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Senate

The Senate met at 3 p.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

The PRESIDING OFFICER. Today's prayer will be offered by the guest Chaplain, Monsignor Robert Fuhrman, the Church of St. Gabriel, in Saddle River, NJ.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

God, our Father, the shadow of the Cross falls upon our world as the forces of freedom and tyranny collide. In a free world, human potential, human dignity, and the sanctity of life can be recognized. In tyranny, life is cheap and living is misery. The tears of people of good will mingle with the blood of those who died or are wounded in the pursuit of freedom and security.

Therefore, we look to You, our Lord, to show us the way. Those who live by the sword—or by the chemical weapon—have no future in You. Banish from our midst the threats of those who make themselves enemies of the United States.

In this great deliberative body of the Senate of the United States of America, we beg You for Your peace and wisdom. Bless the Senators, their spouses, their children, and their staffs. Let them see the supreme privilege of their service, each in their own way, to the people and the Constitution of this great land. May this day be productive, and may we all be pleasing to You in what we think and say and do.

Protect us from evil. Give us Your peace and lead us to everlasting life. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 31, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in a period of morning business for the next 3 hours, until 6 p.m. The first hour of morning business will be devoted to statements regarding our brave men and women in the Armed Forces. Following those statements, there will be additional time for Senators to give tributes to Senator Daniel Patrick Moynihan.

Under a previous order, at 6 o'clock the Senate will proceed to a vote on the confirmation of Theresa Springman to be a U.S. District Judge for the Northern District of Indiana. That will be the only rollcall vote during today's session.

Tomorrow morning, by previous agreement, the Senate will consider the Tymkovich nomination to be a U.S. Circuit Judge for the Tenth Circuit. The vote on that nomination will occur sometime on Tuesday upon the use or yielding back of the 6 hours of debate.

Throughout the week, we will continue to schedule votes on nominations, as necessary. I would also expect another cloture vote in relation to the Estrada nomination this week. In addition, we are working on time agreements for the consideration of several other important bills, including the CARE Act, the FISA bill—the Foreign Intelligence Surveillance Act—several bills relating to our Armed Forces personnel such as the ''Troops Phone Home'' bill, a bill regarding the delay in reservist pay, and a bill relating to the Survivor Benefit Plan annuities for surviving spouses.

Later in the week, when it becomes available, the Senate will begin consideration of the supplemental appropriations bill. We need to pass that bill as soon as possible to ensure that the appropriate resources are made available for the war in Iraq. Members should therefore expect a busy week with rollcall votes each day.

101ST AIRBORNE, CLARKSVILLE, TN

Mr. FRIST. Mr. President, a little later today or tomorrow, I want to share with my colleagues at the appropriate time a visit I had with the 101st Airborne families in Clarksville, TN, yesterday. I had the opportunity to go by and visit with those families, attend church, and to spend the early afternoon with them and have lunch with them. It was a remarkable experience for me, Karen my wife, and our son Jonathan.

Over 17,000 women and men have been deployed from that particular post over the last several weeks. Those 17,000 are now in Iraq and Kuwait as part of the 101st Airborne air assault team. The

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

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pride we as a family felt in them, the stories that they told us, I will be sharing with my colleagues over the next several days. But just the lasting impression I had was this juxtaposition of feeling, as we talked to the moms and dads and children, of concern for their husband or their spouse and, yes, an insecurity about their safety, which is natural, as we would all feel, but at the same time an optimism, a feeling of being able to contribute to the United States of America and our great democracy.

They were upbeat. They were optimistic. They were patriotic. And that sort of juxtaposition of feeling was something that was a real privilege for me and my family to experience. The one thing they did all say, as we finished church and went to lunch, was: Make sure, when you go back to Washington, that you let your colleagues know and let the President of the United States know how much we appreciate their leadership, their support for our troops abroad. Let the President know that we are keeping him and his family in our prayers.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 6 p.m., with the time equally divided between the two leaders or their designees and with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the first hour shall be equally divided between the Senator from Texas, Mrs. HUTCHISON, and the Senator from Arkansas, Mrs. LINCOLN, or their designees.

The Senator from Texas.

HONORING OUR ARMED FORCES

Mrs. HUTCHISON. Mr. President, I thank our distinguished majority leader for visiting with the families of our troops from the 101st from his State. All of us are personally visiting with families of people who are there, and particularly in my case, I spent quite a bit of time talking to the families whose loved ones are either missing in action or are verified prisoners of war.

