policy Priorities. According to the Center, ''The only way this blow to the economy can be mitigated is through federal fiscal relief for the states.''

Millions of Americans across the Nation will be directly affected by State tax increases and budget cuts. For example, Kansas is considering new taxes on hair stylists, theaters, and doctors. Missouri is now taxing pharmacies. In fact, policymakers in 15 States are already calling for tax increases of approximately $14 billion in 2004.

New York budget proposals would raise class sizes and cut 43,000 early education slots in New York City. Florida may take away medical coverage for 26,000 low-income people. In California, hundreds of nursing homes are in danger of bankruptcy, according to the Washington Post. San Diego may close fire stations.

Portland, OR, will likely trim its school year by 24 days. Oregon State police are laying off 129 troopers and abandoning 24-hour patrols. The Multnomah county jail will release as many as 500 inmates early. Medical benefits will be eliminated for 8,000 elderly and disabled people.

This is wrong. It's wrong for the people being hurt. And it is wrong for our economy. That's why I am proposing the Homeland Protection and Tax Hike Prevention Act of 2003. This bill would enacts a State relief plan I first described last November. It gives States and cities a total of $50 billion, allowing them to avoid raising taxes and protect critical priorities in public safety, education, and health care.

First, my legislation would provide $10 billion to states and major cities to strengthen homeland security. We have a whole range of homeland security priorities that we ought to be meeting but we haven't. Although our domestic readiness begins with first responders, they are not getting the training and equipment they need to respond to an attack with speed, skill, and strength. Our public health system isn't fully prepared to respond to biological attacks. We need to modernize an emergency warning system that is terribly out of date so we can reach Americans at any time, day or night.

Our infrastructure is exposed. There are 500 large skyscrapers, 250 major arenas and stadiums, and countless train, subway, and automobile bridges and tunnels. Many of these facilities have vulnerable ventilation systems, poor emergency exits, and inadequate fire retardants and blast-resistant materials. Security at nuclear and chemical plants and over shipments is still too lax. At 123 chemical plants, a toxic chemical release would endanger a million people or more.

We need to meet all these priorities, and we can ought to meet them through a partnership between Washington, states, and local communities. This bill goes a long way toward doing that by providing $10 billion for homeland security.

Next, today's bill would provide States $10 billion through higher Medicaid reimbursements. Higher Medicaid reimbursements can dramatically help State budgets. It can also address serious inequities in the way Medicaid funds are distributed today. The legislation is based on Senator ROCKEFELLER's excellent proposal. It maintains last year's Medicaid matching rate where rates are declining and provides an additional modest, temporary increase in the matching rate. This short-lived relief will help states balance their budgets and protect children and seniors who rely on Medicaid.

Last but not least, my bill will give States and local governments $30 billion in general relief. In return for this aid, State and local governments must agree not to cut K–12 education funding or raise college tuition faster than inflation for low- and middle-income families.

Across the Nation, States and cities are struggling with more needs and less revenue. Washington is not doing its part to help. Instead, we have created new demands through the No Child Left Behind education reform law and the Federal special education laws, without delivering the resources needed to meet those demands. We ought to help States and localities meet those demands, and this bill will do that.

The Homeland Protection and Tax Hike Protection Act will strengthen our homeland security and prevent states and cities from raising taxes and cutting schools and health care. I hope my colleagues will join me in supporting it.

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. 565

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 ''Homeland Protection and Tax Hike Prevention Act of 2003''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to ameliorate the hardships faced by millions of Americans as a result of State and local budget crises, including tax increases and cuts to education, health care, and other vital State and local programs;

(2) to avoid the economic damage that would be caused by tens of billions of dollars in State and local tax increases and spending cuts that would further weaken the Nation's economic growth and job creation; and

(3) to improve the Nation's readiness for a terrorist attack by providing financial assistance to assist States and cities to—

(A) prepare first responders and emergency personnel;

(B) implement anti-counterfeiting protections;

(C) strengthen security at vulnerable targets, such as nuclear power plants and public transportation systems; and

(D) address other homeland security priorities.

SEC. 3. DEFINITIONS.

As used in this Act, the following definitions shall apply:

(1) STATE.—Except as used in section 6, the term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) METROPOLITAN STATISTICAL AREA.—The term ''metropolitan statistical area'' means a statistical geographic entity associated with at least 1 urbanized area that has a population of not less than 50,000, as identified by the Office of Management and Budget.

(3) METROPOLITAN CITY.—The term ''metropolitan city'' means—

(A) a central city within a metropolitan statistical area; and

(B) any other city within a metropolitan statistical area that has a population of not less than 50,000.

(4) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means—

(i) a county, parish, township, city, or political subdivision of a county, parish, township, or city, that is a unit of general local

government as determined by the Secretary of Commerce for general statistical purposes; and

(ii) the District of Columbia, the Commonwealth of Puerto Rico, and the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers.

(B) TREATMENT OF SUBSUMED AREAS.—For purposes of determining a unit of general local government under this section, the rules under section 6720(c) of title 31, United States Code, shall apply.

SEC. 4. HOMELAND SECURITY GRANTS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From the amount appropriated under subsection (d), the Secretary of Homeland Security (referred to in this section as the ''Secretary'') shall, as soon as practicable after the date of enactment of this Act, award grants to States and metropolitan cities, which have submitted an application in accordance with subsection (c) to accomplish the objectives described under subsection (b).

(2) ALLOCATIONS TO STATES.—

(A) POPULATION-BASED ALLOCATIONS.—The Secretary shall allocate $2,500,000,000 for grants to the States based on the relative population of each State.

(B) RISK-BASED ALLOCATIONS.—Subject to paragraph (4), the Secretary shall allocate $2,500,000,000 for grants to the States based on—

(i) the potential risk, as it pertains to chemical security, of each State;

(ii) the proximity of each State to the nearest operating nuclear power plant;

(iii) the proximity of each State to the nearest United States land or water port;

(iv) the proximity of each State to the nearest international border; and

(v) the proximity of each State to the nearest Disaster Medical Assistance Team.

(3) ALLOCATIONS TO METROPOLITAN CITIES.—

(A) POPULATION-BASED ALLOCATIONS.—The Secretary shall allocate $2,500,000,000 for grants to units of general local government within metropolitan cities based on the relative population of each metropolitan statistical area.

(B) RISK-BASED ALLOCATIONS.—The Secretary shall allocate $2,500,000,000 for grants to metropolitan cities within metropolitan statistical areas based on—

(i) the potential risk, as it pertains to chemical security, of each metropolitan statistical area;

(ii) the proximity of each metropolitan statistical area to the nearest operating nuclear power plant;

(iii) the proximity of each metropolitan statistical area to the nearest United States land or water port;

(iv) the proximity of each metropolitan statistical area to the nearest international border; and

(v) the proximity of each metropolitan statistical area to the nearest Disaster Medical Assistance Team.

(C) METROPOLITAN CITIES.—The Secretary shall distribute the allocations under subparagraphs (A) and (B) to metropolitan cities based on the relative population of each such city.

(4) CLARIFICATION OF RISK FACTORS.—In allocating funds to States and metropolitan statistical areas under paragraphs (2)(B) and (3)(B), the Secretary shall equally weigh each of the following risk factors:

(A) POTENTIAL RISK AS IT PERTAINS TO CHEMICAL SECURITY.—If a State or metropolitan statistical area is within the vulnerable zone of a worst-case chemical release, as specified in the most recent risk management plans filed with the Environmental Protection Agency or another instrument developed by the Environmental Protection Agency or the Homeland Security Department that captures the same information for the same facilities, the ratio under paragraphs (2)(B)(i) and (3)(B)(i) shall be 1 divided by the total number of States or metropolitan statistical areas that are within such a zone.

(B) PROXIMITY AS IT PERTAINS TO NUCLEAR SECURITY.—If a State or metropolitan statistical area is located within 50 miles of an operating nuclear power plant, as identified by the Nuclear Regulatory Commission, the ratio under paragraphs (2)(B)(ii) and (3)(B)(ii) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of an operating nuclear power plant.

(C) PROXIMITY AS IT PERTAINS TO PORT SECURITY.—If a State or metropolitan statistical area is located within 50 miles of 1 of the 100 largest United States ports, as stated by the Department of Transportation, Bureau of Transportation Statistics, United States Port Report by All Land Modes, or within 50 miles of one of the 30 largest United States water ports by metric tons and value, as stated by the Department of Transportation, Maritime Administration, United States Foreign Waterborne Transportation Statistics, the ratio under paragraphs (2)(B)(iii) and (3)(B)(iii) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of a United States land or water port.

(D) PROXIMITY TO INTERNATIONAL BORDERS.—If a State or metropolitan statistical area is located within 50 miles of an international border, the ratio under paragraph (2)(B)(iv) and (3)(B)(iv) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of an international border.

(E) PROXIMITY TO DISASTER MEDICAL ASSISTANCE TEAMS.—If a State or metropolitan statistical area is located within 50 miles of a Disaster Medical Assistance Team, as organized by the National Disaster Medical System through the Department of Public Health, the ratio under paragraphs (2)(B)(v) and (3)(B)(v) shall be 1 divided by the total number of States or metropolitan statistical areas that are located within 50 miles of a Disaster Medical Assistance Team.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used to—

(1) support police, fire, health, and other emergency personnel by—

(A) purchasing or upgrading communications systems, protective gear, or hazardous materials detection equipment;

(B) providing training for emergency responses; and

(C) providing for expenses related to retention of personnel and overtime;

(2) improve safeguards against the counterfeiting of official State documents, including—

(A) the improvement of procedures to obtain proof of identity before issuance of official identification cards; and

(B) the implementation of biometric identifiers and holograms;

(3) improve security at chemical plants by—

(A) strengthening requirements for perimeter security and assisting in meeting such requirements; and

(B) strengthening requirements for the use and handling of hazardous materials and assisting in meeting such requirements;

(4) improve security in train and subway cars and stations, on bridges, in tunnels, and in arenas by installing and improving—

(A) fire and blast protections;

(B) ventilation systems;

(C) entrance security;

(D) sensors to detect chemical and biological weapons; and

(E) emergency evacuation systems;

(5) improve security at and around skyscrapers, public monuments, and other major buildings;

(6) secure food and water supplies, reservoirs, water treatment plants, and distribution systems;

(7) strengthen protections of other critical networks, including—

(A) telecommunications;

(B) electrical power plants and grids; and

(C) computer networks and databases;

(8) plan and prepare for a response for chemical or biological attacks, including—

(A) purchasing, distributing, and storing treatments and preventive measures;

(B) providing emergency training for health officials; and

(C) developing public health surveillance systems to identify the disease outbreaks by monitoring ambulance calls, hospital admittance, and other measures;

(9) establish systems to notify members of the public and appropriate agencies when a threat has emerged and any precautions the public should take;

(10) establish programs that offer opportunities for members of the community to participate in terrorism preparation and prevention, including neighborhood watch groups; and

(11) design, review, and improve disaster response systems, enhancing communities' ability to coordinate efforts and share information, and devise and implement a homeland security plan.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be necessary to ensure that the grantee will use the proceeds of the grant in compliance with subsection (b).

(d) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated, and are appropriated, $10,000,000,000 for fiscal year 2003 to carry out this section, which shall remain available through September 30, 2004.

SEC. 5. BUDGET CRISIS RELIEF GRANTS.

(a) GRANTS AUTHORIZED.—From the amount appropriated under subsection (c) for fiscal year 2003, the Secretary of the Treasury (referred to in this section as the ''Secretary'') shall, as soon as practicable after the date of enactment of this Act, allocate financial assistance to each of the States as follows:

(1) GRANTS TO STATES.—

(A) ALLOCATIONS BASED ON POPULATION.—The Secretary shall allocate $7,500,000,000 among the States on the basis of the relative population of each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) ALLOCATIONS BASED ON UNEMPLOYMENT.—The Secretary shall allocate $7,500,000,000 among the States on the basis of the relative number of unemployed individuals for calendar year 2002 in each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(2) GRANTS TO LOCAL GOVERNMENT.—

(A) ALLOCATIONS BASED ON POPULATION.—The Secretary shall allocate an additional $7,500,000,000 among units of general local

government within each State on the basis of the relative population of each State and of each such unit within each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(B) ALLOCATIONS BASED ON UNEMPLOYMENT.—The Secretary shall allocate an additional $7,500,000,000 among units of general local government within each State on the basis of the relative number of unemployed individuals for calendar year 2002 in each State and in each such unit within each State, as determined by the Secretary on the basis of the most recent satisfactory data.

(b) MAINTENANCE OF EFFORT.—A State or unit of general local government, before receiving the proceeds of a grant under this section, shall certify that such State or unit of general local government—

(1) will maintain its expenditures for elementary, secondary, and higher education at a level equal to not less than the level of such expenditures maintained by the State or unit of general local government for the fiscal year immediately preceding the fiscal year for which the grant is received; and

(2) will not raise the net tuition, after scholarships and tuition waivers, at public colleges and universities by more than the inflation rate.

(c) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated, and are appropriated, $30,000,000,000 for fiscal year 2003 to carry out this section.

SEC 6. TEMPORARY STATE FISCAL RELIEF THROUGH INCREASE IN MEDICAID FMAP.

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2002 FMAP FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003.—Notwithstanding any other provision of law, but subject to subsection (f), if the FMAP determined without regard to this section for a State for fiscal year 2003 is less than the FMAP as so determined for fiscal year 2002, the FMAP for the State for fiscal year 2002 shall be substituted for the State's FMAP for the third and fourth calendar quarters of fiscal year 2003, before the application of this section.

(c) PERMITTING MAINTENANCE OF FISCAL YEAR 2003 FMAP FOR FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsection (f), if the FMAP determined without regard to this section for a State for fiscal year 2004 is less than the FMAP as so determined for fiscal year 2003, the FMAP for the State for fiscal year 2003 shall be substituted for the State's FMAP for each calendar quarter of fiscal year 2004, before the application of this section.

(d) GENERAL 2.45 PERCENTAGE POINTS INCREASE FOR LAST 2 CALENDAR QUARTERS OF FISCAL YEAR 2003 AND FISCAL YEAR 2004.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), for each State for the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the FMAP (taking into account the application of subsections (b) and (c)) shall be increased by 2.45 percentage points.

(e) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Notwithstanding any other provision of law, but subject to subsection (g), with respect to the third and fourth calendar quarters of fiscal year 2003 and each calendar quarter of fiscal year 2004, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 4.90 percent of such amounts.

(f) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4); or

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.).

(g) STATE ELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is eligible for an increase in its FMAP under subsection (d) or an increase in a cap amount under subsection (e) only if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 2, 2003, but prior to the date of enactment of this Act is eligible for an increase in its FMAP under subsection (d) or an increase in a cap amount under subsection (e) in the first calendar quarter (and subsequent calendar quarters) in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 2, 2003.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(h) SUNSET DATE.—This section is repealed, effective October 1, 2004.

By Ms. MIKULSKI (for herself, Mr. BOND, Mr. KENNEDY, Mrs. LINCOLN, Mr. BREAUX, and Mr. DODD):

S. 566. A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; to the Committee on Health, Education, Labor, and Pensions.

Mr. MIKULSKI. Mr. President, I rise to introduce the Alzheimer's Disease Research, Prevention, and Care Act of 2003. I am pleased that Senators BOND, KENNEDY, LINCOLN, BREAUX, and DODD are joining me as original cosponsors of this legislation. This bill expands research on Alzheimer's disease at the National Institute on Aging and reauthorizes the Alzheimer's Demonstration Grant Program that helps patients and families get services like respite care and adult day care.

I believe that ''honor thy mother and father'' is not only a good commandment to live by, it's also a good policy to govern by. That's why I authored the Alzheimer's Disease Research, Prevention, and Care Act—to put values into action and get behind our Nation's families.

In 1998, the Federal Government was spending just $323 million on Alzheimer's disease research, a disease that affects about 4 million Americans. I fought for more funding for Alzheimer's disease and the National Institute on Aging. Not just an incremental increase—I fought to double the funding. I am proud that the National Institute on Aging was funded at $1 billion this year. That's double what it was 5 years ago. The Federal Government will spend more than $600 million on Alzheimer's research this year.

This investment in Alzheimer's disease research is paying off. Scientists have found evidence that a cholesterol-lowering drug may prevent Alzheimer's. Researchers are testing a vaccine on mice that may prevent the disease in humans. Seven clinical trials are currently underway to find out whether estrogen, vitamin E, gingko biloba, and aspirin can prevent the disease.

Even with these victories, there is still a lot more to do. Alzheimer's disease is a devastating illness. Four million Americans suffer from Alzheimer's, including one in ten people over age 65 and nearly half of those over age 85. Nineteen million Americans say they have a family member with the disease. The Medicare program alone spent $31.9 billion for the care of people with Alzheimer's disease in the year 2000. Without a cure, the number of Alzheimer's patients will more than triple in the next 50 years. Fourteen million Americans will suffer from Alzheimer's by 2050. If science can help delay the onset of Alzheimer's by even five years, it would improve the lives of millions of families and save billions of dollars.

This legislation is about more than just statistics—it's about helping to meet the day-to-day needs of patients with Alzheimer's and the long range needs of the nation. Last year, I chaired a hearing at the Gerontology Research Center at the Johns Hopkins Bayview Medical center in Baltimore. I heard from Peter Savage, a Baltimore man caring for his wife, Ina. Mrs. Savage was diagnosed with early onset Alzheimer's disease at just 53 years old. I heard Mr. Savage's pain and frustration as he told the Subcommittee on Aging about his family's long struggle: watching his wife's slow decline; trying to care for Mrs. Savage by himself and with the help of daughters; the difficulty of finding someone to help them when the caregiving responsibilities were more than the family alone could bear; and the looming costs of nursing home care.

The bill I am introducing gets behind families like the Savages and millions of others struggling with this disease. My bill reauthorizes and expands the Alzheimer's Demonstration grant Program. This program helps patients and families get support services like respite care and home health care. These

grants connect help states leverage private resources to fill in gaps in existing services and make sure that programs reach the most vulnerable families. This important program needs to be renewed this year. I'm fighting to expand this program to nearly every state, to keep our promises to America's families.

This bill also helps to meet the long-range needs of our Nation by increasing the Federal Government's commitment to Alzheimer's disease research at the National Institutes of Health and the National Institute on Aging. It puts the Alzheimer's Disease Prevention Initiative in our Federal law books to speed up the discovery of new ways to prevent the disease. My bill sets up a cooperative clinical research program to stretch our Federal research dollars, by making it easier for researchers across the country to share data and enroll patients in clinical trials. It also authorizes research on ways to improve the health of Alzheimer's caregivers—and ease some of their burden.

This bill gets behind our Nation's families—both in the lab and in the community. I look forward to working with my colleagues to pass this important legislation.

By Mr. LUGAR (by request):

S. 571. A bill to establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development.

This proposed legislation has been requested by the President of the United States, George W. Bush, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as to make any suggested amendments to it, as this important initiative of the President continues to be considered by the Committee on Foreign Relations.

I ask unanimous consent that the text of the bill be printed in the RECORD together with a section-by-section analysis of the bill and the letter from the President of the United States to the Congress of the United States dated February 5, 2003.

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

S. 571

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 ''Millennium Challenge Act of 2003''.

TITLE I—THE MILLENNIUM CHALLENGE ACCOUNT

SEC. 101. STATEMENT OF POLICY.

It is the policy of the United States to reduce global poverty through increased economic growth by supporting a new compact for global development in which increased support is provided by developed countries to those developing countries that are ruling justly, fostering economic freedom, and investing in their citizens.

SEC. 102. ELIGIBILITY CRITERIA.

To be eligible for assistance under this Act, a country (''eligible country'')—

(1) must suffer from significant poverty;

(2) must have a demonstrated commitment to—

(A) Just and democratic governance, including political pluralism and the rule of law, and respect for human and civil rights of all citizens, protect private property rights, encourage transparency and accountability of governance, and limit corruption;

(B) Economic freedom, including economic policies that encourage citizens and firms to participate in the global product and capital markets, promote private sector growth, and avoid direct government participation in the economy; and

(C) Investing in its own people, including improving the availability of educational opportunities and health care for all citizens; and

(3) must have entered into a Millennium Challenge Contract, as defined in section 103, with the United States.

SEC. 103. MILLENNIUM CHALLENGE CONTRACT.

(a) IN GENERAL.—A Millennium Challenge Contract, is an agreement between the United States and an eligible country that establishes a multi-year plan of partnership for achieving shared development objectives in furtherance of the purposes of this Act.

(b) ELEMENTS.—The Millennium Challenge Contract shall contain—

(1) the specific objectives that the eligible country and the United States expect to achieve;

(2) the responsibilities of the eligible country and the United States in the achievement of those objectives;

(3) regular benchmarks to measure progress towards achieving the agreed upon objectives and a description of how the objectives will be sustained once assistance under this Millennium Challenge Contract ends;

(4) a plan and a timeframe that describes how and when those objectives will be met;

(5) the role and contribution of the business community, private and voluntary organizations, and other members of civil society in designing that plan and achieving the objectives;

(6) where appropriate, the contribution of other donors in the achievement of those objectives; and

(7) a plan to ensure financial accountability of funds used to achieve those objectives.

(c) LOCAL INPUT.—The Millennium Challenge Contract should take into account the perspectives of the rural and urban poor in an eligible country, and should reflect consultation with private and voluntary organizations, and the business community in the country.

(d) OTHER DONORS.—To the maximum extent feasible, activities undertaken to achieve the objectives of the Millennium Challenge Contract should be undertaken in coordination with the assistance activities of other donors.

SEC. 104. MILLENNIUM CHALLENGE ASSISTANCE.

The President is authorized to provide assistance for eligible countries to support policies and programs that are in furtherance of the purposes of this Act. The goal of the Millennium Challenge Account is to reduce poverty by significantly increasing the economic growth trajectory of recipient countries. This requires an emphasis on investments that raise the productive potential of a country's citizens and firms and help integrate its economy into the global product and capital markets. Key areas of focus for Millennium Challenge Assistance will include:

(a) Agricultural development;

(b) Education;

(c) Enterprise and private sector development;

(d) Governance;

(e) Health; and

(f) Trade and investment capability building.

SEC. 105. AUTHORIZATION OF THE MILLENNIUM CHALLENGE ACCOUNT AND AUTHORITIES.

(a) Authorization of Millennium Challenge Account.

(1) AUTHORIZATION.—There are authorized to be appropriated to the President to carry out this Act $1,300,000,000 for fiscal year 2004, and such sums as may be necessary for subsequent fiscal years.

(2) Availability—Funds appropriated under paragraph (1)—

(A) may be referred to as the ''Millennium Challenge Account'';

(B) are authorized to remain available until expended; and

(C) are in addition to funds otherwise available for such purposes.

(b) APPLICABILITY OF PROVISIONS OF LAW.—

(1) Funds made available to carry out the purposes of this Act may be made available notwithstanding any other provision of law, except the provisions of the Anti-Deficiency Act.

(2) Notwithstanding paragraph (l), country, including the government of a country, that is ineligible to receive assistance under provisions of law that would prohibit assistance under Part I of the Foreign Assistance Act of 1961 shall not be eligible to receive assistance under this Act. If the President waives the provisions of Part I of the Foreign Assistance Act of 1961, such country could receive assistance under this Act.

(c) USE OF OTHER FUNDS.—Any funds allocated from funds appropriated to carry out any other Act may be made available, if used in conjunction with funds appropriated to carry out this Act, under the authority and subject to the limitations applicable to funds made available to carry out this Act.

SEC. 106. EVALUATION AND ACCOUNT ABILITY.

All concluded Millennium Challenge Contracts and performance evaluations of activities under these contracts shall be made available to the public on the Internet, unless the Board makes a specific finding that a performance evaluation or contract should not be posted.

SEC. 107. GRADUATION.

The Millennium Challenge Contract will provide funds for limited purposes, projects, and terms.

TITLE II—THE MILLENNIUM CHALLENGE CORPORATION

SEC. 201. ESTABLISHMENT OF THE MILLENNIUM CHALLENGE CORPORATION.

(a) ESTABLISHMENT OF THE MILLENNIUM CHALLENGE CORPORATION.—There is hereby established in the executive branch, a corporation to be known as the Millennium Challenge Corporation (hereinafter in this Act referred to as the ''Corporation'').

(b) RESPONSIBILITY OF THE CORPORATION.—It shall be the responsibility of the Corporation to implement title I of this Act, consistent with the direction of the President.

SEC. 202. MANAGEMENT OF THE CORPORATION.

(a) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors (hereafter in this title referred to as the ''Board'') composed of the Secretary of State, who shall Chair, the Secretary of the Treasury, and the Director of the Office of Management and Budget, and may include individuals serving in such positions in an acting capacity.

(b) FUNCTIONS OF THE BOARD.—

(1) The Board shall direct the exercise of all the functions and powers of the Corporation, including the authority to review and approve the eligibility of countries for assistance.

(2) The Board may prescribe, amend, and repeal bylaws, rules, regulations, and procedures governing the manner in which the business of the Corporation may be conducted and in which the powers granted to it by law may be exercised and enjoyed.

(3) Members of the Board shall serve without additional compensation, but may be reimbursed for travel expenses, including per diem, in lieu of subsistence, while engaged in their duties on behalf of the Corporation.

(c) CHIEF EXECUTIVE OFFICER OF THE CORPORATION.—

(1) The chief executive officer of the Corporation (hereafter referred to in this title as the ''CEO'') shall be appointed by the President, by and with the advice and consent of the Senate, and shall exercise the functions and powers vested in the CEO by the President and the Board.

(2) The CEO shall receive compensation at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(d) Functions of, and actions by, the Corporation, Board, CEO, or an officer of the United States under this Act are vested in their discretion.

SEC. 203. FUNCTIONS OF THE CORPORATION.

In order to carry out programs in furtherance of the purposes and policies of this Act, and in accordance with the provisions of Title I of this Act, the Corporation may make grants for any eligible country, including to any private or public entity, and including for the purpose of providing technical assistance to any such country for the development of the Millennium Challenge Contract and the management, including financial management, and evaluation of programs for which assistance is provided pursuant to this Act.

SEC. 204. POWERS OF THE CORPORATION.

(A) POWERS.—The Corporation—

(1) shall have perpetual succession unless dissolved by the Act of Congress;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may prescribe, amend, and repeal such rules, regulations, and procedures as may be necessary for carrying out the functions of the Corporation;

(4) may make and perform such contracts, grants, and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation and all Millennium Challenge Contracts;

(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding $95,000 in any fiscal year;

(6) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Corporation;

(7) may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act;

(8) may use the United States mails in the same manner and on the same conditions as the executive departments of Government;

(9) may, with the consent of the agency of the United States, use the information, services, facilities, and personnel of that agency on a full or partial reimbursement or on a non-reimbursable basis in carrying out the purposes of this Act;

(10) may contract with individuals for personal services, who shall not be considered federal employees for any provision of law administered by the Office of Personnel Management;

(11) hire or obtain passenger motor vehicles; and

(12) shall have such other powers as may be necessary and incident to carrying out this Act;

(b) PRINCIPAL OFFICE.—

(1) The Corporation shall maintain its principal office in the metropolitan Washington, D.C. area.

(2) The Corporation may establish other offices in any place including places outside the United States, in the Corporation may carry on all or any of its operations and business.

(c) POSITIONS WITH FOREIGN GOVERNMENTS.—When approved by the Corporation, in furtherance of its purposes, employees of the Corporation (including individuals detailed to the Corporation) may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries or international organizations.

(d) COMMITMENT AUTHORITY.—Subject to the provisions of the Anti-Deficiency Act, a contract, grant, or other agreement which entails commitments for the expenditure of funds available under this Act may commit with expenditures for such period of time as it deemed necessary to carrying out this Act.

(e) CONTRACTING AUTHORITY.—In furtherance of the purposes of this Act, functions and powers authorized by this Act may be performed without regard to any provision of law regulating the making, performance, amendment, or modification of contracts, grants, and other agreements.

(f) TAXATION OF THE CORPORATION.—The Corporation, including all its assets and property, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

SEC. 205. PERSONNEL AND ADMINISTRATIVE AUTHORITIES.

(a) PERSONNEL AUTHORITIES.—Notwithstanding any provision of title 5, United States Code or of the Foreign Service Act of 1980, as amended, the CEO of the Millennium Challenge Corporation may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system, including a retirement benefits programs.

(1) Any system established under this subsection shall not waive, modify, or otherwise affect, with respect to Civil Service and Foreign Service employees—

(A) the public employment principles of merit and fitness set forth in section 2301 of title 5, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistle blowing,

(B) section 2302 (b) of title 5,

(C) chapters 72 and 73 of title 5,

(D) the conflict of interest provisions in title 18, chapter 11 of the United States Code.

(2) The CEO of the Corporation may, without regard to the civil service and foreign service laws and regulations, appoint and terminate personnel as may be necessary to enable the Corporation to perform its duties.

(3) The CEO may fix the compensation of the Corporation personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, and without regard to the provisions of chapters 4 and 5 of the Foreign Service Act, relating to the classification of positions and Foreign Service pay rates.

(4) The Corporation may utilize such authority contained in the Foreign Service Act of 1980, as amended, as the Corporation deems appropriate.

(5) The CEO and other personnel who are employees of the Corporation shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63 (relating to leave), 81 (relating to compensation for work injuries), 85 (relating to unemployment benefits), 87 (relating to life insurance benefits), 89 (relating to health insurance benefits), and 90 (relating to long-term care insurance) of that title. If the CEO chooses not to waive chapters 83 and 84 (relating to retirement benefits) of title 5, or chapter 8 of the Foreign Service Act (relating to Foreign Service retirement systems), employees of the Corporation shall be eligible for benefits under those chapters as otherwise applicable.

(6) No individual, except for the officers of the Corporation, may be employed by the Corporation for a period in excess of 5 years: *Provided*, That the CEO, under special circumstances, may approve an extension of the length of employment on an individual basis.

(7) Individuals employed by the Corporation, including individuals detailed to or contracted by the Corporation, while performing duties in any country or place outside the United States, and their families shall, if they are nationals of or permanently resident in such country or place, enjoy the privileges and immunities of at least the administrative and technical staff of the Mission of the United States to such country and shall be subject to 22 U.S.C. 3927 in the same manner as United States Government employees.

(8) The CEO may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(b) DETAIL OF PERSONNEL TO THE CORPORATION.—

(1) Any Federal Government employee may be detailed to the Corporation on a fully or partially reimbursable or on a nonreimbursable basis, and such detail shall be without interruption or loss of civil service or Foreign Service status or privilege.

(2) Alternatively, an employee serving under a career or career conditional appointment or the equivalent in an agency who transfers to or converts to an appointment in the Corporation with the consent of the head of the agency is entitled to be returned to the employee's former position or a position of like seniority, status, and pay without grade or pay reduction in the agency if the employee—

(A) is being separated from the Corporation for reasons other than misconduct, neglect of duty, or malfeasance; and (B) applies for return not later than 30 days before the date of the termination of the employment in the Corporation.

(3) An employee of a private sector organization assigned to the Corporation under this section is deemed, during the period of

assignment, to be on detail to such agency. Such employee—

(A) may continue to receive pay and benefits from the private sector organization from which he is assigned;

(B) is deemed to be an employee of the Corporation as specified in (a)(5) of this section, for the purposes of chapters 81 and 85 of title 5 U.S.C.;

(C) may not have access to any trade secrets or to any other non-public information which is of commercial value to the private sector organization from which he is assigned, and

(D) is subject to such regulations as the President may prescribe. Such assignment may be made with or without reimbursement by the Corporation for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to its employee benefit system. A private sector organization may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to the Corporation.

(c) ALLOCATION OF FUNDS.—

(1) TRANSFER OR ALLOCATION.—The Corporation may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act. Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(2) USE OF SERVICES.—For carrying out the purposes of this Act, the Corporation may utilize the services and facilities of, or procure commodities from, any agency of the United States Government under such terms and conditions as may be agreed to by the head of such agency and the Corporation.

(d) OTHER AUTHORITIES.—Except where inconsistent with the provisions of this Act, the Corporation is authorized to use any of the administrative authorities contained in the State Department Basic Authorities Act of 1956 and the Foreign Assistance Act of 1961.

(e) GOVERNMENT CORPORATION CONTROL ACT.—The Corporation shall be subject to the provisions of the Government Corporation Control Act, title 31, United States Code.

MILLENNIUM CHALLENGE ACT OF 2003

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the ''Millennium Challenge Act of 2003''.

TITLE I—THE MILLENNIUM CHALLENGE ACCOUNT

Sec. 101. Statement of policy

Section 101 states the objective of the Millennium Challenge Account, which is to reduce poverty through promoting sustained economic growth in developing countries committed to implementing good policies.

Sec. 102. Eligibility criteria

Section 102 identifies the criteria by which countries will be eligible to receive Millennium Challenge Account (MCA) assistance funds. MCA assistance will go to:

Very poor countries. It is currently anticipated that in FY 2004, countries eligible for MCA funds will be those that are currently eligible to borrow from the International Development Association (IDA) and which have per capita incomes below $1,435 (the historical IDA ''cutoff'' for aid). In FY 2005, all countries with per capita incomes below $1,435 will be eligible for MCA assistance. In FY 2006, the list of eligible countries further expands to those with per capita incomes up to $2,975 (the current World Bank cutoff for lower middle income countries). The per capita income levels will be adjusted on an annual basis.

Countries with a demonstrated commitment to ruling justly, encouraging economic freedom, and investing in their people. To assess this commitment and identify recipient countries, the MCA will use clear, concrete, and objective criteria. It is the Administration's intent that in 2004, countries will be selected based on 16 indicators chosen because of the relative quality and objectivity of their data, country coverage, public availability, and correlation with growth and poverty reduction. The specific indicators are listed below with their source noted.

Governing Justly:

Civil Liberties (Freedom House);

Political Rights (Freedom House);

Voice and Accountability (World Bank Institute);

Government Effectiveness (World Bank Institute);

Rule of Law (World Bank Institute); and

Control of Corruption (World Bank Institute).

Investing in People:

Public Primary Education Spending as Percent of Gross Domestic Product (GDP) (World Bank/national sources);

Primary Education Completion Rate (World Bank/national sources);

Public Expenditures on Health as Percent of GDP (World Bank/national sources); and

Immunization Rates: DPT (diphtheria, pertussis, tetanus) and Measles (World Bank/UN/national sources).

Promoting Economic Freedom:

Country Credit Rating (Institutional Investor Magazine);

Inflation (International Monetary Fund [IMF]);

3-Year Budget Deficit (IMF/national sources);

Trade Policy (Heritage Foundation);

Regulatory Quality (World Bank Institute); and

Days to Start a Business (World Bank).

Countries that have signed a Millennium Challenge Contract with the United States. The terms of this contract are defined in Section 103 below.

Sec. 103. Millennium challenge contract

Section 103 specifies the contractual relationship between recipient nations and the United States. Each MCA country will negotiate and sign a Millennium Challenge Contract with the Millennium Challenge Corporation (MCC), established in Title II. To initiate the negotiation, the selected MCA countries will submit country proposals for MCA funds which integrate official interests with those of the private sector and civil society.

The negotiated Millennium Challenge Contracts will include a limited number of clear and measurable objectives, regular benchmarks to measure progress toward achieving the objectives, a plan and a timeframe describing how and when the objectives will be met. Each contract will state the responsibilities of the recipient country and the United States, and describe the role and contributions of non-governmental entities including other donors as appropriate. In addition, all contracts will provide for the financial accountability of MCA funds.

Sec. 104. Millennium challenge assistance

Section 104 authorizes the President to provide assistance for activities that contribute to the achievement of the objectives specified in the contract. These activities will drive productivity and economic growth in MCA countries. Areas of focus for the MCA include agricultural development, education, enterprise and private sector promotion, good governance, health, and trade and investment capacity building.

Sec. 105. Authorization of the millennium challenge account and authorities

Section 105 authorizes appropriations to the President of $1.3 billion in FY 2004 to carry out the MCA and such sums as may be necessary for subsequent fiscal years. It is anticipated that funding for MCA will reach $5 billion by FY 2006. MCA funds will be available until expended (''no-year funds''). This availability of funds allows the Corporation to obligate funds in the most productive manner.

Section 105 allows the provision of MCA assistance to countries notwithstanding any other provision of law with the exception of prohibiting MCA assistance to countries that are ineligible to receive assistance under part I of the Foreign Assistance Act of 1961. This provision restricts or prohibits assistance to countries that engage in actions prohibited in part I, including countries that: violate human rights, support trafficking in narcotics or human beings, and contribute to terrorist financing. If the President waives any of these provisions to make a country eligible to receive assistance under part I of the Foreign Assistance Act, then that country also would be eligible to receive MCA assistance. MCA assistance would be subject to the provisions of the Anti-Deficiency Act.

In addition, section 105 makes the authorities and limitations that are applicable to MCA assistance applicable, as well, to any other funds used in conjunction with MCA funds.

Sec. 106. Evaluation and accountability

Section 106 requires the Millennium Challenge Corporation, established in Title II, to make all concluded Millennium Challenge Contracts and their formal performance evaluations publicly available on the Internet. The public nature of MCA performance information makes the recipient countries and implementers of MCA programs directly accountable to the citizens of MCA countries and United States taxpayers.

Sec. 107. Graduation

Participation in the MCA will be limited according to the terms of the Millennium Challenge Contracts, which will define the purposes, activities and timeframe. MCA assistance will have a clearly defined end date. For example, at the conclusion of the contract period, MCA assistance will end unless participant countries submit a new proposal and renegotiate a new contract with the Corporation. Each contract will also specify the conditions under which the contract will be amended or terminated, including for reasons of poor performance.

TITLE II—THE MILLENNIUM CHALLENGE CORPORATION

Sec. 201. Establishment of the millennium challenge corporation

Section 201 establishes an independent U.S. Government Corporation that will implement the MCA according to provisions of Title I of this Act.

Sec. 202. Management of the corporation

Section 202 establishes a board of directors for the Corporation that will be chaired by the Secretary of State and include the Secretary of the Treasury, and the Director of the Office of Management and Budget. Individuals serving in these positions in an acting capacity may serve on the Board. The Board will direct the exercise of all functions and powers of the Corporation, and shall make the final decision on the eligibility and selection of MCA countries.

The position of the CEO of the Corporation will be a Senate-confirmed Presidential appointment. The CEO's compensation is fixed at the equivalent of a deputy secretary of a department of level II of the Executive Schedule.

Sec. 203. Functions of the corporation

Section 203 authorizes the Corporation to make grants to any private or public entity to carry out the Millennium Challenge Contracts, to provide technical assistance to develop or carry out the Contracts, and to provide for the financial management and evaluation of MCA programs.

Sec. 204. Powers of the corporation

Section 204 provides general powers to the MCC to enable it to conduct business operations. The principal office of the MCC is to be established in the Washington, D.C. metropolitan area. The MCC also has the authority to establish overseas offices as it sees fit. Employees of the MCC, and individuals detailed to the MCC, are provided the authority to hold offices with foreign governments, foreign government agencies, or international organizations, so long as no compensation is paid to such employees or individuals by the foreign entity or international organization. Contracts and other commitments of funds may make commitments for the expenditure of funds for such period of time as the MCC deems necessary. This section also provides discretion to the MCC with regard to the making, performance, amendment, or modification of contracts, grants, and other agreements. Finally, this section provides that the MCC and its assets and property are to be exempt from taxation by the United States or by any State or local taxing authority.

Sec. 205. Personnel and administrative authorities

Section 205 authorizes the CEO of the MCC, in coordination with the Director of the Office of Personnel Management, to establish a human resources management system for the Corporation, including a retirement benefits program. However, provisions of title 5 of the United States Code related to anti-discrimination, merit systems principles, whistle blowing, and conflicts of interest, are specifically made applicable to the MCC. Employees of the MCC are considered Federal employees for purposes of leave benefits, workers compensation, unemployment benefits, life insurance, health insurance, and long-term care insurance.

Section 205 also provides the authorities for detailing U.S. government employees and private sector staff to the Corporation. Federal employees have two options for serving in the Corporation. They may be detailed on a reimbursable or nonreimburseable basis without interruption of their civil service status and privileges. Alternatively, they may resign from their home agency and retain employment rights. Private sector organizations may also detail staff to the MCC, while continuing to pay those employees pay and benefits.

The Corporation has the authority to allocate or transfer money to other agencies; use the services and facilities of any U.S. agency under agreed upon terms; and use any of the administrative authorities contained in the State Department Basic Authorities Act of 1956 and the Foreign Assistance Act of 1961.

Section 205 also makes the provisions of the Government Corporation Control act applicable to the MCC.

To the Congress of the United States:

I am pleased to transmit a legislative proposal to establish the Millennium Challenge Account and the Millennium Challenge Corporation. Also transmitted is a section-by-section analysis.

The Millennium Challenge Account (MCA) represents a new approach to providing and delivering development assistance. This new compact for development breaks with the past by tying increased assistance to performance and creating new accountability for all nations. This proposal implements my commitment to increase current levels of core development assistance by 50 percent over the next 3 years, thus providing an annual increase of $5 billion by fiscal; year 2006. To be eligible for this new assistance, countries must demonstrate commitment to three standards—ruling justly, investing in their people, and encouraging economic freedom. Given this commitment, and the link between financial accountability and development success, special attention will be given to fighting corruption.

The goal of the Millennium Challenge Account initiative is to reduce poverty by significantly increasing economic growth in recipient countries through a variety of targeted investments. The MCA will be administered by a new, small Government corporation, called the Millennium Challenge Corporation, designed to support innovative strategies and to ensure accountability for measurable results. The Corporation will be supervised by a Board of Directors chaired by the Secretary of State and composed of other Cabinet-level officials. The Corporation will be led by a Chief Executive Officer appointed by the President, by and with the advice and consent of the Senate. This proposal provides the Corporation with flexible authorities to optimize program implementation, contracting, and personnel selection while pursuing innovative strategies.

The Millennium Challenge Account initiative recognizes the need for country ownership, financial oversight, and accountability for results to ensure effective assistance. We cannot accept permanent poverty in a world of progress. The MCA will provide people in developing nations the tools they need to seize the opportunities of the global economy. I urge the prompt and favorable consideration of this legislation.

GEORGE W. BUSH.

THE WHITE HOUSE *February 5, 2003.*

By Mr. FRIST:

S. 572. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FRIST (for himself, Mr. DODD, and Mr. ENZI):

S. 573. A bill to amend the Public Health Service Act to promote organ donation, and for other purposes; to the Committee on Health, Education, Labor and Pensions.

Mr. FRIST. Mr. President, this year, due to the rapid and tremendous advancements in our knowledge and in the science of organ transplantation, thousands of Americans will receive a life-saving organ transplant. These advances have allowed us to save the lives of patients who were once not considered candidates for transplantation.

As a heart and lung transplant surgeon, I have had the opportunity to watch the field develop and grow over the past three decades. I remember my own experiences—of conducting some of the first transplants using hearts and lungs—and recognize our tremendous progress since that time. And I also know the hundreds of my own patients who live improved lives due to advances in transplantation.

But I have also shared in the grief of patients who died before they could receive a transplant—a direct result of a large and growing shortage of organ donors. Medical advances have produced a staggering increase in the number of eligible transplant candidates, while the supply of organs fails to keep pace. Today, more than 80,000 patients await a transplant (a four-fold increase from just over a decade ago). At the same time, more patients die each year before they can receive that life-saving organ.

I have also witnessed firsthand how great, lifesaving hope can spring from great tragedy. Earlier this year, I offered my assistance at the scene of a horrible automobile accident in Florida. Most of the family in the accident died—including two young children. While my heart goes out to his family for their terrible loss, from this tragedy has come new life. This family agreed to donate the organs of their loved ones. This gift has saved the life of a boy from the Virgin Islands. We must honor this family, and all other donor families, by redoubling our efforts to increasing organ donation.

There is no need for people to die while awaiting a new organ. In my practice, I carried a card that listed my patients who were waiting on hearts—always aware that several of them would die before a live-saving organ would become available. It was this needless loss of life that was the most painful, most frustrating and most disappointing part of my work.

In 2000, there were almost 23,000 transplants—a significant increase over the roughly 13,000 transplant performed in 1988. Between 1990 and 2001, the number of organ donors almost doubled, mainly as a result of an increase in organs from live donors. In fact, over those ten years, the number of cadaveric donors increased only 35 percent while the demand for transplant has more than tripled.

More must be done. There are simply not enough organ donors; public awareness has not kept up with the rapid advances of transplantation. It is our duty to do all we can to raise awareness about the gift of life.

We must do is work to encourage all Americans to share their desire to be an organ donor with their families.

We must find other ways to improve organ donation—to identify eligible organs and work with families to help them better understand the value of donation. This is a new science—one that I have had the privilege of watching firsthand grow from theories and experiments to accepted medical practice. My mentor, Dr. Norman Shumway, was one of the leaders in the field; and the advent of cyclosporin was critical to its progress. But much remains to be learned, and we must continue to move forward.

That is why one of my first priorities when I came to the Senate in 1995 was

to establish the Congressional Task Force on Organ Donation—to promote awareness of this important issue and encourage a new dialogue seeking answers.

Recent years have witnessed a new emphasis on highlighting public awareness of this need. In particular, I commend Secretary Thompson for making organ donation a top priority at the Department of Health and Human Services.

There also are a number of complementary legislative approaches that we should pursue towards this end.

We should provide funding for innovative and bold demonstration projects to improve donation and recovery rates. As part of this, we should ensure that the projects' results will be evaluated quickly and their lessons be disseminated broadly.

We should provide for the placement and evaluation of organ donation coordinators in hospitals—a model that has worked with success in other countries.

We should expand the authority of the Agency for Healthcare Research and Quality to conduct important research on the recovery, preservation and transportation of organs. The science of organ transplantation has been improved and refined since its inception. Yet all too often, organ donation efforts are conducted under the same practices as they were twenty years ago. We must establish a strong evidence-based approach to enhancing organ donation and recovery.

We must encourage living organ donation by reducing potential financial disincentives facing living donors through the reimbursement of travel and other expenses incurred by living donors and their families.

We must also seriously evaluate the long-term health effects of serving as a living donor by asking the Institute of Medicine to report on this issue and by establishing a living donor registry to track the health of individuals who have served as living organ donors.

We must seriously examine and improve the role of organ donor registries. These programs have an important role to play in improving organ donation rates and have been used with different levels of success in some states. However, a number of questions surrounding registries remain unanswered and their effectiveness has not been fully evaluated.

We must undertake a high-level systematic examination of the effectiveness of a range of organ donation approaches. Specifically, the Institute of Medicine should evaluate practices or organ procurement organizations, States, and other countries. This study should examine existing barriers to organ donation, as well as best donation and recovery practices, such as mandated choice and presumed consent. The study should evaluate consent practices, existing state routine notification laws, and the impact of requests for consent where registry listing constitutes express consent under State law. This review should be timely and include recommendations for action necessary to replicate the best practices identified and to otherwise increase organ donation rates.

We must recognize and honor the sacrificial decisions to give consent and give the gift of life made each year by thousands of donors and families. We must do this in such a way as to honor those sharing life through donation and increase public awareness of this issue.

These initiatives are contained within two important pieces of legislation I am introducing today.