There is nothing more rewarding than talking to these incredible people who are afraid of what might be happening. They are, of course, going through something that all of us hope we will never have to go through, but they are very strong. They trust that we are doing everything possible to inform them, to find out the whereabouts of these prisoners or missing persons. Most certainly, our military—this is something I personally ask in our briefing sessions—is trying to find out exactly where these prisoners or missing people are located.

They are working through the Red Cross to try to have a Red Cross representative see these prisoners just as the Red Cross representatives are being able to see the Iraqi prisoners who are being held by the allied forces. So it is a tough time for these wonderful people of America who are supporting their loved ones in this very trying time for them.

All of us want to be reminded that there are specific laws, international laws, called the Geneva Convention, about the treatment of prisoners. Article 17 explicitly prohibits inflicting physical or mental torture and any other forms of coercion on prisoners in order to obtain information of any kind, including publicizing photographs where they can be recognized. Prisoners of war who refuse to answer questions may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

Article 23 of the Geneva Convention prevents a prisoner from being sent to or detained in areas where they may be exposed to the fire of the combat zone, and in no case can prisoners be used as human shields.

The Geneva Convention also requires access to the prisoners by officials of the International Committee of the Red Cross.

We have informed the Iraqi Government that we intend to treat their prisoners with dignity and abide by the Geneva Convention. We most certainly are appealing to the Iraqis to let in the Red Cross personnel.

One of the benefits of the so-called embedded media is that they are on the scene with our military and are able to provide some very candid photos of our troops in action.

I want to show a few more of the photos. I started some of them last week. I think these photos really speak more than a thousand words about what it is to be at the front. We see the pictures on television, but I wanted to display some of the still pictures showing how we are treating prisoners of war and the people of Iraq as our allied soldiers are coming upon them.

This photo shows a U.S. marine helping an injured prisoner of war moments after securing the port of Umm Qasr in southern Iraq. It was taken on March 23 of this year.

U.S. Marine LCpl Marcco Ware of Los Angeles carries an Iraqi soldier who was injured in an attack on Ware's outfit on Tuesday, March 26, 2003. This unit has been attacking LCpl Ware's unit, but he found this injured soldier and is carrying him to safety.

I am very proud of the character and courage of our forces and the way they are treating those who are in their care. At the same time, we have seen our soldiers paraded on Iraqi television in clear violation of international law. We applaud our troops' bravery, courage, and professionalism. Our prayers are with them and their families in this most difficult time.

President Bush has demanded that the Iraqis immediately comply with the Geneva Convention. I urge all of those who might have information that could be helpful to the Red Cross in getting in to see our prisoners of war to bring that forward. I encourage the Iraqi Government—if there is any shred of dignity—to make sure they abide by the Geneva Convention, just as our forces are abiding by it.

I know so many in the Senate are reaching out in their individual States, trying to make sure that we touch the families who are suffering so much. In churches throughout my hometown of Dallas, they have prayer lists including every person who is connected to a member of that particular parish. Those young men and women are being named individually in those prayers. I think all of us are touched. We have Texas embedded media.

I close with part of a piece in the San Antonio Express that was written by Sig Christenson, their military correspondent who is embedded with the 3rd Infantry Division:

> March 25: It was a little after 3 p.m. today when the little slice of Iraq that we occupy dimmed.
>
> A vicious sandstorm, almost certainly the worst one yet for the 3rd Infantry Division troops that have been here for months, swept over the sandy plateau we took from 200 or so Iraqi troops this past Sunday.
>
> ''Wow, it's dark,'' Airman 1st Class Dan Housely said.
>
> Not to mention surreal.
>
> In less time than it takes to watch a rerun of ''The Beverly Hillbillies,'' the once-overcast but relatively clear desert was a swirling mass of sand. An orange hue descended over the landscape, creating a scene resembling Viking probe photos of Mars.
>
> Sand gets into everything around here, and especially seems drawn to your sinuses and ears. Take a ''Baby Wipe bath,'' as soldiers call it, and you'll clear out clumps of dirt from your ears—day after day.
>
> Outside, gale-force winds kick up the sandy floor and turn each fine grain into a weapon. . . . Within an hour, I had a headache that pulsated at the back of my skull.
>
> It could be worse.
>
> We hold the high ground and have lots of firepower, but that won't stop Iraqis loyal to Saddam Hussein. Already we've lost a soldier within walking distance of my cot—he was shot dead—and our troops have encountered Iraqis wearing American military uniforms close to our camp.
>
> If today's battle for a bridge outside An Najaf is any example, we can expect a determined, fierce resistance all the way to Baghdad. Iraqi regulars and elite militia driving trucks took on 70-ton M1A1 tanks, coming at them again and again.
>
> That kind of fanaticism is cause for my imagination to go wild as I prepare to sleep. A sandstorm gives perfect cover to infiltrators and snipers out here, and as I worked today I found myself frequently looking out my Humvee. It could become a habit.

Mr. President, I appreciate very much Senator LINCOLN from Arkansas sharing this hour with me, and the rest of the hour on our side will be managed by Senator THOMAS of Wyoming.

I yield the floor.

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

Mrs. LINCOLN. Mr. President, I compliment my colleague from Texas. She and I have embarked on this opportunity to really highlight a tribute to our troops. I am honored to share the responsibility with her, and I am certainly appreciative of all the stories she brings to light as we do highlight and pay tribute to our troops. It is really a forum for all of us to share in saluting the efforts of our men and women in uniform, and also to remind one another that as we lift up our prayers and thoughts for the families of our constituencies that have men, women, and family members who are fighting in the Middle East in this conflict, we can also lift up our thoughts and prayers for one another's constituents. It is not just the people from Arkansas I can lift up my prayers for but all the service men and women, so that they know in return it is not just their Senators but our whole body having thoughts and prayers for the men and women who are so gallantly defending our freedoms in a land so far away.

When we kicked this off last week, we really hoped to have daily contributions from our colleagues paying tribute to our Armed Forces and to those among our own constituents who are sacrificing in the liberation of Iraq and other operations. I speak for myself and, I am sure, Senator HUTCHISON when I say the response has been overwhelming. We appreciate the contributions made by our colleagues and others who have brought stories to the floor. We thank our colleagues for their participation and encourage all of them to continue to bring forth those stories so that we all might share with one another the experiences we are having in our own offices, particularly with our own constituents.

Today I want to briefly speak about two of my constituents from Arkansas, both of whom were called to serve in Iraq.

The first is Hospital Corpsman Michael Vann Johnson, Jr, a 25-year-old Navy medic and Little Rock native who was serving in the 3rd Battalion of the 5th Marine Expeditionary Force.

On Tuesday of last week, Michael was the first Arkansas serviceman reported to die in action, as well as the first Navy casualty, when he was hit by shrapnel from an exploding grenade. At that time, Michael was tending to another wounded soldier, placing himself in harm's way in order to minister to the needs of others.

His was a display of incredible courage and a testament to our troops' dedication to their brothers and sisters in battle.

Oftentimes we do not really think about the camaraderie and the dedication these men and women in uniform have with one another, but it is a tremendous sacrifice they make on behalf of one another.

His was a display of courage and certainly dedication to his fellow man. I have with me today a story about Michael Johnson that was published in yesterday's Washington Post, a story that gives us a glimpse of the kind of man he was. The story details a number of Michael's qualities as remembered by those who really knew him the best—his energy, his intelligence, his compassion, and his generosity. These were the qualities that spurred him to volunteer for an assignment in the Middle East because he wanted to be there to help his brothers when they went into battle.

I ask unanimous consent that this Washington Post profile of Michael Johnson be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mrs. LINCOLN. I thank the Chair.

Mr. President, as his father, Michael Vann Johnson, Sr., said last week:

> He died for the freedom that we have, the freedom that each of us loves.

A beautiful sentiment and a fitting tribute to a young man who made the ultimate sacrifice to make this world a safer place for all of us.

I know my colleagues join me in sending out our deepest condolences to Michael's family, friends, and loved ones, particularly his parents and his wife Cherice, in this very difficult time.

As I mentioned earlier, it is so important for us collectively, as a body, to lift up our prayers for each and every man and woman serving this country in conflict right now. So I ask all of my colleagues to keep his family in their prayers.