The Organ Donation and Recovery Improvement Act is a bipartisan, comprehensive bill that seeks to improve the overall process of organ donation and recovery, enhance our knowledge base in these fields, encourage novel approaches to this growing problem and increase the number of organs available for transplants each year. The bill also seeks to remove potential barriers to donation, while identifying and focusing on best practices in organ donation. I thank Senator CHRISTOPHER DODD and Senator MIKE ENZI for their assistance on this important bill. I also want to thank the wide range of patient and organ transplantation organizations who have done good work on this bill, including the American Society of Transplantation, American Society of Transplant Surgeons, North American Transplant Coordinators Organization, Tennessee Donor Services, New Mexico Donor Services, and Golden State Donor Services.

The Gift of Life Congressional Medal Act will make each donor or donor family eligible to receive a commemorative Congressional medal. This legislation, which does not cost taxpayers a penny, will recognize the thousands of individuals each year who share the gift of life through organ donation. Moreover, it will encourage potential donors and enhance public awareness of the importance of organ donation to the over 80,000 Americans waiting for a transplant. Representative PETE STARK will soon be introducing the companion bill in the House of Representatives, and I thank him for his dedication in this area.

Organ donation is one of the most important issues before us today. Each year, thousands of donors and families make the important decision to give consent and give the gift of life. We must recognize and honor their sacrifice, and, in so honoring, work to increase donation rates and allow more families to receive this gift of life each year. Hundreds of my own patients are alive today because of this gift. Let us work together to allow more patients and families to experience this miracle.

I ask unanimous consent that the text of the bills printed in the RECORD.

S. 572

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 ''Gift of Life Congressional Medal Act of 2003''.

SEC. 2. CONGRESSIONAL MEDAL.

The Secretary of the Treasury shall design and strike a bronze medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury, to commemorate organ donors and their families.

SEC. 3. ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—Any organ donor, or the family or family member of any organ donor, shall be eligible for a medal described in section 2.

(b) DOCUMENTATION.—The Secretary of Health and Human Services shall direct the entity holding the Organ Procurement and Transplantation Network (hereafter in this Act referred to as ''OPTN'') to contract to—

(1) establish an application procedure requiring the relevant organ procurement organization, as described in section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1)), through which an individual or their family made an organ donation, to submit to the OPTN contractor documentation supporting the eligibility of that individual or their family to receive a medal described in section 2; and

(2) determine, through the documentation provided, and, if necessary, independent investigation, whether the individual or family is eligible to receive a medal described in section 2.

SEC. 4. PRESENTATION.

(a) DELIVERY TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of the Treasury shall deliver medals struck pursuant to this Act to the Secretary of Health and Human Services.

(b) DELIVERY TO ELIGIBLE RECIPIENTS.—The Secretary of Health and Human Services shall direct the OPTN contractor to arrange for the presentation to the relevant organ procurement organization all medals struck pursuant to this Act to individuals or families that, in accordance with section 3, the OPTN contractor has determined to be eligible to receive medals under this Act.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), only 1 medal may be presented to a family under subsection (b). Such medal shall be presented to the donating family member, or in the case of a deceased donor, the family member who signed the consent form authorizing, or who otherwise authorized, the donation of the organ involved.

(2) EXCEPTION.—In the case of a family in which more than 1 member is an organ donor, the OPTN contractor may present an additional medal to each such organ donor or their family.

SEC. 5. DUPLICATE MEDALS.

(a) IN GENERAL.—The Secretary of Health and Human Services or the OPTN contractor may provide duplicates of the medal described in section 2 to any recipient of a medal under section 4(b), under such regulations as the Secretary of Health and Human Services may issue.

(b) LIMITATION.—The price of a duplicate medal shall be sufficient to cover the cost of such duplicates.

SEC. 6. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of section 5111 of title 31, United States Code.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

SEC. 8. SOLICITATION OF DONATIONS.

(a) IN GENERAL.—The Secretary of the Treasury may enter into an agreement with the OPTN contractor to collect funds to offset expenditures relating to the issuance of medals authorized under this Act.

(b) PAYMENT OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), all funds received by the Organ Procurement and Transplantation Network under subsection (a) shall be promptly paid by the Organ Procurement and Transplantation Network to the Secretary of the Treasury.

(2) LIMITATION.—Not more than 5 percent of any funds received under subsection (a) shall be used to pay administrative costs incurred by the OPTN contractor as a result of an agreement established under this section.

(c) NUMISMATIC PUBLIC ENTERPRISE FUND.—Notwithstanding any other provision of law—

(1) all amounts received by the Secretary of the Treasury under subsection (b)(1) shall be deposited in the Numismatic Public Enterprise Fund, as described in section 5134 of title 31, United States Code; and

(2) the Secretary of the Treasury shall charge such fund with all expenditures relating to the issuance of medals authorized under this Act.

(d) START-UP COSTS.—A 1-time amount not to exceed $55,000 shall be provided to the OPTN contractor to cover initial start-up costs. The amount will be paid back in full within 3 years of the date of the enactment of this Act from funds received under subsection (a).

(e) NO NET COST TO THE GOVERNMENT.—The Secretary of the Treasury shall take all actions necessary to ensure that the issuance of medals authorized under section 2 results in no net cost to the Government.

SEC. 9. DEFINITIONS.

In this Act:

(1) ORGAN.—The term ''organ'' means the human kidney, liver, heart, lung, pancreas, and any other human organ (other than corneas and eyes) specified by regulation of the Secretary of Health and Human Services or the OPTN contractor.

(2) ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.—The term ''Organ Procurement and Transplantation Network'' means the Organ Procurement and Transplantation Network established under section 372 of the Public Health Service Act (42 U.S.C. 274).

SEC. 10. SUNSET PROVISION.

This Act shall be effective during the 5-year period beginning on the date of the enactment of this Act.

S. 573

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 ''Organ Donation and Recovery Improvement Act''.

TITLE I—ORGAN DONATION AND RECOVERY

SEC. 101. INTERAGENCY TASK FORCE ON ORGAN DONATION.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended—

(1) by redesignating section 378 (42 U.S.C. 274g) as section 378E; and

(2) by inserting after section 377 (42 U.S.C. 274f) the following:

''SEC. 378. INTER-AGENCY TASK FORCE ON ORGAN DONATION AND RESEARCH.

''(a) IN GENERAL.—The Secretary shall establish an inter-agency task force on organ donation and research (referred to in this section as the 'task force') to improve the coordination and evaluation of—

''(1) federally supported or conducted organ donation efforts and policies; and

''(2) federally supported or conducted basic, clinical and health services research (including research on preservation techniques and organ rejection and compatibility).

''(b) COMPOSITION.—

''(1) IN GENERAL.—The task force shall be composed of—

''(A) the Surgeon General, who shall serve as the chairperson; and

''(B) representatives to be appointed by the Secretary from relevant agencies within the Department of Health and Human Services (including the Health Resources and Services Administration, Centers for Medicare & Medicaid Services, National Institutes of Health, and Agency for Healthcare Research and Quality).

''(2) OTHER EX OFFICIO MEMBERS.—The Secretary shall invite the following individuals to serve as ex officio members of the task force:

''(A) A representative from the Department of Transportation.

''(B) A representative from the Department of Defense.

''(C) A representative from the Department of Veterans Affairs.

''(D) A representative from the Office of Personnel Management.

''(E) A physician representatives from the board of directors of the Organ Procurement and Transplantation Network.

''(F) Representatives of other Federal agencies or departments as determined to be appropriate by the Secretary.

''(c) ANNUAL REPORT.—In addition to activities carried out under subsection (a), the task force shall support the development of the annual report under section 378D(c).

''(d) TERMINATION.—The task force may be terminated at the discretion of the Secretary following the completion of at least 2 annual reports under section 378D(c). Upon such termination, the Secretary shall provide for the on-going coordination of federally supported or conducted organ donation and research activities.''.

SEC. 102. DEMONSTRATION PROJECTS, EDUCATION, AND PUBLIC AWARENESS.

Part H of title III of the Public Health Service Act (42 U.S.C 273 et seq.) is amended by inserting after section 378, as added by section 101, the following:

''SEC. 378A. DEMONSTRATION PROJECTS, EDUCATION, AND PUBLIC AWARENESS.

''(a) GRANTS TO INCREASE DONATION RATES.—The Secretary shall award peer-reviewed grants to public and non-profit private entities, including States, to carry out studies and demonstration projects to increase organ donation and recovery rates, including living donation.

''(b) ORGAN DONATION PUBLIC AWARENESS PROGRAM.—The Secretary shall establish a public education program in cooperation with existing national public awareness campaigns to increase awareness about organ donation and the need to provide for an adequate rate of such donations.

''(c) DEVELOPMENT OF CURRICULA AND OTHER EDUCATION ACTIVITIES.—

''(1) IN GENERAL.—The Secretary, in coordination with the Organ Procurement and Transplantation Network and other appropriate organizations, shall support the development and dissemination of model curricula to train health care professionals and other appropriate professionals (including religious leaders in the community, funeral directors, and law enforcement officials) in issues surrounding organ donation, including methods to approach patients and their families, cultural sensitivities, and other relevant issues.

''(2) HEALTH CARE PROFESSIONALS.—For purposes of subparagraph (A), the term 'health care professionals' includes—

''(A) medical students, residents and fellows, attending physicians (through continuing medical education courses and other methods), nurses, social workers, and other allied health professionals; and

''(B) hospital- or other health care-facility based chaplains; and

''(C) emergency medical personnel.

''(d) LIMITED DEMONSTRATION PROJECTS.—

''(1) REPORTS.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report evaluating the ethical implications of proposals for demonstration projects to increase cadaveric donation.

''(2) AUTHORITY.—Notwithstanding section 301 of the National Organ Transplant Act (42 U.S.C. 274e), upon the submission of and consistent with the report by the Secretary under paragraph (1), the Secretary may conduct up to 3 demonstration projects to increase cadaveric donation.

''(3) DURATION.—Each project shall last no more than 3 years, and shall be conducted in a limited number of sites or areas.

''(4) REVIEW.—The Secretary shall provide for the ongoing ethical review and evaluation of such projects to ensure that such projects are administered effectively as possible and in accordance with the stated purpose of this subsection under paragraph (2).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008.

''SEC. 378B. GRANTS REGARDING HOSPITAL ORGAN DONATION COORDINATORS.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary may award grants to qualified organ procurement organizations under section 371 to establish programs coordinating organ donation activities of eligible hospitals and qualified organ procurement organizations under section 371. Such activities shall be coordinated to increase the rate of organ donations for such hospitals.

''(2) ELIGIBLE HOSPITAL.—For purposes of this section, an eligible hospital is a hospital that performs significant trauma care, or a hospital or consortium of hospitals that serves a population base of not fewer than 200,000 individuals.

''(b) ADMINISTRATION OF COORDINATION PROGRAM.—A condition for the receipt of a grant under subsection (a) is that the applicant involved agree that the program under such subsection will be carried out jointly—

''(1) by representatives from the eligible hospital and the qualified organ procurement organization with respect to which the grant is made; and

''(2) by such other entities as the representatives referred to in paragraph (1) may designate.

''(c) EVALUATIONS.—Within 3 years after the award of grants under this section, the Secretary shall ensure an evaluation of programs carried out pursuant to subsection (a) in order to determine the extent to which the programs have increased the rate of organ donation for the eligible hospitals involved. Such evaluation shall include recommendations on whether the program should be expanded to include other grantees, such as hospitals.

''(d) MATCHING REQUIREMENT.—The Secretary may not award a grant to a qualifying organ donation entity under this section unless such entity agrees that, with respect to costs to be incurred by the entity in carrying out activities for which the grant was awarded, the entity shall contribute (directly or through donations from public or private entities) non-Federal contributions in cash or in kind, in an amount equal to not less than 30 percent of the amount of the grant awarded to such entity.

''(e) FUNDING.—For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for fiscal year 2004,

and such sums as may be necessary for each of fiscal years 2005 through 2008.''.

SEC. 103. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.

Part H of title III of the Public Health Service Act (42 U.S.C 273 et seq.) is amended by inserting after section 378B, as added by section 102, the following:

''SEC. 378C. STUDIES RELATING TO ORGAN DONATION AND THE RECOVERY, PRESERVATION, AND TRANSPORTATION OF ORGANS.

''(a) DEVELOPMENT OF SUPPORTIVE INFORMATION.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the Agency for Healthcare Research and Quality shall develop scientific evidence in support of efforts to increase organ donation and improve the recovery, preservation, and transportation of organs.

''(b) ACTIVITIES.—In carrying out subsection (a), the Secretary shall—

''(1) conduct or support evaluation research to determine whether interventions, technologies, or other activities improve the effectiveness, efficiency, or quality of existing organ donation practice;

''(2) undertake or support periodic reviews of the scientific literature to assist efforts of professional societies to ensure that the clinical practice guidelines that they develop reflect the latest scientific findings;

''(3) ensure that scientific evidence of the research and other activities undertaken under this section is readily accessible by the organ procurement workforce; and

''(4) work in coordination with the appropriate professional societies as well as the Organ Procurement and Transplantation Network and other organ procurement and transplantation organizations to develop evidence and promote the adoption of such proven practices.

''(c) RESEARCH, DEMONSTRATIONS, AND TRAINING.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the Agency for Healthcare Research and Quality, as appropriate, shall provide support for research, demonstrations, and training as appropriate, to—

''(1) develop a uniform clinical vocabulary for organ recovery;

''(2) apply information technology and telecommunications to support the clinical operations of organ procurement organizations;

''(3) enhance the skill levels of the organ procurement workforce in undertaking quality improvement activities; and

''(4) assess specific organ recovery, preservation, and transportation technologies.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.''.

SEC. 104. REPORTS.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 378C, as added by section 103, the following:

''SEC. 378D. REPORTS.

''(a) IOM REPORT ON BEST PRACTICES.—

''(1) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine to conduct an evaluation of the organ donation practices of organ procurement organizations, States, other countries, and other appropriate organizations.

''(2) CONSIDERATIONS.—In conducting the evaluation under paragraph (1), the Institute of Medicine shall examine—

''(A) existing barriers to organ donation, including among minority populations; and

''(B) best donation and recovery practices, including—

''(i) mandated choice and presumed consent;

''(ii) organ procurement organization and provider consent practices (including consent best practices);

''(iii) the efficacy and reach of existing State routine notification laws with respect to organ procurement organizations;

''(iv) the impact of requests for consent in States where registry registration constitutes express consent under State law; and

''(v) recommendations with respect to achieving higher donation rates, including among minority populations.

''(3) REPORT.—Not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit to the Secretary a report concerning the evaluation conducted under this subsection. Such report shall include recommendations for administrative actions and, if necessary, legislation in order to replicate the best practices identified in the evaluation and to otherwise increase organ donation and recovery rates.

''(b) IOM REPORT ON LIVING DONATIONS.—

''(1) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine to conduct an evaluation of living donation practices and procedures. Such evaluation shall include, but is not limited to an assessment of issues relating to informed consent and the health risks associated with living donation (including possible reduction of long-term effects).

''(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Institute of Medicine shall submit to the Secretary a report concerning the evaluation conducted under this subsection.

''(c) REPORT ON DONATION AND RECOVERY ACTIVITIES.—

''(1) IN GENERAL.—The Secretary as part of the report specified in 274d shall submit an evaluation concerning federally supported or conducted organ donation and recovery activities, including donation and recovery activities evaluated or conducted under the amendments made by the Organ Donation and Recovery Improvement Act to increase organ donation and recovery rates.

''(2) REQUIREMENTS.—To the extent practicable, each evaluation submitted under paragraph (1) shall—

''(A) evaluate the effectiveness of activities, identify best practices, and make recommendations regarding the adoption of best practices with respect to organ donation and recovery; and

''(B) assess organ donation and recovery activities that are recently completed, ongoing, or planned.''.

SEC. 105. TECHNICAL AMENDMENT CONCERNING ORGAN PURCHASES.

Section 301(c)(2) of the National Organ Transplant Act (42 U.S.C. 274e(c)(2)) is amended by adding at the end the following: ''Such term does not include familial, emotional, psychological, or physical benefit to an organ donor, recipient, or any other party to an organ donation event.''.

TITLE II—LIVING DONATION EXPENSES

SEC. 201. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.

Section 377 of the Public Health Service Act (42 U.S.C. 274f) is amended to read as follows:

''SEC. 377. REIMBURSEMENT OF TRAVEL AND SUBSISTENCE EXPENSES INCURRED TOWARD LIVING ORGAN DONATION.

''(a) IN GENERAL.—The Secretary may award grants to States, transplant centers, qualified organ procurement organizations under section 371, or other public or private entities for the purpose of—

''(1) providing for the reimbursement of travel and subsistence expenses incurred by individuals toward making living donations of their organs (in this section referred as 'donating individuals'); and

''(2) providing for the reimbursement of such incidental nonmedical expenses that are so incurred as the Secretary determines by regulation to be appropriate.

''(b) PREFERENCE.—The Secretary shall, in carrying out subsection (a), give preference to those individuals that the Secretary determines are more likely to be otherwise unable to meet such expenses.

''(c) CERTAIN CIRCUMSTANCES.—The Secretary may, in carrying out subsection (a), consider—

''(1) the term 'donating individuals' as including individuals who in good faith incur qualifying expenses toward the intended donation of an organ but with respect to whom, for such reasons as the Secretary determines to be appropriate, no donation of the organ occurs; and

''(2) the term 'qualifying expenses' as including the expenses of having relatives or other individuals, not to exceed 2, who accompany or assist the donating individual for purposes of subsection (a) (subject to making payment for only such types of expenses as are paid for donating individual).

''(d) RELATIONSHIP TO PAYMENTS UNDER OTHER PROGRAMS.—An award may be made under subsection (a) only if the applicant involved agrees that the award will not be expended to pay the qualifying expenses of a donating individual to the extent that payment has been made, or can reasonably be expected to be made, with respect to such expenses—

''(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program;

''(2) by an entity that provides health services on a prepaid basis; or

''(3) by the recipient of the organ.

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for fiscal year 2004, and such sums as may be necessary for each of fiscal years 2005 through 2008.''.

TITLE III—ORGAN REGISTRIES

SEC. 301. ADVISORY COMMITTEE.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by inserting after section 371 the following:

''SEC. 371A. ADVISORY COMMITTEE.

''(a) IN GENERAL.—Not later than 6 months after enactment, the Secretary shall establish an advisory committee to study existing organ donor registries and make recommendations to Congress regarding the costs, benefits, and expansion of such registries.

''(b) MEMBERSHIP.—The committee shall be composed of 10 members of whom—

''(1) at least 1 member shall be a physician with experience performing transplants;

''(2) at least 1 member shall have experience in organ recovery;

''(3) at least 1 member shall be representative of an organization with experience conducting national awareness campaigns and donor outreach;

''(4) at least 1 member shall be representative of a State with an existing donor registry;

''(5) at least 1 member shall have experience with national information systems where coordination occurs with State-based systems; and

''(6) at least 1 member shall represent donor families, transplant recipients, and those awaiting transplantation.

''(c) INITIAL MEETING.—Not later than 30 days after the date on which all members of the committee have been appointed, the committee shall hold its first meeting.

''(d) MEETINGS.—The committee shall meet at the call of the Chairman who shall be selected by the Secretary.

''(e) COMPENSATION.—Each member of the committee shall not receive compensation for services provided under this section.

''(f) TRAVEL EXPENSES.—The members of the committee shall be allowed 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, while away from their homes or regular places of business in the performance of services for the committee.

''(g) ADMINISTRATIVE SUPPORT.—The Secretary shall ensure that the committee is provided with administrative support or any other technical assistance that such committee needs in carrying out its duties.

''(h) PERMANENT COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the committee established under this section.

''(i) REPORT.—Not later than 1 year after the date on which the committee is established under subsection (a), the committee shall prepare and submit to Congress a report regarding the status of organ donor registries, current best practices, the effect of organ donor registries on organ donation rates, the merits of expanding organ donor registries, issues relating to consent, the efficacy of current privacy protections, potential forms of technical assistance, and recommendations regarding improving the effectiveness and establishing formal linkages between organ donor registries.

''(j) DEFINITION.—In this section, the term 'organ donor registry' means a listing of individuals who have indicated their desire to donate their organs and tissue upon their death through driver's license preferences or other formal mechanisms.''.

SEC. 302. NATIONAL LIVING DONOR REGISTRY.

Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.), as amended by section 301, is further amended by inserting after section 371A the following:

''SEC. 371B. NATIONAL LIVING DONOR REGISTRY.

''The Secretary shall by contract establish and maintain a registry of individuals who have served as living organ donors for the purpose of evaluating the long-term health effects associated with living organ donations.''.

SEC. 303. QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.

Section 371(a) of the Public Health Service Act (42 U.S.C. 273(a)) is amended by striking paragraph (3).

Mr. DODD. Mr. President, for tragic reasons, organ donation has been in the spotlight of late. On Saturday, February 23, 2002, 17-year-old Jessica Santillan died after receiving organs from a donor with an incompatible blood type. I would like to take this opportunity to express my heartfelt condolences to Jessica's family and friends.

While it is critical to understand how mistakes led to Jessica's death, and how they can be avoided in the future, this tragic incident should not diminish our commitment to organ donation—a procedure that saves thousand of lives each year, and was in fact Jessica's only chance for survival. Instead, we should make a commitment to increasing our donation rates and saving even more lives.

Today, I am pleased to reintroduce legislation with Senator BILL FRIST to do just that. The Organ Donation and Recovery Improvement Act, which Senator FRIST and I originally introduced last Congress, will bring positive attention to this critical public health issue by increasing resources and coordinating efforts to improve organ donation and recovery. I am proud to be working with my friend and colleague, Senator FRIST, whose leadership and professional experience as a heart and lung transplant surgeon has been critical in making this issue a priority.

At this very moment, more than 80,000 people are waiting for an organ transplant, and one person is added to this list every thirteen minutes. This list has increased from 19,095 people a decade ago. Unfortunately, the discrepancy between the need and the number of available organs is growing exponentially. From 1999 to 2000, transplant waiting lists grew by 10.2 percent, while the total increase in donations grew by 5.3 percent. Tragically, in 2000, approximately 5,500 wait-listed patients died waiting for an organ.

Undoubtedly, the task before our nation in caring for these patients seems daunting. However, each person who makes the decision to donate can save as many as three lives. None of us wants to imagine the anguish of watching a family member or a friend wait for an organ transplant hoping that their name reaches the top of the list before their damaged organ fails or having to bear the emotional, physical, or financial costs of undergoing a transplant procedure. For those that do, and for all of those that will, we must improve and strengthen our systems of organ donation and recovery. The legislation that Senator FRIST and I are introducing today represents a significant step towards this goal. It would establish a task force to evaluate and improve federal efforts relating to organ donation and transplantation research, and would also authorize $3 million in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 for grants to Organ Procurement Organizations to coordinate donation activities between hospitals.

A vital part of increasing donations lies in education and public awareness initiatives. This legislation would authorize $5 million in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 to educate the public about issues surrounding organ donation, as well as train health care providers and other appropriate professionals in the best methods to use when approaching possible donors and their families. This funding could also be used for other demonstration projects to increase organ donation and recovery rates. In addition, an equal amount is authorized to expand the Agency for Health Care Research and Quality's authority to improve organ donation practices.

We must also work to remove the barriers that stand in a donor's way as he or she seeks to help another person continue life. Our bill would seek to expand living donation by authorizing $5 million in fiscal year 2004 and such sums as may be necessary in fiscal years 2005 through 2008 for the reimbursement of related expenses incurred by the donor. In addition, this legislation requests an Institute of Medicine report on living donation practices and potential long-term health risks.

Finally, we must work to improve the science of donation and recovery, and address legal issues relating to donation, including consent. More than 20 states currently have registries that may prove indispensable in ensuring that we honor a donor's wishes. This bill would establish an advisory committee to study the benefits, and potential shortcomings, of these arrangements and work to create a national sense of urgency that matches the national need for donors.