I would also like to recognize today LCpl James Smedley of the U.S. Marine Corps. Prior to being deployed to Iraq, Jason was assigned to the 4th Civil Affairs Group here in Washington, DC. He was also enrolled as a student at Howard University. And if all of that is not enough to keep a young man busy at his age, he was also a valuable full-time member of my personal staff here in my Washington office.

In January, Jason was deployed to Iraq. He was called up on a Tuesday, and he left on that following Friday. Some of my colleagues may recall that Jason accompanied me here one morning before his departure so that I could recognize his service on the Senate floor. He is a very handsome young man, full of energy, excitement, and dedication not only to his country but to his fellow man and to his Creator. He is the epitome of what we think of in the youth of America: young people who are excited about what they can contribute, who they can become, and what they can do for others.

On Friday morning, we received news that Jason had been wounded in combat and was being transported to a field hospital. For several hours that morning, we were uncertain as to the extent of the injuries he had suffered, but I am happy to report that although Jason had been wounded, he is safe and secure at a military hospital in Germany with relatively minor wounds to his arm and his hand. He is expected to recover fully from his injuries and may, in fact, return to the battlefield upon his recovery. That is yet to be determined.

I have to share what I felt when I got an e-mail that said Jason had been wounded. We did not know how he was. All we knew is he was in a field hospital probably about to undergo surgery. I knew that I was going to have to call his mother, Carolyn, whom I knew and who had come up with Jason to help him pack for his departure.

I thought about how she must feel. I thought to myself: Here I am with twin boys almost 7 years old. Sometimes I even have a twinge of, I do not know, guilt, or certainly just distance when my children go for a sleepover, and here this woman had sent her son across the sea to a land unknown to him and to her. How she must feel to have gotten word that he had been injured but she did not know how badly, she did not know where he was, she did not know who was caring for him.

I called her, and she was remarkably steady. She, too, had gotten an e-mail from Jason just a couple of weeks ago where he had lifted up a prayer for her, just like the e-mail he had sent me: Dear Senator, I want you to know how I am doing. I have wonderful men that I am traveling with and who I will be fighting with, and I want to lift up a prayer for you. I want to lift up a prayer for you and for my friends in the office.

This was a young man not worried about himself but about others.

When I spoke with Carolyn, she was remarkably steady, and through the course of the day, we received another e-mail saying that he was doing OK, we knew where he was, and that he was going to be all right. I heard the sigh of a comforted mother who had gotten word that everything was OK for the time being. What small way I could identify with that, I lifted up my sigh, too.

Along with Jason's families and friends, I wish to say I am deeply proud of his valiant service, and we all look forward to him returning home in good health as soon as possible.

Jason Smedley, a young marine wounded in action, and Michael Johnson, a Navy corpsman killed as he bravely sacrificed to help others—these, Mr. President, are the human faces of the war to liberate Iraq. We will not forget their courage and commitment, and it is in their honor that the brave men and women of our Armed Forces, in conjunction with the troops of our allies, will move forward with their mission to liberate Iraq from the brutal regime of Saddam Hussein and destroy Saddam Hussein's weapons of mass destruction. The sacrifices of these young men and women will be well honored when this mission is complete.

Mr. President, I wish to touch on one other item. I mentioned the e-mails. Many of our offices are getting e-mails and letters. I have recently received many e-mails from schoolchildren who want to send packages to our troops. They want to do letters and collages. They want to send care packages. Such patriotism among our young people always inspires me, and it is a wonderful tribute to the young people of this country. I know letters and pictures from schoolchildren across this country would light up the faces of our troops, many of which woke up this morning and each morning in sand-filled dugouts.

At this point, the Department of Defense wants to make sure the letters and drawings from relatives make it to our troops first. So they asked us to hold off sending care packages to the Middle East for the time being.

The Defense Department is encouraging folks who want to show their support to do so in a variety of ways, and I thought I would take a moment to share those with everybody.

To send a message to the troops, you can e-mail them through www.operationdearabby.net. If you have already purchased goods to send in care packages, the Defense Department suggests that for the time being you send those to a local veterans home. A wonderful way to honor the men and women in service to this country today is to certainly honor those who have served our country in the past.

If you have perishables or items you have brought together with the intent of sending them abroad, perhaps you could take them to a local veterans home and share them with the veterans community of this country. Then perhaps at a later date, you can do something for the troops abroad.