I would like to recognize the invaluable support and guidance we received in drafting this bill from the American Society of Transplantation, the American Liver Foundation, the Patient Access to Transplantation Coalition, the North American Transplant Coordinators Organization, and the National Kidney Foundation. I would be remiss not to also mention the Association of Organ Procurement Organizations, whose members nationwide have worked so tirelessly to bridge the gap between the immense need for and the inadequate supply of donated organs. In my home state of Connecticut, we are well-served by the tremendous work of the Northeast Organ Procurement Organization and the New England Organ Bank.

Finally, I look forward to working with my colleagues, including Senator KENNEDY, Senator GREGG, and Senator DURBIN, whose commitment to this issue has been unparalleled. I urge Congress to take swift action on this bipartisan legislation aimed at increasing organ donation and saving lives.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 78—DESIGNATING MARCH 25, 2003, AS ''GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY''

Mr. SPECTER (for himself, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORZINE, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr.

HAGEL, Mr. HOLLINGS, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Mr. STEVENS, Mr. SUNUNU, Mr. THOMAS, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 78

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States drew heavily on the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821, ''it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you'';

Whereas Greece is 1 of only 3 nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict for more than 100 years;

Whereas Greece played a major role in the World War II struggle to protect freedom and democracy through such bravery as was shown in the historic Battle of Crete and in presenting the Axis land war with its first major setback, setting off a chain of events that significantly affected the outcome of World War II;

Whereas the price for Greece in holding our common values in their region was high, as hundreds of thousands of civilians were killed in Greece during the World War II period;

Whereas President George W. Bush, in recognizing Greek Independence Day on March 25, 2002, said, ''Greece and America have been firm allies in the great struggles for liberty. Americans will always remember Greek heroism and Greek sacrifice for the sake of freedom . . . [and] as the 21st Century dawns, Greece and America once again stand united; this time in the fight against terrorism. The United States deeply appreciates the role Greece is playing in the war against terror. . . . America and Greece are strong allies, and we're strategic partners.'';

Whereas Greece is a stabilizing force by virtue of its political and economic power in the volatile Balkan region and is one of the fastest growing economies in Europe;

Whereas on January 1, 2003, Greece took over the Presidency of the European Union for the fourth time since it joined the Union in 1981 with the message of ''Our Europe: Sharing the Future in a Community of Values'';

Whereas Greece, through excellent work and cooperation with United States and international law enforcement agencies, recently arrested key members of the November 17 terrorist organization;

Whereas President Bush stated that Greece's ''successful law enforcement operations against a terrorist organization [November 17] responsible for three decades of terrorist attacks underscore the important contributions Greece is making to the global war on terrorism'';

Whereas Greece's unprecedented Olympic security effort, including a record-setting expenditure of over $600,000,000 and the utilization of a 7-member Olympic Security Advisory Group which includes the United States, will contribute to a safe and secure environment for staging the 2004 Olympic Games in Athens, Greece;

Whereas Greece, geographically located in a region where Christianity meets Islam and Judaism, maintains excellent relations with Muslim nations and Israel;

Whereas Greece has had extraordinary success in recent years in furthering cross-cultural understanding and reducing tensions between Greece and Turkey;

Whereas Greece and the United States are at the forefront of the effort for freedom, democracy, peace, stability, and human rights;

Whereas those and other ideals have forged a close bond between our 2 nations and their peoples;

Whereas March 25, 2003, marks the 182nd anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our 2 great nations were born: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 25, 2003, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. SPECTER. Mr. President, today I am pleased to submit a resolution along with 52 of my colleagues to designate March 25, 2003, as ''Greek Independence Day: A Celebration of Greek and American Democracy.''

One hundred and eighty two years ago, the Greek people began the revolution that would free them from the Ottoman Empire and return Greece to its democratic heritage. It was, of course, the ancient Greeks who developed the concept of democracy in which the supreme power to govern was vested in the people. Our Founding Fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy. Thomas Jefferson proclaimed that, ''to the ancient Greeks . . . we are all indebted for the light which led ourselves out of Gothic darkness.'' It is fitting, then, that we should recognize the anniversary of the beginning of their efforts to return to that democratic tradition.

The democratic form of government is only one of the most obvious of the many benefits we have gained from the Greek people. The ancient Greeks contributed a great deal to the modern world, particularly to the United States of America, in the areas of art, philosophy, science and law. Today, Greek-Americans continue to enrich our culture and make valuable contributions to American society, business, and government.

It is my hope that strong support for this resolution in the Senate will serve as a clear goodwill gesture to the people of Greece with whom we have enjoyed such a close bond throughout history. Similar resolutions have been passed by the Senate since 1984 with overwhelming support. Accordingly, I urge my Senate colleagues to join me in supporting this important resolution.

I ask unanimous consent that the bill be printed in the RECORD.

Mr. DURBIN. Mr. President, today I rise before the Senate in support of a Senate Resolution submitted today by my colleague Senator SPECTER. This resolution designates March 25 of this year as ''Greek Independence Day: A day of celebration for Greek and American democracy.''

The people of ancient Greece made important, lasting contributions to humanity in the fields of literature, philosophy, mathematics, and the physical sciences. The greatest part of their legacy, though, is a simple yet powerful idea that was born over 2,000 years ago. It is the idea that citizens should possess the power to determine the course of their Nation.

The bonds that join the United States and Greece are deep and long lasting. In 1821, Greek Commander in Chief Petros Mavromichalis said to the citizens of the United States: ''it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you.'' Since modern Greece's struggle for independence 182 years ago, our countries have stood to together as allies and friends. We have peacefully worked together in every major international conflict.

Today, Greece continues to embrace the ideals of freedom, democracy, and peace. The past few years have witnessed hopeful new steps toward the resolution of a number of the world's longstanding conflicts and animosities. With its strategic location at the nexus of Europe, Asia and Africa, Greece has been a key participant in many of these efforts. In particular, it has played a pivotal role in promoting democratization, economic development and, above all, peace in the Balkans.

In honoring Greek Independence Day, we pay special tribute to those Greek men and women who gave their lives for the common cause of freedom. Greek-Americans can especially take pride in their ancestors' sacrifice. The many Greek sons and daughters who have come to the United States have worked honorably in all areas of American life, including public service. Greek culture flourishes in American cities, adding to our country's rich diversity.

It is with great honor that I join my colleagues in recognizing this anniversary of Greek independence. Our two great nations have fought to maintain freedom and established democracy throughout the world. In designating March 25 of this year as ''Greek Independence Day'', we celebrate the freedom that these two great nations represent.

Thank you for giving me the opportunity to speak to my colleagues about this important date.

AMENDMENTS SUBMITTED & PROPOSED

SA 251. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. WYDEN, and Mr. HARKIN) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002.

SA 252. Mr. LEVIN (for himself, Mr. FEINGOLD, Mr. AKAKA, and Mr. KENNEDY) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, supra.

SA 253. Mr. FEINGOLD proposed an amendment to amendment SA 252 proposed by Mr. LEVIN (for himself, Mr. FEINGOLD, Mr. AKAKA, and Mr. KENNEDY) TO THE RESOLUTION OF RATIFICATION FOR TREATY DOC. 107–8, SUPRA.

SA 254. Mr. AKAKA proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, supra.

SA 255. Mr. KERRY proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, supra.

SA 256. Mr. LEVIN (for himself, Mr. DASCHLE, Mr. AKAKA, and Mr. NELSON, of Florida) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, supra.

SA 257. Mr. FRIST (for Mr. LAUTENBERG) proposed an amendment to the concurrent resolution S. Con. Res. 13, condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

TEXT OF AMENDMENTS

SA 251. Mrs. FEINSTEIN (for herself, Mr. LEAHY, Mr. WYDEN, and Mr. HARKIN) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of section 3, add the following new declaration:

(7) STAND-DOWN FROM ALERT STATUS OF FORCES COVERED BY TREATY.—Noting that the Administration has stated that ''[t]he first planned step in reducing U.S. operationally deployed strategic nuclear warheads will be to retire 50 Peacekeeper ICBMs, remove four Trident Submarines from strategic service, and no longer maintain the ability to return the B-1 to nuclear service,'' the Senate—

(A) encourages the President, within 180 days after the exchange of instruments of ratification of the Treaty, to initiate in a safe and verifiable manner a bilateral stand-down from alert status of all United States and Russian Federation nuclear weapons systems that will no longer be operationally deployed under the Treaty, but which the United States and the Russian Federation may keep operationally deployed under the Treaty until December 31, 2012; and

(B) expects a representative of the executive branch of the Government to offer regular briefings to the Committee on Foreign Relations and the Committee on Armed Services of the Senate regarding—

(i) the alert status of the nuclear forces of the United States and the Russian Federation;

(ii) any determination of the President to order a stand-down of the alert status of United States nuclear forces; and

(iii) any progress in establishing cooperative measures with the Russian Federation to effect a stand-down of the alert status of Russian Federation nuclear forces.

SA 252. Mr. LEVIN. (for himself, Mr. FEINGOLD, Mr. AKAKA, and Mr. KENNEDY) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of section 2, add the following new condition:

(3) NOTICE AND CONSULTATIONS PRIOR TO WITHDRAWAL OR EXTENSION.—(A) Prior to taking any action relevant to paragraphs 2 or 3 of Article IV of the Treaty, and except as provided in subparagraph (B), the President shall—

(i) provide not less than 60 days advance notice of such action to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(ii) consult with the Senate on such action.

(B) The President may waive a requirement in subparagraph (A) if the President—

(i) determines that national security needs prevent the President from meeting the requirement; and

(ii) submits to the committees of the Senate referred to in subparagraph (A) a written notice of the waiver, including a description of the national security needs and the reasons justifying the waiver.

In section 3, strike declaration (6).

SA 253. Mr. FEINGOLD proposed an amendment to amendment SA 252 proposed by Mr. LEVIN (for himself, Mr. FEINGOLD, Mr. AKAKA, and Mr. KENNEDY) to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of the proposed condition, add the following:

(C) Prior to taking any action relevant to paragraphs 2 or 3 of Article IV of the Treaty, the President shall obtain the approval of two thirds of the Senators present.

SA 254. Mr. AKAKA proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of the last sentence of condition 1 in section 2, strike the period and insert the following: '', and shall include—

''(A) an estimate of the funding levels required in the fiscal year following the year of the report to implement all Cooperative Threat Reduction programs and other nonproliferation programs relevant to the Treaty and ensure that nuclear weapons, materials, technology, and expertise in the Russian Federation are secure from theft and diversion; and

''(B) a description of any initiatives proposed by the President to address any matter covered by subparagraph (A) in order to improve the implementation or effectiveness of the Treaty.''.

SA 255. Mr. KERRY proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

At the end of section 2, add the following new condition:

(3) ANNUAL REPORTS ON MONITORING CAPABILITIES.—(A) Not later than 60 days after the exchange of the instruments of ratification of the Treaty, and annually thereafter on May 1, the President shall submit to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate an estimate, prepared by the Director of Central Intelligence, on the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty.

(B) Each estimate shall meet the requirements of a national intelligence estimate under section 103(b)(2)(A) of the National Security Act of 1947 (50 U.S.C. 403-3(b)(2)(A)), and shall include—

(i) an estimate, for each strategic nuclear weapons system of the Russian Federation, of the confidence of the United States, whether low, medium, or high, in the capability of the United States to monitor the deployed warheads on such system;

(ii) an assessment of the capability of the United States to monitor the compliance of the Russian Federation with the requirements of the Treaty—

(I) under the verification measures of the verification regime under the Treaty on the Reduction and Limitation of Strategic Offensive Arms, with Annexes, Protocols, and Memorandum of Understanding, signed at Moscow on July 31, 1991 (START Treaty); and

(II) after the verification regime expires upon termination of the START Treaty; and

(iii) additional mechanisms to ensure United States monitoring of the compliance of the Russian Federation with the requirements of the Treaty, including—

(I) further agreements between the United States and the Russian Federation;

(II) mutual data exchanges between the United States and the Russian Federation;

(III) improvements in the transparency of strategic offensive reductions under the Treaty;

(IV) improvements to existing monitoring technologies; and

(V) other appropriate mechanisms.

(C) Each estimate shall be submitted in both classified and unclassified form.

SA 256. Mr. LEVIN (for himself, Mr. DASCHLE, Mr. AKAKA, and Mr. NELSON of Florida) proposed an amendment to the resolution of ratification for Treaty Doc. 107–8, The Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002; as follows:

In section 2, in paragraph (2)(F), strike ''; and'' and insert a semicolon.

In section 2, redesignate paragraph (2)(G) as paragraph 2(H).

In section 2, after paragraph (2)(F), insert the following new subparagraph:

(G) with respect to the strategic offensive reductions described pursuant to subparagraph (B) for a calendar year, a listing of—

(i) the total number of each type of strategic offensive nuclear warhead that will be in the nuclear weapons stockpile of the United States during the calendar year, and the total number of each type of strategic offensive nuclear weapon that will be operationally deployed by the United States during the calendar year;

(ii) the number and type of nuclear warheads in the United States that were dismantled during the previous calendar year; and

(iii) to the extent possible, the total number of each type of strategic offensive nuclear warhead that will be in the nuclear

weapons stockpile of the Russian Federation during the calendar year, and the total number of each type of strategic offensive nuclear weapon that will be operationally deployed by the Russian Federation during the calendar year.

SA 257. Mr. FRIST (for Mr. LAUTENBERG) proposed an amendment to the concurrent resolution S. Con. Res. 13, condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes; as follows:

On page 8, strike line 21 and insert ''(10) objects''

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 6, 2003, at 9:30 a.m., in open session to receive testimony on the Defense authorization request for fiscal year 2004 and the future years Defense program.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 6, 2003, at 9:30 a.m. on Spectrum.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Thursday, March 6, at 10 a.m., to receive testimony on energy use in the transportation sector.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 6, 2003, at 9:30 a.m., to hold a hearing on ''An Agreed Framework for Dialogue'' with North Korea.

Agenda

Witnesses

Panel 1: The Honorable Dr. Ashton B. Carter, Co-Director, Preventive Defense Project, Harvard University, Cambridge, MA; Dr. Arnold Kanter, Principal, The Scowcroft Group, Washington, DC; and Mr. Robert J. Einhorn, Senior Advisor, International Security Program, CSIS, Washington, DC.

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

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 6, 2003, at 9:30 a.m., in Dirksen Room 226.

Agenda

I. Nominations

Timothy M. Tymkovich to be U.S. Court of Appeals Judge for the Tenth Circuit; J. Daniel Breen to be US District Judge for the Western District of Tennessee; Thomas A. Varlan to be US District Judge for the Eastern District of Tennessee; William H. Steele to be US District Judge for the Southern District of Alabama; and Humberto S. Garcia to be US Attorney for the District of Puerto Rico.

II. Committee Business

Committee Rules Subcommittee Organization

III. Bills

S. 253, A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns. [Campbell/Leahy/Hatch/Grassley/DeWine/Kyl/Sessions/Craig/Cornyn/Graham/Feinstein/Schumer/Edwards].

S. 113, A bill to exclude United States persons from the definition of ''foreign power'' under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism.[Kyl/Hatch/DeWine/Schumer/Chambliss].

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 6, 2003, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentation of the Military Order of the Purple Heart, the Paralyzed Veterans of America, Jewish War Veterans, Blinded Veterans Association, the Non-Commissioned Officers Association.

The hearing will take place in room 345 of the Cannon House Office Building at 10 a.m.

The PRESIDING OFFICER. With objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 6, 2003, at 2:30 p.m., to hold a closed hearing.

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

SUBCOMMITTEE ON EMPLOYMENT, SAFETY, AND TRAINING

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment, Safety, and Training be authorized to meet for a hearing on ''The Workforce Investment Act: The Administration's Approach to Reauthorization'' during the session of the Senate on Thursday, March 6, 2003, at 10 a.m., in SD–430.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Thursday, March 6, 2003, at 9:30 a.m., for a hearing entitled ''Evaluating Human Capital at the National Aeronautics and Space Administration'' to examine the status of NASA's workforce and consider proposed personnel flexibilities to assist the agency in achieving this mission.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Armed Services Committee be authorized to meet during the session of the Senate on Thursday, March 6, 2003, at 2 p.m., in open session to receive testimony on Department of Defense Installation and Environmental Programs, in review of the Defense authorization request for fiscal year 2004.

Witnesses: Honorable Hansford T. Johnson, Acting Secretary of the Navy; Mr. Raymond F. DuBois, Jr., Deputy Under Secretary of Defense (Installations and Environment); Honorable Mario P. Fiori, Assistant Secretary of the Army (Installations and Environment); and Honorable Nelson F. Gibbs, Assistant Secretary of the Air Force (Installations, Environment, and Logistics).

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

SUBCOMMITTEE ON WATER AND POWER

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power, Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 6, at 2:30 p.m., to receive testimony on S. 212, a bill authorizing the Secretary of the Interior to cooperate with the High Plains States in conducting a hydrogeologic characterization, mapping, modeling, and monitoring program for the High Plains aquifer and for other purposes; and S. 220 and H.R. 397, bills to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois.

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

PRIVILEGE OF THE FLOOR

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that Joshua

Handler, a fellow in my office, be given floor privileges for the duration of Senate consideration of Executive Calendar No. 1, the Resolution of Ratification accompanying the Moscow Treaty.

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

UNANIMOUS CONSENT AGREEMENT—S. 3

Mr. FRIST. Mr. President, I ask unanimous consent that at 5 o'clock on Monday, March 10, the Senate begin consideration of Calendar No. 19, S. 3, regarding the procedure commonly known as partial-birth abortion.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, let me just say I appreciate the leader working with us on the time on this bill. I know it has been inconvenient but we appreciate it very much.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 40, 41, 42, 44, 45, and 47; I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confirmed, as follows:

DEPARTMENT OF JUSTICE

Jeremy H. G. Ibrahim, of Pennsylvania, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2005.

Edward F. Reilly, of Kansas, to be a Commissioner of the United States Parole Commission for a term of six years.

Cranston J. Mitchell, of Missouri, to be a Commissioner of the United States Parole Commission for a term of six years.

THE JUDICIARY

Timothy C. Stanceu, of Virginia, to be a Judge of the United States Court of International Trade.

DEPARTMENT OF JUSTICE

Peter Joseph Elliott, of Ohio, to be United States Marshal for the Northern District of Ohio for the term of four years.

DEPARTMENT OF HOMELAND SECURITY

Janet Hale, of Virginia, to be Under Secretary for Management, Department of Homeland Security.

SENATE CONFIRMATION OF ADDITIONAL PRESIDENTIAL EXECUTIVE AND JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, today we have proceeded with the President's nominations to the U.S. Parole Commission, among others. These individuals were the selections of the White House without consultation with the Democratic leader or with me or other Democratic Senators interested in these matters. We have proceeded on the President's nominees expeditiously and in good faith trusting that the White House will follow through expeditiously to nominate those members to the U.S. Parole Commission that the Democratic leader is recommending to fill the seats allocated to Democrats on what should be a bipartisan commission.

This President has too often in the past proceeded unilaterally on what have traditionally been bipartisan boards and commissions. Last year the White House caused significant problems for all nominations when it failed to follow through in a timely way on a commitment made to Senator MCCAIN. That led to objections and cloture votes being required on a series of the President's judicial nominations and unnecessary delays with respect to both judicial and executive nominations because of objections from the Republican side.

With respect to all nominations, I urge the President to begin to work with us. Just as this White House has failed to work with Senate Democrats on judicial nominees, it has often failed to work with us on nominations to bipartisan boards and commissions. We would appreciate this White House beginning to work with us rather than dictate to us.

Just this week Thomas E. Mann, a distinguished scholar and senior fellow in governance studies at The Brookings Institution, wrote a column about the deteriorating relations between the White House and the Congress with respect to the nomination and confirmation process. While I do not agree with all of his observations, I note that he correctly observed that after the President's campaign as a uniter not a divider, we did expect more cooperation. And after the attack of September 11, when Democrats sought to close ranks and forego partisanship, we were disappointed by the continuing partisanship of the White House. Mr. Mann wrote: ''After the 2000 election and then again after Sept. 11, 2001, Democrats expected something akin to a government of national unity. Instead, they encountered a president who seemed determined to wage institutional, ideological and partisan war.''

Mr. Mann concluded by suggesting: ''The only way to break this cycle of escalation is for Bush to take preemptive action by submitting a more balanced ticket of judicial nominees and engaging in genuine negotiations and compromise with both parties in Congress.'' I agree, that would be a useful development. I add that it would be long overdue.

Today, on the day the Senate has moved off the Estrada nomination because of the lack of cooperation by the administration, the Senate is with the consent of every Democratic Senators agreeing to the confirmation of another judicial nominee, the 104th for this President, and several executive branch nominees.

I ask consent to print Thomas E. Mann's column in the RECORD.

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

[From the RollCall, Mar. 5, 2003]

GUEST OBSERVER

(by Thomas E. Mann)

ESTRADA CAUGHT IN ''POISONOUS WAR'' BASED ON IDEOLOGY

The extended Senate debate on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit has generated pitched battles between party activists around the country and increasingly shrill commentary from pundits. Some claim we are on the verge of a constitutional coup that effectively nullifies a president's power over judicial appointments. Others respond that we are witnessing a legitimate effort by the Senate minority to prevent the packing of the federal judiciary with right-wing jurists.

How unprecedented is the tactic embraced by Senate Democrats? What accounts for the partisan struggle now playing out on the Senate floor? Is there any way out?

Filibusters have been a prominent feature of the Senate since the early 19th century. While the constitutional framers built no supermajority requirements for the passage of legislation or the confirmation of appointees, the early Senate, unlike the House, did away with its motion on the previous question that would have allowed a majority to cut off debate and proceed with a vote. As a consequence, for virtually all of their chamber's history Senators have been able to postpone or prevent floor action by talking at length.

Under pressure from President Woodrow Wilson, the Senate adopted a cloture provision in its rules that allowed a supermajority to cut off debate. For much of the 20th century the filibuster was mostly reserved for issues of great national moment. In the past several decades, the Senate has seen the routinization of the filibuster, to the point where it is commonly accepted by both parties that with limited exceptions, 60 votes are needed to pass controversial matters. Some exceptions are built into the rules. The budget process provides for limited debate on budget resolutions and reconciliation bills, thereby empowering a majority of Senators. Other exceptions flow from informal understandings or norms. One of those norms is that the minority party does not use extended debate to kill judicial nominations favored by a majority of Senators.

During periods of divided party government, the Senate majority fan frustrate the president's ability to fill judicial vacancies simply by refusing to schedule committee hearings or votes on nominees. Between 1995 and 2000, roughly a third of President Bill Clinton's circuit court appointees were killed in this manner by the Republican majority, holding open judgeships that President Bush now seeks to fill. The Democrats responded in kind to a number of President Bush's nominees during their brief time in the majority.

The crunch comes when one party controls both the White House and Senate. Minority Members can try to delay action on judicial nominees with holds and procedural moves in committee. But their doomsday weapon is

the filibuster. The norms of the Senate mitigate against firing that weapon as part of an explicit party strategy. Nonetheless, groups of Senators have engaged in extended floor debate to try to defeat judicial nominations. More than a dozen cloture motions were filed to end filibusters on judicial nominations between 1980 and 2000. But only one judicial nominee was successfully blocked by a filibuster. In 1968 Republicans and Southern Democrats used a filibuster to defeat President Lyndon Johnson's effort to elevate Justice Abe Fortas to chief justice.

So the Senate Democrats' resort to a filibuster on the Estrada nomination is not unprecedented but it is highly unusual and extreme by Senate conventions. It is the latest escalation in what has been an intensifying ''War of the Roses'' between the parties in Washington. Earlier episodes included divisive battles over the Supreme Court nominations of Robert Bork and Clarence Thomas; the winter 1995–96 budget fights that led to government shutdowns; and the long-running independent counsel investigations of Clinton, leading to his impeachment by the Republican House.

That war is partly a consequence of razor-thin majorities in the Congress, the increasing ideological polarization between the parties, and the extension of the permanent campaign to the Congress. It has intensified as a result of the circumstances and leadership style of George W. Bush's presidency.

Bush was elected in 2000 in the closest and arguably most controversial presidential election in U.S. history. He lost the popular vote but won a bare majority of the electoral vote but won a bare majority of the electoral vote thanks to flawed ballot designs in two Florida counties and to an audacious 5–4 Supreme Court decision to halt a statewide recount.

Yet he has governed with great ambition and confidence, asserting presidential prerogatives and advancing a bold conservative agenda through policy proposals and nominations. He has played hardball with Democrats, in D.C. and on the 2002 campaign trail, while providing regular sustenance to his conservative base. After the 2000 election and then again after Sept. 11, 2001, Democrats expected something akin to a government of national unity. Instead, they encountered a president who seemed determined to wage institutional, ideological and partisan war. They have decided to reciprocate. The atmosphere is poisonous. Miguel Estrada is now a part of that war.

The only way to break this cycle of escalation is for Bush to take pre-emptive action by submitting a more balanced ticket of judicial nominees and engaging in genuine negotiation and compromise with both parties in Congress. That seems most unlikely.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CONDEMNING THE SELECTION OF LIBYA TO CHAIR THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 13, which is at the desk. This is a resolution introduced by Senators LAUTENBERG and SMITH.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 13) condemning the selection of Libya to chair the United Nations Commission on Human Rights, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the Lautenberg amendment at the desk be agreed to, the motion to reconsider be laid on the table; further, that the concurrent resolution, as amended, be agreed to and the motion to reconsider be laid upon the table; that the preamble be agreed to, and the motion to reconsider be laid on the table, with no intervening action or debate.

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

The amendment (No. 257) was agreed to, as follows:

On page 8, strike line 21 and insert: ''(10) objects''

The concurrent resolution (S. Con. Res. 13), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution with its preamble, reads as follows:

S. CON. RES. 13

Whereas on January 20, 2003, Libya, a gross violator of human rights and State sponsor of terrorism, was elected to chair the United Nations Commission on Human Rights (the ''Commission''), a body charged with the responsibility of promoting universal respect for human rights and fundamental freedoms for all;

Whereas according to the rotation system that governs the selection of the Executive Board of the Commission, 2003 was designated as the year for the Africa Group to chair the Commission, and the Africa Group selected Libya as its candidate;

Whereas South Africa's Democratic Alliance spokeswoman, Dene Smuts, was quoted by the British Broadcasting Corporation as saying that the Government of South Africa's decision to support the election of Libya was an insult to human rights and that African countries ''should have supported a candidate of whom all Africans could be proud'';

Whereas Amnesty International has repeatedly documented that the human rights situation in Libya continues to seriously deteriorate, with systematic occurrences of gross human rights violations, including the extrajudicial execution of government opponents and the routine torture, and occasional resulting death, of political detainees during interrogation;

Whereas Human Rights Watch recently declared that ''[o]ver the past three decades, Libya's human rights record has been appalling'' and that ''Libya has been a closed country for United Nations and nongovernmental human rights investigators'';

Whereas Human Rights Watch further asserted that ''Libya's election poses a real test for the Commission,'' observing that ''[r]epressive governments must not be allowed to hijack the United Nations human rights system'';

Whereas the Lawyers Committee for Human Rights urged that ''the Government of Libya should not be entrusted by the United Nations to lead its international effort to promote human rights around the world'';

Whereas Freedom House declared that ''[a] country [such as Libya] with such a gross record of human rights abuses should not direct the proceedings of the United Nation's main human rights monitoring body'' because it would ''undermine the United Nation's moral authority and send a strong and clear message to fellow rights violators that they are in the clear'';

Whereas on November 13, 2001, a German court convicted a Libyan national for the 1986 bombing of the La Belle disco club in Berlin which killed two United States servicemen, and the court further declared that there was clear evidence of responsibility of the Government of Libya for the bombing;

Whereas Libya was responsible for the December 21, 1988, explosion of Pan American World Airways Flight 103 (''Pan Am Flight 103'') en route from London to New York City that crashed in Lockerbie, Scotland, killing 259 passengers and crew and 11 other people on the ground;

Whereas a French court convicted 6 Libyan government officials in absentia for the bombing of UTA Flight 772 over Niger in 1989;

Whereas, in response to Libya's complicity in international terrorism, United Nations Security Council Resolution 748 of March 31, 1992, imposed an arms and air embargo on Libya and established a United Nations Security Council sanctions committee to address measures against Libya;

Whereas United Nations Security Council Resolution 883 of November 11, 1993, tightened sanctions on Libya, including the freezing of Libyan funds and financial resources in other countries, and banned the provision to Libya of equipment for oil refining and transportation;

Whereas United Nations Security Council Resolution 1192 of August 27, 1998, reaffirmed that the measures set forth in previous resolutions remain in effect and binding on all Member States, and further expressed the intention of the United Nations to consider additional measures if the individuals charged in connection with the bombings of Pan Am Flight 103 and UTA Flight 772 had not promptly arrived or appeared for trial on those charges in accordance with paragraph (8) of that Resolution;

Whereas in January 2001, a three-judge Scottish court sitting in the Netherlands found Libyan Abdel Basset al-Megrahi guilty of the bombing of Pan Am Flight 103, sentenced him to life imprisonment, and said the court accepted evidence that he was a member of Libya's Jamahariya Security Organization, and in March 2002, a five-judge Scottish appeals court sitting in the Netherlands upheld the conviction;

Whereas United Nations Security Council Resolutions 731, 748, 883, and 1192 demanded that the Government of Libya provide appropriate compensation to the families of the victims, accept responsibility for the actions of Libyan officials in the bombing of Pan Am Flight 103, provide a full accounting of its involvement in that terrorist act, and cease all support for terrorism;

Whereas Libya remains on the Department of State's list of state-sponsors of terrorism;

Whereas the United States found the selection of Libya to chair the Commission to be an affront to international human rights efforts and, in particular, to victims of Libya's repression and Libyan-sponsored terrorism, and therefore broke with precedent and called for a recorded vote among Commission members on Libya's chairmanship;

Whereas Canada and one other country joined the United States in voting against Libya, with 17 countries abstaining from the recorded vote among Commission members on Libya's chairmanship of the Commission;

Whereas the common position of the members of the European Union was to abstain from the recorded vote on the selection of Libya as chair of the Commission;

Whereas 33 countries ignored Libya's record on human rights and status as a country subject to United Nations sanctions for the terrorist bombing of Pan Am Flight 103 and voted for Libya to lead the Commission;

Whereas the majority of the countries that voted for Libya are recipients of United States foreign aid;

Whereas the selection of Libya to chair the Commission is only the most recent example of a malaise plaguing the Commission that has called into question the Commission's credibility as the membership ranks of the Commission have swelled in recent years with countries that have a history of egregious human rights violations;

Whereas the challenge by the United States to the selection of Libya is part of a broader effort to reform the Commission, reclaim it from the oppressors, and ensure that it fulfills its mandate;

Whereas on January 20, 2003, Ambassador Kevin Moley, United States Permanent Representative to the United Nations and Other International Organizations in Geneva, emphasized that the United States ''seek[s] to actively engage and strengthen the moral authority of the Commission on Human Rights, so that it once again proves itself a forceful advocate for those in need of having their human rights protected'' and that ''[w]e are convinced that the best way for the Commission to ensure the ideals of the Universal Declaration of Human Rights over the long-term is to have a membership comprised of countries with strong human rights records at home'';

Whereas a majority of the 53 member states of the Commission are participants in the Community of Democracies and signed the Community of Democracies Statement on Terrorism (the ''Statement on Terrorism'') on November 12, 2002, at the Second Ministerial Conference of the Community of Democracies held in Seoul, South Korea (the ''Seoul Ministerial''), calling upon democratic nations to work together to uphold the principles of democracy, freedom, good governance, and accountability in international organizations;

Whereas the Seoul Ministerial participants declared in the Statement on Terrorism that they ''strongly denounced terrorism as a grave threat to democratic societies and the values they embrace[,]...reaffirmed that terrorism constitutes a threat to international peace and security as well as to humanity in general and indeed to the very foundation on which democracies are built[,]'' and stated that ''[t]he most recent terrorist attacks confirm that international cooperation against terrorism will remain a long-term effort and requires a sustained universal commitment'';

Whereas the United Nations sanctions against Libya, though suspended, remain in effect; and

Whereas Libya's continued status as an international outlaw nation and its continued unwillingness to accept responsibility for its terrorist actions provide ample justification for barring Libya from consideration as a candidate for membership in the United Nations Security Council or any other United Nations entity or affiliated agency: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) strongly condemns the selection of Libya to chair the United Nations Commission on Human Rights (the ''Commission'');

(2) commends the President for the principled position of the United States in objecting to and calling for a vote on Libya's chairmanship of the Commission;

(3) commends countries that joined the United States in objecting to Libya's selection as chair of the Commission;

(4) expresses its dismay at the European Union countries' common position of abstention on the critical vote over Libya's chairmanship;

(5) expresses its shock and dismay over the support provided to Libya in its efforts to lead the Commission;

(6) highlights its grave concern over the continuing efforts of countries violating human rights and terrorist countries to use international fora—

(A) to legitimize their regimes; and

(B) to continue to act with impunity;

(7) calls on the President to raise United States objections to such efforts during bilateral and multilateral discussions and to direct pertinent members of the President's Cabinet to do the same;

(8) calls on countries at various stages of democratization to—

(A) demonstrate their commitment to human rights, democracy, peace and security; and

(B) support efforts to reform the Commission;

(9) calls on the President to instruct the Secretary of State to consult with the appropriate congressional committees, within 60 calendar days after the adoption of this resolution, regarding the priorities and strategy of the United States for the 59th session of the Commission on Human Rights and its strategy and proposals for reform of the Commission;

(10) objects to the continued suspension of United Nations sanctions against Libya until the Government of Libya—

(A) publicly accepts responsibility for the bombing of Pan American World Airways Flight 103;

(B) provides appropriate compensation to the victims of the bombing; and

(C) fully complies with all of the other requirements of the United Nations sanctions imposed as a result of Libya's orchestration of the terrorist attack on Pan American World Airways Flight 103; and

(11) calls on the Secretary of State to engage Member States of the United Nations to support efforts to ensure that states that are gross violators of human rights, sponsors of terrorist activities, or subjects of United Nations sanctions are not elected to—

(A) leadership positions in the United Nations General Assembly; or

(B) membership or leadership positions on the United Nations Commission on Human Rights, the United Nations Security Council, or any other United Nations entity or affiliate.

ORDERS FOR FRIDAY, MARCH 7, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Friday, March 7. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period of morning business until the hour of 12:30 p.m., with the time equally divided between Senator WARNER or his designee and the minority leader or his designee.

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

PROGRAM

Mr. FRIST. For the information of Senators, tomorrow morning the Senate will be in a period of morning business until 12:30 p.m. There will be no rollcall votes during tomorrow's session. The next vote will occur Monday, March 10, at 6 p.m.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, the purpose of the morning business is to have Senators speak if they so desire. There have been some Senators wishing to speak on the situation in Iraq. The President is having a press conference tonight. It would be timely to do that. I say to those people who have indicated a desire to speak, this is their opportunity tomorrow. Is that the intent of the leader?

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, that is the intent. It is important that people take advantage of that opportunity if they so wish.

In talking to the leadership on the other side of the aisle, we agreed it was important for people to have the opportunity. We have been very busy over the last several days with the Estrada nomination and today the cloture vote. There has been excellent work in terms of ratification—the vote on the Moscow Treaty. So it has been very busy.

We know the Nation is very much concerned with what is going on today and over the ensuing days in Iraq, so we did want to make that opportunity available.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:57 p.m., adjourned until Friday, March 7, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 6, 2003:

DEPARTMENT OF HOMELAND SECURITY

JANET HALE, OF VIRGINIA, TO BE UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

JEREMY H. G. IBRAHIM, OF PENNSYLVANIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2005.

EDWARD F. REILLY, OF KANSAS, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS.

CRANSTON J. MITCHELL, OF MISSOURI, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS.

THE JUDICIARY

TIMOTHY C. STANCEU, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF INTERNATIONAL TRADE.

DEPARTMENT OF JUSTICE

PETER JOSEPH ELLIOTT, OF OHIO, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF OHIO FOR THE TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

RECOGNIZING KAYLA CRESS

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Kayla Cress, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 5091, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. Earning the Career Exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting; and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award project that has a positive lasting impact on the community.

For her Gold Award project, Kayla did refurbishment work at the Burr Oaks Conservation Center.

Mr. Speaker, I proudly ask you to join me in commending Kayla Cress for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

DOMESTIC VIOLENCE

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BACA. Mr. Speaker, domestic violence is not just an issue that affects women; it is an issue that affects us all. So many of our mothers, sisters, co-workers, colleagues and friends may be victims of domestic violence and you may never even know. The woman sitting next to you may be battered or abused, and she is keeping it a deep dark secret because she is embarrassed, ashamed, or afraid. We need to continue to work hard to bring the issue of domestic violence out of the closet. Silence will not fix the problem. We need programs that continue to bring the issue out in the open and let victims know that their lives mean something! Let them know that there is no justification for abuse and that they do not have to live with it day after day. Victims need to know that there are places that they can go and people who can help. Victims need to know how to enact a plan so that they can flee their batterer and have resources available so that they are not forced to go back. It takes a tremendous amount of courage to flee an abuser, having the resources available to stay away should be the farthest thing from a victim's mind. That is why it is so important to have counseling services available helping with preparation.

I saw a flyer the other day entitled ''10 Things Men Can Do to Prevent Men's Violence Against Women.'' Men need to understand that while most never abuse, there are factors that contribute to the cycle of violence and all of us need to do our part to end the cycle. We need to teach our sons how not to abuse and how not to contribute to it. We need to teach them that women must be treated with respect and dignity. Until men become actively involved in ending domestic violence, these cycles will never be broken.

TO COMMEND KANSAS CITY GIRL SCOUT GOLD AWARD RECIPIENTS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. MOORE. Mr. Speaker, the Girl Scouts program encourages strong values, leadership, responsibility, confidence, and friendship among young women. Programs in the Kansas City, Kansas, region have been thriving for years, empowering young women to develop to their full potential

Girl Scouts enables young women to grow into strong citizens by teaching money and financial management, health and fitness, global awareness, and community service. As a result of the program, millions of Girl Scouts have been introduced to the arts, science, math, and technology.

On March 2, in my home state of Kansas, 21 Kansas City area Girl Scouts will be awarded the highest honor in Scouting, the Gold Award. These young women will be recognized for completion of five requirements: community service, personal and spiritual growth, positive values, and leadership skills.

In order to receive the Gold Award honor, these girls have accomplished several tasks. Every recipient has earned four project patches, each of which requires fulfillment of seven activities that center on skill building, technology, service, and career exploration. In addition, each girl has earned the Career Exploration pin, received for their work researching potential careers. The Gold Award recipients have also earned the Senior Girl Scout Leadership Award for completing at least 30 hours of work involving leadership skills. Finally, the young women have spent a minimum of 50 hours planning and implementing a Gold Award project that has a positive and lasting impact on the Kansas City community. I am proud that these 21 Gold Award recipients will be recognized, joining the 3,000 honored nationwide each year.

I commend the Girl Scouts program for their support, dedication, and commitment to American girls, and I applaud these 21 new Gold Award recipients on their achievement.

A listing of their names and hometown follows:

D'erin May, Bonner Springs.
Leanne Gray, Lansing.
Mackenzie Smith, Leavenworth.
Katie Brovont, Olathe
Jaime Lenninger, Shawnee Mission.
Jacquelynn Sullivan, Shawnee Mission.
Katie Wall, Shawnee Mission.
Kristen Keplinger, Shawnee Mission.
Dena Neuenschwander, Shawnee Mission.
Jennifer Jacobs, Shawnee Mission.
Jennifer Sherman, Shawnee Mission.
Phyllis Adebanjo, Shawnee Mission.
Bridget Barton, Shawnee Mission.
Julie Wiseman, Shawnee Mission.
Laura Smith, Shawnee Mission.
Hilary Junk, Shawnee Mission.
Megan Campbell, Shawnee Mission.
Megan Stinemetz Shawnee Mission.
Amy Sapenoff, Shawnee Mission.
Christine Thomson, Shawnee Mission.
Michelle Kentrup, Shawnee Mission.

BREAKING THE CYCLE OF DOMESTIC VIOLENCE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. PALLONE. Mr. Speaker, I rise today to draw attention to an organization in my district that provides vital services to women and families that have been affected by domestic violence.

180 Turning Lives Around, formerly the Women's Center of Monmouth County provides a safe and supportive haven, where women and children can begin to heal.

180 Offices provide specialized counseling and programming for women affected by domestic violence and sexual assault. They staff outreach offices in towns that have the highest rates of domestic violence and sexual assaults in Monmouth County and some of the highest rates in the state, making these outreach programs vital to the communities they serve.

180 provides programming for women of color, including a group-counseling format called ''Makeda'' for Latina and African American women. In addition, 180 coordinates with local courts, police and prosecutor's offices to ensure that victims and family members receive access to appropriate services. These services include the domestic violence offender's intervention program ''Alternatives to Abuse,'' victim's counseling, art therapy for children exposed to domestic violence and other community services.

Reports indicate that since 180 has implemented this innovative multi-disciplinary approach, domestic violence police cases in towns throughout the county have dropped by nearly 35 percent, while recidivism rates for domestic violence offenders have dropped over 50 percent. The programs provided by the 180 show concrete results in terms of reduced crime while providing a critical and invaluable resource to the community in general and women and minorities in particular.

Mr. Speaker, I urge my colleagues to join with me and continue to support 180 and her sister programs and women's centers throughout the nation. Domestic violence is a problem that affects all of society, not just women—and it is critical that we work together to break the cycle and put an end to domestic violence.

HONORING DETECTIVE JAMES ROYS

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. ISRAEL. Mr. Speaker, I rise to pay tribute to an exemplary member of the Long Island community.

The Suffolk County Police Department consistently shows us the best and most heroic that Long Island has to offer. For thirty-one years, Detective James Roys has served as a commendable member of that department. Over the years, Detective Roys worked on numerous high-profile cases. In 1990 he was promoted to Detective and in 1995 he was transferred to the Homicide Squad. He was the lead detective on numerous murder investigations, including the noteworthy cases of Andrew Dukes, Krystal Barbasso, Anthony Meo and Eric Burkes. Detective Roys has made a lasting contribution to the safety of Long Island residents.

On January 4, 2003, Detective James Roys retired from the Suffolk County Police Department. It is with great admiration that I come to this floor to offer my congratulations and best wishes. He will be truly missed by his colleagues and by Suffolk County residents who depended on his hard work for so many years.

Mr. Speaker, Suffolk County owes a debt of gratitude to Detective James Roys.

CONGRATULATIONS KIM HEIMAN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. FARR. Mr. Speaker, I rise today to congratulate Kim Heiman, winner of the 2003 Walter B. Jones NOAA Excellence Award in the Category of Excellence in Coastal and Marine Graduate Study. Her study of marine ecology and in particular the spread of invasive species has brought her well-deserved acclaim and promises to answer many scientific questions about the physical and biological changes invasive species make on marine communities.

Born in Iowa, Miss Heiman has lived in a variety of locations including Colorado and Japan. She earned her Bachelor of Science degree in 2000 from New College in Florida. Currently she is a third year Ph.D. student in Ecology and Evolution at Stanford University and works out of Hopkins Marine Station in Pacific Grove, California.

Increasing numbers of foreign species in the nation's harbors and estuaries can have detrimental effects on native habitats. Miss Heiman analyzes the spread of a marine tubeworm discovered as an invasive species in California's Elkhorn Slough National Estuarine Research Reserve in 1994. This tubeworm species builds large, hard reefs on the muddy ocean floor, thereby creating three-dimensional structures. She examines these new structures to determine if they result in more habitats where other invasive species can live, and her preliminary results show that the worm reefs have more invasive species compared to other substrates in Elkhorn Slough. Miss Heiman also studies whether the spread of other invasive species correlates with the spread of worm reefs, and this appears to be the case in Elkhorn Slough. The importance of her work rests on the application of her results by coastal ecosystem managers struggling to fight a continued spread of invasive species. Miss Heiman's results from Elkhorn Slough thus far suggest that the spread of invasive species may be mediated by the removal of hard substrates.

Through basic ecological research, Miss Heiman continues to develop conclusions that could help curtail the spread of invasive species and possibly restore our nation's seaports and harbors. On behalf of this House, I commend Kim Heiman on her excellent graduate research in the Elkhorn Slough National Estuarine Research Reserve and her strong interest in helping answer the difficult problems that ecosystem managers face everyday.

TRIBUTE TO BOB GILDER

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. DAVIS. Mr. Speaker, I rise in honor of Bob Gilder, a remarkable, celebrated civil rights leader in the Tampa Bay area, whose death this week is an enormous loss to our entire community.

Bob Gilder dedicated his life to fighting segregation, protecting fundamental rights and improving the quality of life for blacks in America. A native of Texas, Bob came to Tampa in 1959 after attending Florida A&M University, and by 1963, he was already speaking out at lunch-counter sit-ins, protests and marches.

Bob's voice only grew stronger over the years, and in 1967, he played a critical role in restoring order and calling for an end to violence after Tampa's race riots. He led efforts to desegregate Tampa General Hospital and St. Joseph's Hospital and started an on-the-job training program to help black people get jobs in the City of Tampa's fire department, the mayor's office and the state attorney's office. However, Bob is probably best known for his tireless voter registration efforts. Bob worked on countless voter registration drives and in 1991 served as director of the Voter Registration Coalition.

Bob was fearless in pursuing his goals. He had the know-how, the eloquence, the inspirational leadership and determination to succeed in breaking through the barriers to equality. For these qualities he was chosen to serve as president of the Tampa chapter of the National Association for the Advancement of Colored People and as a member of the advisory committee to the U.S. Civil Rights Commission and the Florida Commission on Human Rights, among other positions. Bob received countless awards for his leadership.

Bob's legacy of service reached into his final days. Even during his illness, he became an advocate for hospice care. Bob credited the professionals at LifePath Hospice for helping him and encouraged others in the black community to turn to hospice for end-of-life care.

Bob Gilder's noble fight for justice was a blessing to the Tampa Bay community and the nation. I would like to extend my deepest sympathies to his family and offer my thanks for his inspiration.

RECOGNIZING LAURA DELONG

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Laura DeLong, a very special young woman who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Girl Scouts of America, Troop 1381, and in earning the most prestigious honor of the Gold Award.

The Girl Scout Gold Award is the highest achievement attainable in Girl Scouting. To earn the Gold Award, a Scout must complete five requirements, all of which promote community service, personal and spiritual growth, positive values, and leadership skills. The requirements include: 1. Earning four interest project patches, each of which requires seven activities that center on skill building, technology, service projects, and career exploration; 2. Earning the career exploration pin, which involves researching careers, writing resumes, and planning a career fair or trip; 3. Earning the Senior Girl Scout Leadership Award, which requires a minimum of 30 hours of work using leadership skills; 4. Designing a self-development plan that requires assessment of ability to interact with others and prioritize values, participation for a minimum of 15 hours in a community service project, and development of a plan to promote Girl Scouting; and 5. Spending a minimum of 50 hours planning and implementing a Girl Scout Gold Award Project that has a positive lasting impact on the community.

For her Gold Award Project, Laura created a music clinic for elementary school children.

Mr. Speaker, I proudly ask you to join me in commending Laura DeLong for her accomplishments with the Girl Scouts of America and for her efforts put forth in achieving the highest distinction of the Gold Award.

MIGUEL ESTRADA NOMINATION

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BACA. Mr. Speaker, I join my fellow members of the Congressional Hispanic Caucus in strong opposition to the nomination of Miguel Estrada to the D.C. Circuit Court of Appeals.

After meeting with Mr. Estrada, I am convinced that he possesses neither the professional qualifications nor the commitment to diversity necessary for service on the second most influential court in our nation.

We are disturbed by the fact that the President has nominated a person who has no prior experience as a judge and who is not considered one of the foremost legal voices of our time.

It is clear to us that Mr. Estrada's nomination has more to do with his Spanish surname than his qualifications for the job.

Miguel Estrada has no connection to the Latino community. He has no particular affinity for the role of the courts in lifting up the Latino community. He has never contributed pro bono legal services to Latino organizations, and has no interest in righting the wrongs of the past.

In short, he has no business representing our community on a bench that is just a stone's throw from the highest court in the land.

I strongly urge the Senate to vote against the confirmation of Miguel Estrada, and I stand in solidarity with our brave colleagues in the other chamber who are opposing his nomination.

H.R. 4, WELFARE REFORM REAUTHORIZATION

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. MOORE. Mr. Speaker, I rise today to discuss my views on H.R. 4 and explain my reasons for opposing this legislation and supporting a moderate, workable substitute.

I believe in a ''work first'' policy for welfare recipients—the best path to independence for welfare recipients is a job. I also believe that we should do all that we can to ensure that work pays and remember that the reduction of poverty—especially child poverty—is the ultimate goal of this reauthorization.

When we last voted on legislation to reauthorize TANF, I shared with leaders in the House concerns expressed by officials in Kansas, including Janet Schalansky, Secretary of the Kansas Department of Social and Rehabilitation Services. Ms. Schalansky expressed clearly that the TANF reauthorization legislation must not impose another set of unfunded mandates and must recognize the great need for education, training and other supports for individuals leaving welfare. Unfortunately, her calls were ignored once again.

I had hoped that our President—a former governor—and congressional Republicans—who speak often of freeing the states from undue burdens placed by the Federal government—would have heeded the concerns expressed about this legislation by governors and state officials around the country. Currently, and into the foreseeable future, most states are struggling with severe budget shortfalls that are projected to approach $85 billion this year, and H.R. 4 imposes an additional unfunded mandate on the states to the tune of $8–11 billion—$67 million for the state of Kansas alone. Kansas is currently facing a budget crisis and its leaders are cutting services and raising taxes as we speak just to balance the budget. An unfunded mandate of this magnitude could devastate the state budget. If we are going to raise the bar for the states, we must provide support so that states can reach the bar.

The funding provided in H.R. 4 is not sufficient to accomplish and sustain the goals of the TANF program. Furthermore, this legislation allocates funding for child care that barely keeps pace with inflation and does not begin to provide the funding necessary to provide the child care that the additional work hours will demand. To fully implement this bill, the state of Kansas would need $33.5 in extra funding for child care alone.

States, including Kansas, have done a good job implementing the provisions of the 1996 law. Kansas has reduced the cash assistance caseload by more than half, and helped approximately 37,000 adults become employed and retain employment. I want to continue to do what I can to ensure that the states have the tools and flexibility they need to help welfare recipients move from welfare to work, but H.R. 4, like H.R. 4737 before it, falls far short of that goal.

For these reasons, I am supporting the Cardin-Kind-Woolsey substitute that will provide an extra $11 billion in mandatory funding for child care to help states provide child care for working welfare recipients and provide an inflationary increase for the TANF block grant.

Education is the path through which welfare recipients will truly find long-term, wellpaying, permanent employment. Only education and training will give welfare recipients the skills they need to move permanently to a life of self-sufficiency. Unfortunately, this legislation greatly reduces the states' discretion to allow welfare recipients to get education and training to pull themselves out of poverty. This legislation removes vocational education from the list of work-related activities that count toward the core work requirement. In addition, the bill does not provide an employment credit to the states when individuals leave welfare for work.

That is why I am supporting a substitute that will allow states to combine successful ''work first'' initiatives with education and training. The substitute will give states credit when they move individuals from welfare to private-sector jobs—rather than giving them an incentive to create government ''make work'' programs.

Mr. Speaker, the House should reject H.R. 4 and approve the Cardin-Kind-Woolsey substitute. Our goal is to move welfare recipients to work and help people lift themselves out of poverty. The substitute gives the states the tools they need to achieve that goal.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. GALLEGLY. Mr. Speaker, on February 25, 2003, I was unavoidably detained and unable to vote on H. Res. 46, honoring the life of Al Hirschfeld and his legacy, and H. Con. Res. 40, permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Had I been present, I would have voted ''yes'' on both measures.

HONORING KIMBERLY GREENWOOD

HON. JEB BRADLEY

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise today to honor Kimberly Greenwood of Greenland upon her recognition as a 2003 Prudential Spirit of Community State Honoree by Prudential Financial and the National Association of Secondary School Principals.

This honor, which is bestowed upon one middle school and one high school student volunteer from each state, is designed to emphasize the importance our nation places on service to others. Kimberly's actions show that young Americans can—and do—play important roles in our communities. Kimberly proves that with a little creativity and a lot of passion, one person can make a difference that has profound ripple effects in his or her community.

Motivated to educate her peers about the growing hunger problem, Kimberly faced the daunting task of planning events that would hold the attention of middle school students. Kimberly's creativity in planning events and fundraisers is a testament to her dedication to making a lasting impact on her peers. Kimberly organized a raffle, bake sale and a ''dress-down pass sale,'' which allowed purchasers to wear everyday clothes instead of their school uniform for one day. Her keen business savvy proved successful, as she raised over $750 for local and national charities. In order to highlight the program's impact, Kimberly collected all of the wasted food from the students' lunch period each day for one week during the food fast and weighed it. By the end of the week, the students had cut the amount of food they wasted by twenty pounds, and had achieved a greater respect for their own good fortunes. Kimberly is a living example of how people of all ages need to think about how to work together at the local level to ensure the health and vitality of our towns and neighborhoods.

Young volunteers like Kimberly are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow. She truly exemplifies what is good about today's youth. I applaud Kimberly for her efforts to make her community a better place to live and for the positive impact she has had on the lives of others. It is an honor to represent her in the U.S. House of Representatives.

TRIBUTE TO CONGRESSWOMAN CARRIE MEEK

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. HASTINGS of Florida. Mr. Speaker, it is with the pinnacle of respect that I rise today to pay tribute to retired Congresswoman Carrie Meek.

For the past 10 years, I have had the distinct honor and privilege to not only know Carrie, but to serve in this great body with her, all the while being the gracious beneficiary of her wealth of spirit and depth of character.

Only in America can the granddaughter of a slave and the daughter of a former sharecropper believe that she can achieve and conquer all that presents itself in opposition to her dreams.

Franklin Delano Roosevelt stated in one of his fireside chats, ''The true test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.'' Carrie is the embodiment of that quote.

She has fought with relentless effort for the people of the 17th Congressional District of Florida and has served them and her country well.

Carrie Meek has set the stage and perpetuated the legacy of political astuteness for all of us, but particularly for African-American women everywhere.

Carrie is truly a political pioneer and I and this legislative body have been, without a doubt, made the better for having just been in her element.

HUMAN CLONING PROHIBITION ACT OF 2003

SPEECH OF

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 27, 2003

The House in Committee of the Whole House on the State of the Union has under consideration the bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning:

Mr. HOUGHTON. Mr. Chairman, I'd like to speak on behalf of the Greenwood Amendment H.R. 534. This has to do with research to help save human lives. It's not a question of human cloning. The process we're talking about—therapeutic cloning—takes embryos, many of which are fertilized in a laboratory petri dish. They are saved. The cells are separated so they can continue to grow. We learn about a mechanism to better understand tissues in the body. There will be an ability to cure diseases such as Parkinson's, Diabetes, Heart Muscle Disease, Chronic Liver Disease—the list is endless.

So please don't stop this exciting area of breakthrough new science. Don't confuse the issue with reproductive cloning. Hammers are used to build a building, but they can also be used as a lethal weapon. Because a hammer can be used as a murder weapon, we don't automatically outlaw it. Please support the Greenwood Amendment.

INTRODUCTION OF THE INDIAN SCHOOL BUS ROUTE SAFETY REAUTHORIZATION ACT OF 2003

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. UDALL of New Mexico. Mr. Speaker, it gives me great pleasure to rise to introduce companion legislation to a bill being introduced by Senator JEFF BINGAMAN in the Senate today. I am extremely pleased to be joined in introducing this legislation, the Indian School Bus Route Safety Reauthorization Act of 2003, by Congressman JIM MATHESON of Utah and Congressman RICK RENZI of Arizona, both of whom represent portions of the Navajo Nation in their Congressional districts.

This legislation is of great importance to our three states— specifically to the children and residents of the Navajo Nation, and the counties into which the Navajo Nation's boundaries extend. In New Mexico these counties are McKinley and San Juan Counties, and prior to 1998 they were responsible for maintaining the roads used by county school buses that stretch into the reservation to transport the children of the Navajo Nation to and from the county schools. Although there is nothing unique about counties funding and maintaining the roads in their jurisdiction, this particular case of the counties being responsible for the upkeep of the roads that ran into the Navajo Nation was extremely rare, and seems to be the only situation of this kind throughout the United States. This put an enormous burden on McKinley and San Juan County officials, and oftentimes resulted in impassable roads, which, in turn, resulted in children missing school because the buses were unable to pick them up.

In 1998, however, Senator Bingaman was successful in acquiring funds through the Indian School Bus Route Safety Act for the counties in New Mexico, Utah, and Arizona to assist them in facing this particularly burdensome responsibility. Today, we are proud to introduce the reauthorization of this legislation, which is set to expire very soon, to provide further assistance to the counties and children of the Navajo Nation. This bill authorizes funds totaling $24 million for Fiscal Years 2004 through 2009 to be split equally among New Mexico, Utah, and Arizona. The breakdown of the total amount of funding is $3 million each year for FY2004 and 2005, $4 million each year for FY2006 and 2007, and $5 million each year for FY2008 and 2009.

These critical funds will provide much-needed assistance to the counties, and will help put an end to the shameful situation of children missing school simply because of impassable roads due to lack of maintenance. I am extremely hopeful that we can either pass this measure, or include it as part of the TEA–21 reauthorization bill and provide further assistance to the children of the Navajo Nation and our respective states. I urge my colleagues to support this legislation.

INTRODUCING A BILL TO MAKE LEAF TOBACCO AN ELIGIBLE COMMODITY FOR THE MARKET ACCESS PROGRAM

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. ETHERIDGE. Mr. Speaker, I rise today with my colleagues from other tobacco producing states to introduce a bill to put an end to discrimination against tobacco farmers. For almost eight years, hard-working, God-fearing, taxpaying tobacco farmers have been denied access to the funds provided by the federal Market Access Program, commonly known as MAP.

Under MAP, agricultural industry trade associations, cooperatives, and state or regional trade groups each year are invited to submit proposals to USDA's Foreign Agricultural Service (FAS) to conduct approved foreign market development projects for various U.S. agricultural, fishery and forestry products. Examples include consumer promotions, market research, technical assistance, and trade servicing. MAP funds have been used to promote a wide range of products from sunflower seeds to catfish and cotton to hops for use in making beer.

Since 1993 USDA has been prohibited from using MAP funds to promote tobacco leaf sales overseas. This is patently unfair, and it is time for this discrimination to end. The future of American agriculture is tied to international trade. Currently, 25% of farmers' gross income comes from exports. The futures of thousands of Tar Heel tobacco farm families depend on exports, and I am not going to stand by and watch other commodities benefit from federal funds to access these markets while tobacco farmers are left out in the cold.

It is high time that tobacco is treated like the legal product that it is, and this legislation is a step in the right direction. I call on President Bush, Secretary Veneman, and my colleagues to support this bill and give our struggling tobacco farm families an opportunity to not just survive, but thrive.

INTRODUCTION OF THE AQUATIC INVASIVE SPECIES RESEARCH ACT

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. EHLERS. Mr. Speaker, I am pleased to introduce today a bill that is a critical component in our efforts to combat aquatic invasive species—the Aquatic Invasive Species Research Act. This legislation creates a comprehensive research program that supports federal, state and local efforts to prevent invasive species from ever entering our waterways, as well as detection, control and eradication efforts once they are here. It complements a bill introduced today by Mr. GILCHREST in the House and Mr. LEVIN in the Senate, to reauthorize the National Invasive Species Act. This legislation is a critical component in our battle against these harmful and extremely damaging pests.

In undertaking this effort, I have found that many people wonder—''What is an invasive

species? Why it is so crucial to keep them out of the United States?'' It is important that we understand these questions so that we can appreciate the scope of the threat that invasive species pose to our economy and environment.

The introduction of non-native species is not new to the United States. People have brought non-native plants and animals into the United States, both intentionally and unintentionally, for a variety of reasons, since the New World was discovered. Some examples include the introduction of nutria (which is a rodent similar to a muskrat) by trappers to bolster the domestic fur industry, and the introduction of the purple loosestrife plant to add rich color to gardens. Both nutria and purple loosestrife are now serious threats to wetlands. Non-native species may also be introduced unintentionally, such as through species hitching rides in ships, crates, planes, or soil coming into the United States. For example, zebra mussels, first discovered in Lake St. Clair near Detroit in the late 1980s, came into the Great Lakes through ballast water from ships.

Not all species brought into the country are harmful to local economies, people and/or the environment. In fact, most non-native species do not survive because the environment does not meet their biological needs. In many cases, however, the new species will find favorable conditions (such as a lack of natural enemies or an environment that fosters propagation) that allow it to survive and thrive in a new ecosystem.

Only a small fraction of these non-native species become an ''invasive species''—defined as a species that is both non-native to the ecosystem and whose introduction causes or may cause economic or environmental harm or harm to human health. However, this small fraction can cause enormous damage, both to our economy and our environment.

Estimating the total economic impact of invasive species is extremely difficult. No single organization accumulates such statistics comprehensively. However, researchers at Cornell University estimate that invasive species cost Americans $137 billion annually. This includes the cost of control, damage to property values, health costs and other factors. Just one species can cost government and private citizens billions of dollars. For example, zebra mussels have cost the various entities in the Great Lakes basin an estimated $3 billion during the past 10 years for cleaning water intake pipes, purchasing filtration equipment, etc.

Beyond economic impacts, invasive species cause ecological costs that are even more difficult to quantify. For example, sea lamprey control measures in the Great Lakes cost approximately $10 million to $15 million annually. However, we do not have a good measure of the cost of lost fisheries due to this invader, which was first discovered in the Great Lakes in the early 1900s. In fact, invasive species now are second only to habitat loss as threats to endangered species. Quantifying the loss due to extinction caused by these invasive species is nearly impossible.

Given the enormous economic and environmental impacts these invaders cause, two clear goals emerge: First, we need to focus more resources and energy into dealing with this problem at all levels of government; second, our best strategy for dealing with invasive species is to focus these resources to prevent them from ever entering the United States. Spending millions of dollars to prevent species introductions will save billions of dollars in control, eradication and restoration efforts once the species become established. In fact, one theme is central to both Mr. GILCHREST's bill and this legislation. It is an old adage, but one worth following—''An ounce of prevention is worth a pound of cure.''

To successfully carry out this strategy, we need careful, concerted management of this problem underpinned by research at every step. For example, we know that we must do more to regulate the pathways by which these invaders enter the United States (ships, aquaculture, etc.), which is an important component of Mr. GILCHREST's legislation. However, research must inform us as to which of these pathways pose the greatest threat and which techniques used to manage each pathway are effective. This legislation would help develop this understanding through the ecological and pathway surveys conducted under this bill. In fact, research underlies every management decision aimed at detecting, preventing, controlling and eradicating invasive species; educating citizens and stakeholders; and ensuring that resources are optimally deployed to increase the effectiveness of government programs. These items are also reflected in the legislation, which I will now describe in more detail.

The bill is divided into six main parts. The first three parts outline an ecological and pathway research program, combining surveys and experimentation, to be established by the National Oceanic and Atmospheric Administration, the Smithsonian Environmental Research Center and the United States Geological Survey. This program is focused on understanding what invasive species are present in our waterways, which pathways they use to enter our waterways, how they establish themselves once they are here and whether or not invasions are getting better or worse based on decisions to regulate pathways. In carrying out this program, the three principal agencies I mentioned previously will develop standardized protocols for carry out the ecological and pathway surveys that are called for under the legislation. In addition, they will coordinate their efforts to establish long-term surveys sites so we have strong baseline information. This program also includes an important grant program so that academic researchers and state agencies can carry out the surveys at diverse sites distributed geographically around the country. This will give federal, state and local managers a more holistic view of the rates and patterns of invasions of aquatic invasive species into the United States. Lastly, the principal agencies will coordinate their efforts and pull all of this information together and analyze it to help determine whether or not decisions to manage these pathways are effective. This will inform policymakers as to which pathways pose the greatest threat and whether or not they need to change the way these pathways are managed.

The fourth part of the bill contains several programs to develop, demonstrate and verify technologies to prevent, control and eradicate invasive species. The first component is an Environmental Protection Agency grant program focused on developing, demonstrating and verifying environmentally sound technologies to control and eradicate aquatic invasive species. This research program will give federal, state and local managers more tools to combat invasive species that are also environmentally sound. The second component is a program to develop dispersal barriers—administered by the Army Corps of Engineers—which have been a critical issue in the Chicago Sanitary Canal where Great Lakes managers have been desperately trying to keep the Asian Carp from entering Lake Michigan from the Mississippi River system. The third component is expansion both in terms of scope and funding of a National Oceanic and Atmospheric Administration and Fish and Wildlife Service program geared toward demonstrating technologies that prevent invasive species from being introduced by ships. This is the federal government's only program that is focused solely on helping develop viable technologies to treat ballast water. It has been woefully underfunded in the past and deserves more attention.

The fifth part of the bill focuses on setting up research to directly support the Coast Guard's efforts to set standards for the treatment of ships with respect to preventing them from introducing invasive species. Ships are a major pathway by which invasive species are unintentionally introduced; the ballast water discharged by ships is of particular concern. One of the key issues that has hampered efforts to deal with the threats that ships pose is the lack of standards for how ballast water must be treated when it is discharged. The Coast Guard has had a very difficult time developing these standards since the underlying law that support their efforts (the National Invasive Species Act) did not contain a research component to support their work. This legislation provides that missing piece.

Finally, the sixth and final part supports our ability to identify invaders once they arrive. Over the past couple of decades, the number of scientists working in systematics and taxonomy, expertise that is fundamental to identifying species, has decreased steadily. In order to address this problem, the legislation sets up a National Science Foundation program to give grants for academic research in systematics and taxonomy with the goal of maintaining U.S. expertise in these disciplines.

Taken together, both my legislation and Mr. GILCHREST's represent an important step forward in our efforts to prevent invasive species from ever crossing our borders and combat them once they are arrive. New invaders are arriving in the United States each day, bringing with them even more burden on taxpayers and the environment. We simply cannot afford to wait any longer to deal with this problem, and so I urge all of my colleagues to support this legislation.

ESTABLISHING AN ANNUAL VISITING NURSE ASSOCIATION WEEK

SPEECH OF

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2003

Mrs. MCCARTHY of New York. Mr. Speaker, today I rise in strong support for National Visiting Nurse Association Week. As a nurse

for over thirty years, I am always proud to celebrate what I still consider the best profession in the world.

Today we are here to commend a very special type of nurse, those that specialize in home health care. For more than 100 years, Visiting Nurse Associations (VNAs) have been providing home health care to the communities they serve. Beginning in the late 1800s, VNAs provided critical home-based care for the homebound, the impoverished, the frail elderly and children at-risk.

Over a hundred years later, not-for-profit VNAs continue their unparalleled, selfless tradition of offering quality of life and independence to all Americans through comprehensive home health care. Today, guided by their charitable missions, VNAs care for nearly 10 million people annually.

VNAs provide home health care for patients of all ages—from infants to elderly. They are the educators of disease prevention and health promotion. Physicians are confident when referring to VNAs because of their high level of quality standards and clinical excellence. Patients are extremely satisfied with the care they receive from VNAs as shown by a 99 percent customer satisfaction rating.

Mr. Speaker, I urge all my colleagues to show their support for Visiting Nurse Associations everywhere by voting for this wonderful resolution.

NATIONAL PEACE CORPS DAY

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Ms. McCOLLUM. Mr. Speaker, I rise today in recognition of National Peace Corps Day, and in support of our nation's enduring commitment to progress, opportunity, and expanded development at the grassroots level throughout the developing world.

Since 1961, more than 168,000 Americans—including over 5,000 Minnesotans—responded to our nation's call to serve by becoming Peace Corps Volunteers in 136 countries. Today, more than 7,000 Americans currently serve in the Peace Corps, providing valuable assistance to developing countries, contributing their skills to support programs in education, health, business, agriculture and the environment.

Peace Corps volunteers have improved the lives of communities throughout the world by responding to real global crises such as poverty, hunger and HIV/AIDS. They have strengthened the ties of friendship and understanding between the people of the United States and those of other countries, and have brought back to the U.S. a deeper understanding of other cultures and nations.

National Peace Corps Day recognizes the work of returned Peace Corps Volunteers as they bring their experiences to work, school, places of worship and recreation, sharing with colleagues, friends, and community members how their volunteer service changed and shaped their lives. Today, across the nation, we honor the spirit of these Volunteers and reaffirm our country's commitment to helping people help themselves throughout the world.

In this spirit, and in honor of National Peace Corps Day, I have introduced House Concurrent Resolution 61, expressing the need to increase funding for the Peace Corps by $550 million by 2007. This legislation reflects the President's commitment to double the number of Peace Corps Volunteers over the next four years, and recognizes the unprecedented funding challenges the Peace Corps will face as the President's initiative to expand the program moves forward.

As we gather today to honor the tremendous achievements of our Peace Corps Volunteers from the past, let us not forget the thousands that serve today, including the twenty-four volunteers from my Congressional District in Minnesota serving in such locations as Honduras, Bulgaria, Kazakhstan and the Philippines. Now, more than ever, it is clear that the cross-cultural understanding developed through Peace Corps programs is invaluable to our nation.

HOUSING GROUPS OPPOSE ADMINISTRATION SECTION 8 PROPOSAL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, one of the areas where national policy is weakest is that of affordable housing. The very prosperity of the nineties that so benefited most Americans in fact exacerbated the housing crisis for many, because of the unevenness of the housing market and of that prosperity. Sadly, recent proposals from this administration not only do nothing to alleviate these areas of housing crisis, they would worsen them. One of the areas where the administration's proposals would worsen an already bad situation is that of Section 8 Housing, the main program by which we help people rent housing when they cannot afford decent homes on their own. Not only has the program been insufficiently funded recently, the administration's new budget proposal seeks to make this a block grant, removing any federal protections for those in need, and subjecting them to the already strong pressures that many state budgets face. A coalition of some of the most important groups in the housing field, including many of those business organizations that seek to help us meet the need for affordable housing, recently wrote to Secretary Martinez expressing their strong opposition to this proposal. Their letter lists several reasons why this program would be harmful to our major current effort to help low income people meet their housing needs, and given the expertise and commitment of those who have signed the letter, as well as their reasoning, I ask that it be printed here so that the members may benefit from their very sound judgment.

FEBRUARY 25, 2003.

Hon. MEL MARTINEZ,
Dept. of Housing & Urban Development,
Washington, DC.

DEAR SECRETARY MARTINEZ: The undersigned groups are writing to express our concern regarding HUD's FY04 Budget proposal to block grant the Housing Choice Voucher program.

The voucher program, created under the Nixon Administration, has become the cornerstone of federal affordable housing policy and has broad support among many constituencies.

In recent years, an increased number of conventional apartment owners have begun participating in the voucher program. While the program is not perfect, professional apartment owners in partnership with the current voucher administrators have made great strides in helping low-income families find quality affordable rental housing—a partnership that helps the community as a whole.

Apartment owners and managers look to uniformity and consistency of program rules and funding levels when deciding to participate as voucher landlords. HUD's proposal creates uncertainty in this regard, the result of which will have a chilling impact upon market participation in the program.

In addition, multifamily property owners often operate in multiple States. If each State creates its own program, it would necessitate the understanding of new rules created by up to 50 different administrators. Further, any shifting of federal funds to state block grants raises serious concerns about future funding availability, begging the question of why States would be interested in HUD's proposal.

A dramatic shift in program rules and administrators will also jeopardize the new homeownership voucher programs launched by local agencies in partnership with the real estate and lending community. This homeownership initiative holds promise for increasing opportunities for low-income families.

Devolution may have a place in any sound federal housing policy, but not in relation to the House Choice Voucher program. We stand ready to work with HUD on alternative approaches to strengthening its tenant-based assistance.

Sincerely,

Council for Affordable and Rural Housing.
Institute for Responsible Housing Preservation.
Institute of Real Estate Management.
National Apartment Association.
National Association of Realtors.
National Leased Housing Association.
National Multi House Council.

UNITING IN THE FIGHT TO END DOMESTIC VIOLENCE

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. MEEK of Florida. Mr. Speaker, I rise today, on the 5th Annual National Lobby Day for The National Coalition Against Domestic Violence, to join my colleagues in speaking out against domestic violence, a brutal crime committed against millions of women. Domestic violence is the single largest cause of injury to women between the ages of fifteen and forty-four, more than muggings, car accidents and rapes combined.

Mr. Speaker, women are losing their right to safety in their homes and in their communities. Women account for an alarming 85 percent of the victims of domestic violence. Each year between two to four million women are battered, and a substantial number of these battered women will die of their injuries.

Devastatingly, because one in three women are likely to be abused by a partner or someone she knows, only half of all female victims report their injuries to the proper authorities. Women remain in grave fear of their lives and do not leave their violent relationships.

Domestic violence is increasing at a disturbing rate. In my home state of Florida,

which has an increasingly expanding immigrant population, battered women claim that they are in fear of reporting their violent relationships until their immigration concerns are addressed.

These women, Mr. Speaker, are fed misinformation about United States laws and are faced with the threats of deportation by their abusers. Many of these women are overly dependent on their abusers because they face racial and language barriers. Others face cultural barriers and being a victim of domestic violence is considered taboo.

Mr. Speaker, I join my colleagues in encouraging and supporting all victims of domestic abuse to seek help and to report all violent and criminal acts without being ashamed to do so. We must help prevent women from being ashamed and embarrassed and encourage them to report the abuse from these monsters.

Further, I strongly encourage Congress and the Administration to support and pass legislation pertaining to health care and law enforcement in order to combat violence against women. The abuse of women is an all too common occurrence and the fight to prevent this crime must strengthen.

TRIBUTE TO SPARKMAN HIGH SCHOOL OF HARVEST, ALABAMA

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. CRAMER. Mr. Speaker, I rise today to honor Sparkman High School from Harvest, Alabama for winning the statewide ''We the People: The Citizen and the Constitution'' competition. I am proud to announce that this group of bright students from my Congressional district will represent the state of Alabama in the national competition event that will be held on April 26, 2003. The Sparkman class will join more than 1,200 students from across the United States in Washington, D.C. to compete in the national finals.

The ''We the People . . .'' program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. These young scholars from Sparkman High School. have worked diligently to reach the national finals by participating in local and statewide competitions. Through their experience, they have gained a deep knowledge and understanding of the fundamental principles and values of our constitution. I want to congratulate these students on this outstanding achievement.

The ''We the People'' program, administered by the Center for Civic Education, provides students with a working knowledge of our Constitution, Bill of Rights, and the principles of democratic government. The national competition is modeled after hearings in the United States Congress, giving students the opportunity to demonstrate their knowledge while they evaluate different positions on relevant historical and contemporary issues. Students will give testimonies followed by a period of questioning by the judges to explore their depth of understanding and ability to apply their constitutional knowledge.

It is inspiring to see these young people advocate the fundamental ideals and principles of our government. These are ideas that identify us as a people and bind us together as a nation. It is important for our next generation to understand these values and principles that we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy.

The class from Sparkman High School is currently conducting research and preparing for their upcoming participation in the national competition in Washington, D.C. I commend their teacher, State Representative Sue Schmitz, for teaching these young ''constitutional experts,'' and I wish the class the best of luck at the ''We the People'' national finals. They represent the future leaders of our nation.

THE PRESIDENT'S STEEL INITIATIVE ONE YEAR LATER: A SUCCESS

HON. ROB BISHOP

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BISHOP of Utah. Mr. Speaker, one year ago today, the President made a courageous decision to impose a temporary trade remedy against dumped and subsidized steel imports that were causing serious injury to our U.S. steel industry and its workers. This action was taken under Section 201 of the Trade Act, and the international rules of the World Trade Organization Safeguards Agreement. One year later, it is clear that his steel initiative has begun to produce an important consolidation and restructuring of the U.S. steel industry that will benefit our national economic security and our domestic steel customer base long-term.

Since the President's decision, prices are recovering, steel supply is generally robust, and the industry has begun dramatic consolidation and restructuring. This recovery is important news for Nucor Steel Utah, located in my district, and for steel producers in other similar communities all across America. The result at the end of the three-year period will be top quality steel, produced in high technology mills in America, which will become an even better value for our nation's steel consumers.

The President is also addressing the root cause of the import problems, by negotiating with our trading partners to eliminate global excess capacity and foreign government subsidies. As a result, the world's steel producing nations are for the first time talking meaningfully about reducing unneeded capacity and eliminating subsidies.

I thank the President for upholding our trade laws, despite intense opposition from abroad. His decision was the correct one. Thank you, Mr. President, stay the course. Your plan is benefiting my district and the nation's steel industry.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. BECERRA. Mr. Speaker, on Tuesday, March 4, 2003, I was unable to cast my floor vote on rollcall numbers 40, 41 and 42. The votes I missed include rollcall vote 40 on Suspending the Rules and Agreeing to H. Res. 106, Congratulating Lutheran Schools; rollcall vote 41 on Suspending the Rules and Agreeing to H. Con. Res. 54, Expressing support of National Visiting Nurse Association Week; and rollcall vote 42 on Suspending the Rules and Agreeing to H. Res. 111, Honoring the Legacy of Fred Rogers.

Had I been present for the votes, I would have voted ''aye'' on rollcall votes 40, 41 and 42.

TRIBUTE TO THE HONORABLE CORWIN M. NIXON ON HIS 90TH BIRTHDAY

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. PORTMAN. Mr. Speaker, I rise today to recognize the outstanding achievements of the Honorable Corwin M. Nixon, a dear friend and distinguished constituent, who will celebrate his 90th birthday on March 9, 2003.

Corwin has served Warren County, Ohio, and the State of Ohio with great distinction. From 1948 to 1960, he served as a Warren County Commissioner. Shortly thereafter, Corwin was elected to the Ohio General Assembly as a State Representative, where he served for 30 years from 1962 to 1992. He had the distinction of being minority leader of the Ohio House of Representatives during his last 14 years in office.

Throughout his successful public service career, Corwin Nixon was always a true gentleman who worked well with his colleagues on both sides of the aisle. Corwin also cared deeply about his constituents. He has told me he ''used to mail get-well cards to everyone who got sick.'' Corwin once was shown four get-well cards that were kept on a constituent's mantel, one for each time this person had been in the hospital. He has also told me of his habit of sending a congratulatory note with a $1 bill enclosed to newborns, and how to this day these lucky recipients of his thoughtfulness come up to him to thank him.

Corwin has been extremely active in a number of good causes and organizations locally, statewide, and nationally. He is President of the U.S. Trotting Association, where he has been a member for 16 years. For 34 years, he has been an original member of the American Horse Council. Corwin also serves on a number of boards, including the Grandview Hospital, Bethesda Hospital, and Big Brothers and Sisters. Among other activities, Corwin has managed the well-known Lebanon Raceway for 50 years.

Family has always been important to Corwin. He and his wife, Eleanor, were married for 45 years before she passed away. They have two children, Keith and Karen (twins), and three grandchildren, Melissa (Missy), Tina, and Keith Jr. They also have four great grandchildren, Corwin Keith III, Eleanor, Preston, and Austin.

Mr. Speaker, Corwin Nixon is a remarkable person who has touched so many lives and has given so much to our community, our state, and our nation over many years. I hope my colleagues will join me in recognizing his

many accomplishments as he celebrates his 90th birthday on March 9, 2003.

PRESIDENT'S LEADERSHIP ON STEEL

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. ADERHOLT. Mr. Speaker, on March 5 a year ago, President Bush boldly gave temporary trade relief to our domestic steel industry. I believe his plan is succeeding.

It is my understanding that since 1973, Alabama's steel industry had steadily lost 16,000 employees, or about half the labor force. We needed a bold plan.

I am proud to have supported the President and his initiative to stop the illegal dumping of foreign steel in the United States. His proposed Section 201 trade relief over three years was also intended to leverage negotiations to address the root cause of the world's surplus capacity, what the President called a ''50-year legacy of foreign government intervention in the market and direct financial support of their steel industries.''

Well, a year later, some of our steel companies, including those in Alabama, are actually rehiring workers as domestic steel prices have firmed up, although they are still below the level two years ago. Also, to the best of my understanding, the critics' predictions of hefty price increases in consumer goods proved mistaken. And I am pleased that international negotiations are underway, thanks to the leverage of the Section 201 tariffs.

The results of the President's leadership on steel look good so far. I urge him to finish his program on schedule.

IN SUPPORT OF THE LIFESPAN RESPITE CARE ACT OF 2003

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. LANGEVIN. Mr. Speaker, I rise in support of the Lifespan Respite Care Act, which I am reintroducing today with the support of a group of 51 original cosponsors from both parties.

Each year, over 26 million Americans care for an adult family member who is chronically ill or disabled. An estimated 18 million children have chronic physical, developmental, behavioral or emotional conditions that place significant demands on their parental caregivers. Nearly four million Americans of all ages who have mental retardation or another developmental disability live with their families. Providing voluntary care for these people is equivalent to nearly $200 billion annually, which is the estimated cost if the family caregivers' services were provided by paid caregivers. More importantly, this voluntary care allows seniors and others to continue living at home, which improves their spirits and often speeds up recovery time.

Family caregiving has some clear benefits—it contributes to family stability and it often spares families from more costly, out-of-home placements. While voluntary care is personally rewarding, it can result in substantial emotional, physical, and financial strain on the caregiver. Surveys of family caregivers consistently show an unmet need for respite care services. Respite care services relieve caregivers from daily caregiving tasks on a temporary or longer-term basis. This is often necessary for caregivers to address their own health issues or other crises a family may encounter—for example, in the areas of employment, housing or domestic violence. In too many situations, caregivers do not know how to find information about available respite care and access these services. In other cases, respite care is still unavailable to those who need it. Meanwhile, existing respite programs are finding it difficult to recruit and retain trained providers.

In response to this need, I have worked together with the National Respite Coalition to craft legislation that eases the burden of responsibility on the family caregivers who give so much. In many cases, this would allow them to continue to provide care for their loved ones. Many lifespan respite programs are already in place at the state and local levels, providing invaluable services to the families of people with chronic disease or disability. We are proposing to build upon these tremendously successful existing programs. The Lifespan Respite Care Act would authorize funds for development and coordination of state and local respite systems, training and recruitment of respite care workers, and creation of a National Resource Center on Lifespan Respite Care. By passing this legislation, we could take a proactive step toward providing quality at-home care for millions of Americans with special needs, preventing caregiver burnout, and safeguarding against the unsafe or inappropriate care that can result from the unmet need for respite care.

I thank you for the opportunity to bring this legislation to your attention and ask for the support of my colleagues to move this bill forward.

THAILAND, BURMA, LAOS AND VIETNAM TRIP REPORT

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. PITTS. Mr. Speaker, I recently returned from a trip to Thailand, the Thai-Burma border, Laos and Vietnam with U.S.-based NGO Jubilee Campaign, and with Lord David Alton of the British House of Lords. We met with government officials, NGOs, and refugees, in Thailand, Laos and Vietnam to establish relationships and raise human rights concerns, particularly trafficking and religious freedom issues.

I would like to begin with commending the people of Thailand for their well-deserved reputation for hospitality. I flew to Thailand on Thai Airways and had a wonderful experience. During our visit throughout Thailand, we were met with warm hospitality. It is this tradition and culture of hospitality that has made Thailand a safe haven for the refugees fleeing death and destruction in Burma. I urge the current Thai Administration not to pursue policies that would damage that reputation of wonderful hospitality.

In Thailand, we met with organizations working with refugees along the Thai-Burma border and with the Internally Displaced People (IDPS) inside the jungles of Burma. The situation in Burma is dire, and I would not hesitate to call it, according to international legal definitions, genocide. In Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, genocide is defined as ''any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.'' Reports make clear that the ironically-named State Peace and Development Council (SPDC) of Burma, the ruling military junta, has engaged in a deliberate policy to eliminate the ethnic minorities. A scorched earth policy, destroying entire villages along with food storage and production sources, systematic rape, the use of humans, including women and children, as landmine sweepers, forced labor, also known as slavery, the refusal to allow the duly elected leader of the country to take office, and many other abuses have turned the country of Burma into one large concentration camp. Sadly, the international community has turned a deaf ear to the cries of the ethnic minorities, the refugees, the IDPS, the democracy activists. Why is it that the international community fought with weapons to stop the genocide in former Yugoslavia in Europe but is ignoring the one occurring in Southeast Asia? There are a large number of organizations that carefully track the violations in Burma so there is no shortage of evidence of the human rights abuses the SPDC commits. The Karen Human Rights Group, the Shan Human Rights Foundation, the Shan Women's Action Network, the Committee for Internally Displaced Karen People, the Assistance Association for Political Prisoners, Christians Concerned for Burma, Partners Relief and Development, and many other Burma groups produce reports of current and past atrocities committed by the SPDC. We were given copies of over one dozen reports which provide detailed documentation of these brutal policies. I urge my colleagues to read these reports to gain further understanding of the situation in Burma.

My delegation visited refugee camps north of Mae Sot, Thailand and spoke with Karen refugees, Christians, Buddhists, and Muslims who all had fled the attacks of the SPDC on their communities. We saw landmine victims, orphans and school children, who all had suffered from the actions of the SPDC. The Thai government has been gracious in caring for these refugees, often with little help from the international community, yet there are many IDPs hiding in the jungles of Burma who need a safe place to go. I respectfully request that the Thai government allow the IDPs to enter the camps and be registered as refugees. In addition, I respectfully request that the Thai government allow the UNHCR to establish a permanent presence within the camps to help administer the needs of the refugees.

Mr. Speaker, our visit with the refugee orphans was both heart-wrenching and a delight. It was a delight to see these young children and to hear the songs they sang to us, but it was heart-wrenching to hear the amount of tragedy in these young lives. One group of four children, the oldest was 12, had lost their father; their mother could not take care of them so she brought them to the orphanage. An eight-year-old boy, who could not smile, had lost both parents, was then trafficked across the border to Thailand, somehow escaped from his ''owners,'' and reached the safety of the refugee camps. It is heartbreaking to know that many of the young children, including the orphans, in the refugee camps had watched family or community members being killed by the SPDC, wounded or killed by landmine explosions, raped, or even burned alive.

The drug problem in Southeast Asia can largely be traced back to the SPDC regime in Burma. The military runs, controls and earns the profits off the drug trade of a reported 1 billion plus methamphetamine pills per year. These drugs have had a huge impact on the young people of the region, so it is vital that we work even more closely with the Thai government in fighting against the drug trade controlled by the Burmese military. There are reports of the SPDC forcing its soldiers to take drugs before attacking ethnic groups—captured SPDC military personnel sometimes have difficulty remembering what took place during an attack.

Mr. Speaker, it is vital that those responsible for the genocide of the ethnic groups in Burma be held to account. The reports of atrocities are reminiscent of the Nazis, their blatant disregard for human life and their policies of extermination. The ethnic cleansing of Burma is an international tragedy and I call on the international community to send monitors to Burma, to pursue prosecution of those responsible for these crimes against humanity, to press for the immediate end to deportation of democracy groups back to certain death in Burma, to press strongly for the recognition of the democratically elected government of Burma, and to send international peacekeepers to Burma. I call on the United States government to assist the refugees in Thailand, to increase pressure on the military regime in Burma and those nations that assist the junta, and to further assist the democracy and humanitarian organizations focusing on assistance to the people of Burma. One practical way we can assist the refugees is by offering scholarship opportunities for the refugee students to study abroad—the refugees currently have no legal means to continue their education past middle or high school.

While in Thailand, we also met with organizations assisting women and children, often ethnic minorities from Burma, Thailand, Laos and Vietnam, who are victims of trafficking. Many of these victims end up as such due to lack of educational and economic opportunities or lack of citizenship rights in their countries. Organizations, such as the New Life Center, provide counseling, health and medical advice and treatment, education and job skills opportunities—many of those at risk for being trafficked, after the assistance provided by NGOS, return to their communities to help educate women and children about trafficking, health, and other issues.

Our meetings with Thai officials in Bangkok with the National Security Council, the Foreign Ministry and Members of the Thai Parliament were helpful and I look forward to working with these officials to resolve some of the issues we discussed, particularly the current concerns about forced repatriation of democracy and humanitarian groups working on Burma issues and the certain death they would face if deported back to Burma.

Our delegation then traveled to Laos to meet with government officials and some church leaders regarding various human rights concerns and other issues. Laos is one of the poorest countries in the world and one of only four nations in the world (Laos, Cuba, North Korea and Serbia-Montenegro) that do not have Normal Trade Relations (NTR) status with the U.S. Religious freedom issues have been a major concern in Laos, but reports from various organizations and officials suggest that the problem is slowly being addressed and there has been progress. We met with officials from the Foreign Ministry, the National Assembly, the Lao Front for National Construction and, the Women's Union, and NGO representatives. The openness and frankness of our discussions with officials in Laos was greatly encouraging as was their desire to improve the development of their country. There is much poverty in Laos and after discussions with Laotian officials, U.S. government officials, and some NGOS, it was clear that it is important that the United States extend Normal Trade Relations (NTR) status to Laos. Countries, such as Saudi Arabia, with horrendous human rights records do have NTR; though there is more progress needed, the government of Laos allows people of faith to worship, is working to help end trafficking in persons, has cooperated on missing persons issues, and desires to work for the development of opportunities for women and the poor. I urge my colleagues to join me in supporting the extension of NTR to Laos.

The delegation traveled on to Vietnam to meet with government officials and representatives of a Buddhist organization and a Christian organization. In all meetings, the same issues were raised, and it was clear that the Central Party had a strong hold over the country. We had a very helpful meeting with the Ministry of Foreign Affairs and we look forward to interacting with them on a number of issues. In addition we met with the Government Board for Religious Affairs and the Ministry of Labor, Invalids and Social Affairs and plan to raise cases of religious persecution and trafficking with them. Prior to our visit, the Central Party had its Seventh Annual Plenum meeting, of which a major discussion point was religion. Unfortunately, a key directive from that meeting, referred to in a news report from the South China Morning Post, calls for religious people to be patriotic by '' 'volunteering' in the struggle to 'foil all attempts of hostile forces who abuse religious and ethnic minority issues to sabotage national unity and act against [the] political regime.' '' This most likely means further attempts at control of religious groups in Vietnam. Recent reports by a number of reliable organizations reveal increasing harassment, persecution and imprisonment of religious believers. We hope that the relationships we formed with Vietnamese officials during our visit will help resolve some of the current religious cases.

In addition, during our visit to Hanoi we had the privilege of visiting the Hanoi Hilton, the notorious prison where members of our armed services were held during the Vietnam War and where Vietnamese citizens previously were imprisoned by the French military. The glass shards on the walls, the placards of personal stories, the stocks where prisoners were unable to move, the isolation cells and the torture devices were sobering reminders of the suffering of many people in Vietnam.

Mr. Speaker, I had an excellent visit to Southeast Asia and I hope to return soon. I would like to commend the US Embassy officials in Thailand, Laos and Vietnam for their extraordinary work and assistance on this visit; it would not have been as successful without them.

I urge my colleagues to join me in pressing for freedom for the people of Burma, continuing to strengthen our relationship with our close friends in Thailand, and furthering the relationship between our nation and the peoples of Laos and Vietnam.

RECOGNIZING BILLY D. COLE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Billy D. Cole on this, his 50th year in local banking.

Mr. Cole began his banking career on his 18th birthday, March 2, 1953. He found his first job at the former Empire Trust Company where he worked for Fairleigh Enright as a teller-trainee. Since then, he has served as an officer or director of over 40 banks and ten bank holding companies throughout Missouri and Kansas. Today, Mr. Cole serves as the vice-chairman of the board of Nodaway Valley Bank in Missouri.

Mr. Cole truly has worked hard during his years of service and ultimately has become one of the regions well-known and most respected bankers.

Mr. Speaker, today I proudly ask you to join me in commending Billy D. Cole for his accomplishments and dedication on the anniversary of his 50th year in banking.

ON THE RETIREMENT OF DISTRICT ATTORNEY PHILLIP ROLLINS

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. DELAHUNT. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to Phillip A. Rollins, who stepped down from office this year after serving for 32 years as a District Attorney in Massachusetts.

Since Phil is too modest to draw attention to his own accomplishments, I want to take this moment to share with you some highlights of his distinguished career in public service. Phil started in Cape Cod politics in the 1960s, serving in local government as a Selectman in the Town of Mashpee. He then ran and won a contested race against a longtime District Attorney, representing the Southern District of Massachusetts. From the start, Phil realized that the issues and problems facing the communities on Cape Cod and the Islands of Nantucket and Martha's Vineyard were so unique

as to require special focus. The solution was both innovative and practical. The Cape and Islands region needed its own District Attorney, and Phil Rollins had the skill to fulfill that vision.

Over the years that followed, Phil Rollins racked up some impressive professional accomplishments. He was among the first in the Commonwealth to hire female prosecutors, he created a regional crime hotline and developed regional crime prevention strategies, and earned an outstanding reputation for innovation in child abuse and domestic violence. Respected and admired by his colleagues, he was twice selected to be the President of the Massachusetts District Attorneys Association.

As he leaves office, he can look back with enormous pride on all that he has done to professionalize the work of prosecutors, and to improve the quality of life on Cape Cod and the Islands. Most of his crime initiatives are still in place, and he leaves a highly trained office with over 20 lawyers, and a budget of over $2.5 million. Those who have left his office are considered to be among the best and brightest lawyers in the state.

So, I rise today as a former District Attorney myself, and as the Congressman of a very grateful Cape and Islands constituency to join with my colleagues in the US House of Representatives to recognize the important work of a fine public servant and longtime and very dear friend. Thank you, Phil.

STEEL TARIFFS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. EVANS. Mr. Speaker, I am here today to mark the one-year anniversary of the Section 201 temporary tariff relief for the domestic steel industry. This is an issue that, unfortunately, I have worked on of for too many years. However, the current section 201 remedies are working, and I urge the President to continue to support our domestic steel industry by continuing the relief program over the original three year plan.

As many of my colleagues are aware, from 1997 to 2002, 35 domestic steel companies were forced into bankruptcy through illegal dumping practices. One of these companies was Northwestern Steel & Wire Company, which was in Sterling, Illinois, in my district. Northwestern Steel and Wire was forced to close its doors and 1,400 employees lost their jobs. The Department of Labor determined that Northwestern Steel employees were eligible for Trade Adjustment Assistance because ''various customers increased their reliance on imported steel and wire rod.'' This reliance came from a system of foreign steel being dumped into the U.S., thereby preventing American steel companies from fairly competing.

In March 2002, the President imposed 3 years of declining tariffs on various steel products and raw materials. This has allowed the domestic steel industry to deal with changes in the market in a way that does not simply bankrupt all producers or displace thousands of workers. By preventing illegal dumping, the Section 201 relief has allowed a new company to move into Sterling, Illinois. Sterling Steel is currently working with the community to use the Northwestern Steel facilities, and bring steel jobs back to the area. They have created 200 steel related jobs in an area that had lost all steel industry. The ability to open more efficient steel factories and creating jobs in a more stable steel market can only occur with a level playing field. Steel tariffs provide that.

The U.S. steel industry provides not only jobs for communities like Sterling, Illinois, but it also helps secure our national defense. Many vital products that protect and defend our nation's troops are made of steel. Not, just any steel, American steel. Without the opportunity and protection of the 201 relief, we could not guarantee the men and women of our armed services the protections of new ships and tanks. The domestic steel industry is necessary for our nation's vital infrastructure, making up parts of our roads, power plants, and pipelines. By reducing competition by allowing dumping to close down domestic steel producers, we make our nation and our economy more vulnerable.

I want to encourage the President to continue with his plan for three-year declining tariffs. This action will allow the domestic steel industry to stabilize and help communities like Sterling to adjust to the new market without massive layoffs. We must continue to support domestic industry in order to properly turn our economy around.

SUPPORT FOR THE VIOLENCE AGAINST WOMEN ACT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 5, 2003

Mr. HOLT. Mr. Speaker, I rise today in support of full funding of the Violence Against Women Act. This law fostered countless initiatives that have brought millions of dollars to shelters, increased resources for law enforcement, expanded the National Domestic Violence Hotline, and bolstered the prosecution of child abuse, sexual assault, and domestic violence cases.

These programs and services are invaluable. U.S. Department of Justice statistics indicate that domestic violence has decreased by 49 percent since VAWA went into effect. They also reaffirm that full funding for VAWA is well worth the investment. It is estimated that the $1.6 billion spent on VAWA programs during the first six years after its enactment saved government coffers $14.8 billion in medical, legal, workplace and other social costs, not to mention saving many lives.

Unfortunately, state budget crises and decreases in federal funding are threatening these vital programs and services. President Bush's budget request for FY 2004 would cut funding for VAWA programs and services by $141.6 million in FY 2004 from the previously authorized level of $692.5 million.

Our Nation must renew our commitment to ending all forms of domestic violence. I urge my colleagues to appropriate fall funding to fulfill the mission of the Violence Against Women Act.

Daily Digest

HIGHLIGHTS

Senate agreed to the Resolution of Ratification to the Moscow Treaty (Treaty Doc. 107–8).

Senate

Chamber Action

Routine Proceedings, pages S3207–S3339

Measures Introduced: Twenty-nine bills and one resolution were introduced, as follows: S. 545–573 and S. Res. 78. **Pages S3252–53**

Measures Reported:

S. 253, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns. **Page S3252**

Measures Passed:

Condemning the Selection of Libya: Senate agreed to S. Con. Res. 13, condemning the selection of Libya to chair the United Nations Commission on Human Rights, after agreeing to the following amendment proposed thereto: **Pages S3338–39**

Frist (for Lautenberg) Amendment No. 257, of a technical nature. **Pages S3338–39**

Nomination Considered: Senate continued consideration of the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit. **Pages S3211–18**

During consideration of this nomination today, Senate took the following action:

By 55 yeas to 44 nays (Vote No. 40), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate failed to agree to the motion to close further debate on the nomination. **Page S3217**

Treaty Approved: By a unanimous vote of 95 yeas (Vote No. 43), two-thirds of those Senators present, a quorum being present, having voted in the affirmative, the Resolution of Ratification was agreed to with respect to the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, Signed at Moscow on May 24, 2002 (Treaty Doc. 107–8), after taking action on the following amendments proposed thereto: **Pages S3218–44**

Rejected:

By 44 yeas to 50 nays (Vote No. 41), Levin Modified Amendment No. 252, to provide an additional condition requiring notice and consultations prior to withdrawal from, or extension of, the Treaty. **Pages S3221–29**

By 45 yeas to 50 nays (Vote No. 42), Kerry Amendment No. 255, to provide an additional condition. **Pages S3233–37**

Withdrawn:

Feinstein Amendment No. 251, to provide an additional declaration. **Page S3219**

Feingold Amendment No. 253 (to Amendment No. 252), to modify the condition. **Page S3224**

Akaka Amendment No. 254, to specify information to be included in the annual report on the role of Cooperative Threat Reduction and nonproliferation assistance under condition 1 in section 2. **Page S3230**

Levin Amendment No. 256, to provide an additional element in the annual implementation report. **Page S3237**

Nomination—Agreement: A unanimous-consent agreement was reached providing for the consideration of the nomination of Gregory L. Frost, to be United States District Judge for the Southern District of Ohio, at 6 p.m. on Monday, March 10, 2003, with a vote to occur thereon. **Page S3244**

Partial Birth Abortion Ban—Agreement: A unanimous-consent agreement was reached providing for the consideration of S. 3, to prohibit the procedure commonly known as partial-birth abortion, at 5 p.m. on Monday, March 10, 2003. **Page S3337**

Messages From the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, notice that the President has exercised his authority to issue an executive order to declare a national emergency with respect to Zimbabwe; to the Committee on Banking, Housing, and Urban Affairs. (PM–21).

Pages S3249–50

Nominations Confirmed: Senate confirmed the following nominations:

Timothy C. Stanceu, of Virginia, to be a Judge of the United States Court of International Trade.

Edward F. Reilly, of Kansas, to be a Commissioner of the United States Parole Commission for a term of six years. (Reappointment)

Cranston J. Mitchell, of Missouri, to be a Commissioner of the United States Parole Commission for a term of six years.

Jeremy H.G. Ibrahim, of Pennsylvania, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2005.

Janet Hale, of Virginia, to be Under Secretary for Management, Department of Homeland Security. (New Position)

Peter Joseph Elliott, of Ohio, to be United States Marshal for the Northern District of Ohio for the term of four years. **Page S3337**

Messages From the House: **Page S3250**

Measures Referred: **Page S3250**

Executive Communications: **Pages S3250–51**

Petitions and Memorials: **Pages S3251–52**

Executive Reports of Committees: **Page S3252**

Additional Cosponsors: **Pages S3253–54**

Statements on Introduced Bills/Resolutions: **Pages S3254–S3334**

Additional Statements: **Pages S3247–49**

Amendments Submitted: **Pages S3335–36**

Authority for Committees to Meet: **Pages S3335–36**

Privilege of the Floor: **Pages S3336–37**

Record Votes: Four record votes were taken today. (Total—43)

Adjournment: Senate met at 9:30 a.m., and adjourned at 6:57 p.m., until 9:30 a.m., on Friday, March 7, 2003. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S3339.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: OPERATIONS INTELLIGENCE

Committee on Appropriations: Subcommittee on Defense concluded closed hearings to examine proposed budget estimates for fiscal year 2004 for operations intelligence, after receiving testimony from General Richard B. Myers, USAF, Chairman, Joint Chiefs of Staff.

APPROPRIATIONS: HUD

Committee on Appropriations: Subcommittee on VA–HUD and Independent Agencies concluded hearings to examine the proposed budget estimates for fiscal year 2004 for the Department of Housing and Urban Development, after receiving testimony from Mel Martinez, Secretary of Housing and Urban Development.

APPROPRIATIONS: DEPARTMENT OF STATE

Committee on Appropriations: Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies concluded hearings to examine the proposed budget estimates for fiscal year 2004 for the Department of State, after receiving testimony from Colin L. Powell, Secretary of State.

DEFENSE AUTHORIZATION

Committee on Armed Services: Committee concluded hearings on proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, and the Future Years Defense Program, after receiving testimony from Thomas E. White, Secretary of the Army, Hansford T. Johnson, Acting Secretary of the Navy, and James G. Roche, Secretary of the Air Force, all of the Department of Defense.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Readiness and Management Support concluded hearings on proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on military construction and environmental programs, after receiving testimony from Hansford T. Johnson, Assistant Secretary of the Navy for Installations and Environemnt, Raymond F. DuBois, Jr., Deputy Under Secretary for Installations and Environment, Mario P. Fiori, Assistant Secretary of the Army for Installations and Environment, and Nelson

F. Gibbs, Assistant Secretary of the Air Force for Installations, Environment, and Logistics, all of the Department of Defense.

SPECTRUM POLICY

Committee on Commerce, Science, and Transportation: Committee concluded hearings to examine the future of spectrum policy, focusing on recommendations of the Federal Communications Commission's Spectrum Policy Task Force including, the establishment of a spectrum relocation trust fund, ways in which to evolve the current ''command and control'' approach to spectrum policy into a more integrated, market-oriented approach that provides greater regulatory certainty, while minimizing regulatory intervention, and the implementation of interference protection, spectral efficiency, effective public safety communications, and international spectrum policy, after receiving testimony from Steven K. Berry, Cellular Telecommunications and Internet Association, and Michael Calabrese, New America Foundation, on behalf of the Consumer Federation of America, Consumers Union, and the National Alliance for Media Arts and Culture, both of Washington, D.C.; Gregory L. Rosston, Stanford Institute for Economic Policy Research, Stanford, California; Kevin Kahn, Intel Corporation, Hillsboro, Oregon; and Paul J. Kolodzy, Stevens Institute of Technology, Hoboken, New Jersey.

TRANSPORTATION ENERGY USE

Committee on Energy and Natural Resources: Committee concluded hearings to examine energy use in the transportation sector, focusing on oil dependency, technology challenges, vehicle safety issues, the Corporate Average Fuel Economy (CAFE) program, and alternative fuels, after receiving testimony from David K. Garman, Assistant Secretary of Energy for Energy Efficiency and Renewable Energy; Emil H. Frankel, Assistant Secretary of Transportation for Transportation Policy; Gregory Dana, Alliance of Automobile Manufacturers, Washington, D.C.; Richard Cromwell III, SunLine Transit Agency, Thousand Palms, California; and David Friedman, Union of Concerned Scientists, San Francisco, California.

HIGH PLAINS AQUIFER/ILLINOIS HYDROELECTRIC PROJECT

Committee on Energy and Natural Resources: Subcommittee on Water and Power concluded hearings to examine S. 212, to authorize the Secretary of the Interior to cooperate with the High Plains States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer, and S. 220 and H.R. 397, bills to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois, after receiving testimony from Senator Brownback; and William M. Alley, Chief, Office of Ground Water, U.S. Geological Survey, Department of the Interior.

NORTH KOREA

Committee on Foreign Relations: Committee concluded hearings to examine an agreed framework for dialogue with North Korea, focusing on negotiations regarding their nuclear weapons program, and South Korea, after receiving testimony from Ashton B. Carter, Harvard University Preventive Defense Project, Cambridge, Massachusetts; and Arnold Kanter, Scowcroft Group, and Robert J. Einhorn, Center for Strategic and International Studies International Security Program, former Assistant Secretary of State for Non-proliferation, both of Washington, D.C.

NASA

Committee on Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia concluded hearings to examine the status of the National Aeronautics and Space Administration's workforce and consider proposed personnel flexibilities to assist the agency in achieving its mission, especially managing Human Capital effectively and efficiently, after receiving testimony from Representative Sherwood L. Boehlert; and Sean O'Keefe, Administrator, National Aeronautics and Space Administration.

WORKFORCE INVESTMENT ACT REAUTHORIZATION

Committee on Health, Education, Labor, and Pensions: Subcommittee on Employment, Safety and Training concluded hearings to examine the Administration's approach to reauthorize the Workforce Investment Act (WIA), focusing on strengthening the delivery of employment and training services nationwide, after receiving testimony D. Cameron Findlay, Deputy Secretary of Labor.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 253, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns;

S. 113, to exclude United States persons from the definition of ''foreign power'' under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism, with an amendment in the nature of a substitute; and

The nominations of Timothy M. Tymkovich, of Colorado, to be United States Circuit Judge for the

Tenth Circuit, J. Daniel Breen, to be United States District Judge for the Western District of Tennessee, Thomas A. Varlan, to be United States District Judge for the Eastern District of Tennessee, William H. Steele, to be United States District Judge for the Southern District of Alabama, and Humberto S. Garcia, to be United States Attorney for the District of Puerto Rico, and Eugene James Corcoran, to be United States Marshal for the Eastern District of New York, both of the Department of Justice

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

House of Representatives

Chamber Action

Measures Introduced: 59 public bills, H.R. 1109–1167; and 10 resolutions, H. Con. Res. 79–84, and H. Res. 130–133 were introduced. **Pages H1678–81**

Additional Cosponsors: **Pages H1681–82**

Reports Filed: Reports were filed today as follows:

H.R. 14, to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, amended (H. Rept. 108–26);

H.R. 659, to amend section 242 of the National Housing Act regarding the requirements for mortgage insurance under such Act for hospitals (H. Rept. 108–27); and

H.R. 663, to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety, amended (H. Rept. 108–28). **Page 1678**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Hefley to act as Speaker Pro Tempore for today. **Page 1643**

Journal: The House agreed to the Speaker's approval of the Journal of Wednesday, March 5 by a recorded vote of 359 ayes to 48 noes with 1 voting ''present,'' Roll No. 49. **Pages H1653–54**

Museum and Library Services Act: The House passed H.R. 13, to reauthorize the Museum and Library Services Act by yea-and-nay vote of 416 yeas to 2 nays, Roll No. 47. **Pages H1651–52**

The bill was considered pursuant to the unanimous consent order of Tuesday, March 4. **Pages H1644–51**

Legislative Program: The Majority Leader announced the Legislative Program for the week of March 10. **Pages H1654–56**

Meeting Hour—Monday, March 10 and Tuesday, March 11: Agreed that when the House adjourns today, it adjourn to meet at noon on Monday, March 10. Agreed that when the House adjourns on Monday, it adjourn to meet at 12:30 p.m. on Tuesday, March 11, for morning hour debate. **Page H1656**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, March 12. **Page H1656**

Committee Election: The House agreed to H. Res. 130, electing Representatives Jones of Ohio, Green of Texas, Roybal-Allard, and Doyle to the Committee on Standards of Official Conduct. **Page H1667**

Motion to Adjourn: Rejected the Cooper motion to adjourn by recorded vote of 63 ayes to 358 noes with 1 voting ''present,'' Roll No. 48. **Pages H1652–53**

Presidential Message—National Emergency re Zimbabwe: Message wherein he announced that he exercised his statutory authority to declare a national emergency with respect to the unusual and extraordinary threat to the foreign policy interests of the United States posed by the actions and policies of certain individuals who have formulated, implemented, or supported policies that have undermined Zimbabwe's democratic institutions—referred to the Committee on International Relations and ordered printed (H. Doc. 108–45). **Page H1676**

Recess: The House recessed at 10:04 a.m. and reconvened at 10:15 a.m. **Page H1643**

Recess: The House recessed at 10:35 a.m. and reconvened at 11:05 a.m. **Page H1649**

Recess: The House recessed at 12 noon and reconvened at 1:01 p.m. **Page H1654**

Senate Message: Messages received from the Senate today appear on page 1643.

Referrals: S. Con. Res. 16 was held at the desk.

Quorum Calls—Votes: One yea-and-nay vote and two recorded votes developed during the proceedings of the House today and appear on pages H1651–52, H1652–53, H1653. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 4:56 p.m.

Committee Meetings

AGRICULTURE, RURAL DEVELOPMENT, FDA AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies held a hearing on FDA. Testimony was heard from Mark McClellan, MD, Commissioner, FDA, USDA.

COMMERCE, JUSTICE, STATE AND JUDICIARY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State and Judiciary held a hearing on Secretary of Commerce. Testimony was heard from Donald Evans, Secretary of Commerce.

The Subcommittee also held a hearing on Attorney General. Testimony was heard from John Ashcroft, Attorney General, Department of Justice.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Energy and Water Development held a hearing on Bureau of Reclamation. Testimony was heard from the following officials of the Department of the Interior: Gale Norton, Secretary; and John W. Keys, III, Commissioner, Bureau of Reclamation.

INTERIOR APPROPRIATIONS

Committee on Appropriations: Subcommittee on Interior held a hearing on U.S. Fish and Wildlife Service. Testimony was heard from the following officials of the Department of the Interor, U.S. Fish and Wildlife Service: Steve Williams, Director; Marshall Jones, Deputy Director; and Stephen Guertin, Budget Officer.

LABOR, HHS, AND EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services and Education held a hearing on Secretary of Education. Testimony was heard from Roderick R. Paige, Secretary of Education.

VA, HUD AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on VA, HUD and Independent Agencies held a hearing on Corporation for National and Community Service. Leslie Lenkowski, Chief Executive Officer, Corporation for National and Community Service.

The Subcommittee also held a hearing on Federal Citizen Information Center. Testimony was heard from Teresa Nasif, Director, Federal Citizen Information Center.

ENERGY DEPARTMENT'S BUDGET REQUEST

Committee on Armed Services: Subcommittee on Strategic Forces held a hearing on the fiscal year 2004 Department of Energy's budget request. Testimony was heard from the following officials of the Department of Energy: Robert C. Card, Under Secretary, Energy, Science and Government; Everet Beckner, Deputy Administrator, Ddefense Programs, National Nuclear Security Administration; and Jessie H. Roberson, Assistant Secretary, Environmental Management.

MEMBER'S DAY

Committee on the Budget: Held a hearing on Member's Day. Testimony was heard from Representatives Young of Alaska, Skelton, Oberstar, Kucinich, Tierney, Latham, Brady of Texas, Holt, Wilson of New Mexico, Terry, LoBiondo, Pascrell, Kanjorski, Rehberg, Kirk, Baird, Cooper, Christensen, Osborne, Davis of California, Allen, Ehlers, Hayes, Rogers of Alabama, Simmons and Bordallo.

PENSION SECURITY ACT

Committee on Education and the Workforce: Ordered reported, as amended, H.R. 1000, Pension Security Act .

HEAD START: IMPROVING RESULTS FOR CHILDREN

Committee on Education and the Workforce: Subcommittee on Education Reform held a hearing on "Head Start: Improving Results for Children." Testimony was heard from Wade F. Horn, Assistant Secretary, Administration for Children and Families, Department of Health and Human Services; John G. Rowland, Governor, State of Connecticut; and public witnesses.

HELP EFFICIENT, ACCESSIBLE LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT

Committee on Energy and Commerce: Ordered reported, as amended, H.R. 5, Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2003.

ACCOUNTANT, COMPLIANCE, AND ENFORCEMENT STAFFING ACT; BROKER ACCOUNTABILITY THROUGH ENHANCED TRANSPARENCY ACT

Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing on the following bills: H.R. 658, Accountant, Compliance, and Enforcement Staffing Act of 2003; and H.R. 957, Broker Accountability through Enhanced Transparency Act of 2003. Testimony was heard from James M. McConnell, Executive Director, SEC; and public witnesses.

POSTAL CIVIL SERVICE RETIREMENT SYSTEM FUNDING ACT; BRINGING FEDERAL GOVERNMENT INTO THE 21ST CENTURY

Committee on Government Reform: Ordered reported, as amended, H.R. 735, Postal Civil Service Retirement System Funding Reform Act of 2003.

The Committee also held a hearing entitled "From Reorganization to Recruitment: Bringing the Federal Government into the 21st Century." Testimony was heard from Paul Volcker, Chairman, National Commission on the Public Service.

MILLENNIUM CHALLENGE ACCOUNT

Committee on International Relations: Held a hearing on The Millennium Challenge Account. Testimony was heard from the following officials of the Department of State: Andrew S. Natsios, Administrator, AID; and Alan P. Larson, Under Secretary, Economic, Business and Agricultural Affairs; John B. Taylor, Under Secretary, Office of the Under Secretary, International Affairs, Department of the Treasury; and public witnesses.

BALANCED BUDGET AMENDMENT

Committee on the Judiciary: Subcommittee on the Constitution held a hearing on H.J. Res. 22, proposing a balanced budget amendment to the Constitution of the United States. Testimony was heard from public witnesses.

OVERSIGHT—COPYRIGHT PIRACY PREVENTION AND THE BROADCAST FLAG

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on "Copyright Piracy Prevention and the Broadcast Flag." Testimony was heard from Marybeth Peters, Register of Copyrights, Library of Congress; W. Kenneth Ferree, Bureau Chief, Media Bureau, FCC; and public witnesses.

COMMITTEE ORGANIZATION

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims met for organizational purposes.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Energy and Mineral Resources held a hearing on the following bills: H.R. 793, to amend the Outer Continental Shelf Lands Act to authorize the Secretary of the Interior to grant easements and rights-of-way on the Outer Continental Shelf for activities otherwise authorized by that Act; and H.R. 794, Coal Leasing Amendments Act of 2003. Testimony was heard from Representative Delahunt; Johnnie Burton, Director, Minerals Management Service, Department of the Interior; Tom Reilly, Attorney General, State of Massachusetts; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on the following bills: H.R. 273, Nutria Eradication and Control Act of 2003; H.R. 274, Blackwater National Wildlife Refuge Expansion Act; H.R. 289, Ottawa National Wildlife Refuge Complex Expansion and Detroit River International Wildlife Refuge Expansion Act; and H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California. Testimony was heard from Representatives Hunter, Kaptur and Dingell; and Matt Hogan, Deputy Director, U.S. Fish and Wildlife Service, Department of the Interior.

FAA AND NASA—REVIEW AERONAUTICS R&D

Committee on Science: Subcommittee on Space and Aeronautics held a hearing on A Review of Aeronautics R&D at FAA and NASA. Testimony was heard from Jeremiah Creedon, Associate Administrator, Aerospace Technology, NASA; Charlie Keegan, Associate Administrator, Research and Acquisitions, FAA, Department of Transportation; and public witnesses.

OVERSIGHT—REAUTHORIZATION FAA AND AVIATION PROGRAMS: AIRPORTS

Committee on Transportation and Infrastructure: Subcommittee on Aviation held an oversight hearing on Reauthorization of the Federal Aviation Administration and the Aviation Programs: Airports. Testimony was heard from officials of various airport authorities; and public witnesses.

RAIL INFRASTRUCTURE POLICIES AND REAUTHORIZATION—HIGHWAYS, TRANSIT, AND SURFACE TRANSPORTATION PROGRAMS

Committee on Transportation and Infrastructure: Subcommittee on Railroads held a hearing on Rail Infrastructure Policies and Reauthorization of Highways, Transit and Surface Transportation Programs. Testimony was heard from Joe Boardman, Commissioner, Department of Transportation, State of New York; and public witnesses.

ADMINISTRATION'S ECONOMIC GROWTH PROPOSALS

Committee on Ways and Means: Continued hearings on the Administration's Economic Growth Proposals. Testimony was heard from public witnesses.

Hearings continue March 11.

MEDICARE PAYMENT POLICIES

Committee on Ways and Means: Subcommittee on Health held a hearing on the Medicare Payment Advisory Commission's (MedPAC) recommendations on Medicare payment policies. Testimony was heard from Glenn M. Hackbarth, Chairman, Medicare Payment Advisory Commission, (MedPac); and public witnesses.

Joint Meetings

LEGISLATIVE PRESENTATIONS

Joint Hearing: Senate Committee on Veterans' Affairs concluded joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of certain veterans organizations, after receiving testimony from William A. Wroolie, Military Order of the Purple Heart, Springfield, Virginia; Joseph L. Fox, Sr., Paralyzed Veterans of America, Daniel Weiss, Jewish War Veterans, and Joe Burns, Blinded Veterans Association, all of Washington, D.C.; and David W. Sommers, Non Commissioned Officers Association, San Antonio, Texas.

COMMITTEE MEETINGS FOR FRIDAY, MARCH 7, 2003

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Joint Meetings

Joint Economic Committee: to hold hearings to examine the employment situation, focusing on U.S. labor markets, unemployment benefits, and the President's proposal for re-employment accounts, 9:30 a.m., SD–628.

Next Meeting of the SENATE

9:30 a.m., Friday, March 7

Senate Chamber

Program for Friday: Senate will be in a period of morning business (not to extend beyond 12:30 p.m.).

Next Meeting of the HOUSE OF REPRESENTATIVES

12 noon, Monday, March 10

House Chamber

Program for Monday: Pro forma session.

Extensions of Remarks, as inserted in this issue

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