You could also call a local base to notify the families of deployed servicemen that you have goods, and they can collect them and send them off if it is at all possible. The real key has been that the Department of Defense, for security purposes, does not want to be inundated with packages for our service men and women and hope you will look at creative ways to honor our troops, just as we are today and each and every day coming to the floor of the U.S. Senate to honor these wonderful service men and women who are defending our country. We are looking also for the multitude of ways we can honor them. We encourage each and every one of our constituents to be inventive and to look for other ways they can honor those service men and women who are serving our country. You could also support the troops by displaying a flag and teaching your children respect for the flag.

Our hope is that in the coming weeks we will all look for ways to honor those men and women who are serving our country abroad, who are defending our freedoms, and who are working to eliminate the tyranny of Saddam Hussein.

I thank all of my colleagues who join us in this effort, and in the coming days I look forward to the ways we can honor our troops. I do, again, appreciate the support and the work of my colleague from Texas, Senator HUTCHISON, in this effort.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Mar. 30, 2003]

MEDIC WHO DIED TORN BY DUTY, DOUBTS

(By Amy Goldstein)

As a medic at a San Diego naval clinic, he had been resolute in volunteering for duty in Iraq. But Michael V. Johnson Jr. was a healer by training and temperament, and once he arrived in the Middle East, he was uncertain of the morality of having placed himself in war.

In letters to his wife, Cherice, sometime two letters a day, he wrote out his worries about what he—and the Marine division to which he was attached—might be called upon to do. How would God view him if he helped take a life?

On the war's sixth day, last Tuesday, it was Johnson who was killed, becoming the first naval casualty in Iraq. His 26th birthday would have been tomorrow, his wedding anniversary in two weeks. At 4:30 a.m. Thursday, Cherice Johnson was awakened by knocks on the door of their military housing. Seeing the chaplain and the officer through the peephole, she understood why they had come.

The information was sketchy—Johnson apparently had died when shrapnel from a grenade struck his head, she was told. The military emissaries did not say exactly where he had been. Nor did they explain ''if it was an accident on our behalf or in combat,'' said his wife, 24, who had fallen in love with him when she was a high school senior and he a college sophomore in Little Rock.

He was a young man of many facets: an extrovert with the energy of a child, a passion for basketball, a gift for drawing and singing, a knack for science and calculus.

In Little Rock, his mother, Jana Norfleet, said she is trying to draw comfort from a certain symmetry: a son born in the spring and lost in the spring.

She said she tried to instill a sense of striving in the youngest of her three children, her only son. ''I pushed him a lot,'' she said. ''We would spend many nights just sitting, studying together. We didn't move until he was finished.'' And even when he was young, she was explicit about her reasons. ''I'm doing this to make you realize there are many kids out there who are going to excel higher,'' she would tell him ''and I want you to be in that group.''

Starting in second grade, he was in classes for gifted and talented students. He graduated from Parkview Arts and Science Magnet High School, which selects its students from the entire county. His mother and stepfather still keep on a living room shelf a plaque from his freshman year, when he was listed in Who's Who Among American High School Students.

Six-foot-one, he excelled at basketball. ''I think he saw himself as a basketball professional in his dreams,'' his mother said, ''but we kind of swayed him in the other direction. We told him, 'That should be your second love. You need to make a living, son'.''

Growing up, he had loved the cats, dogs, gerbils and fish in his family's house, and he was fascinated in biology classes by dissection. Compassion was part of his Christian faith, forged by his stepfather's insistence on attending church every Sunday.

He thought of a career that involved medicine. Together with a girlfriend at the time, he enrolled at the University of Central Arkansas, commuting the 45 minutes north to Conway, Ark. He hoped to enter classes that would lead him into physical therapy, but they were full, and he pursued pre-engineering classes for two years before he left.

''He went into the Navy to continue his education, to have it paid for by Uncle Sam,'' said his mother, who was uneasy about his choice but told him she would support him.

''He had wanted to strive for bigger and better things and travel, and he just came upon the Navy and decided that would be the starting point for what he wanted to do,'' his wife, Cherice, said.

After basic training, he trained as a hospital corpsman at the Marine Corps Air Ground Combat Center in Twentynine Palms, Calif., then was assigned to a clinic at the Marine Corps Recruit Depot that is part of the Naval Medical Center, San Diego. He had an affinity for the work. He gave physicals to potential recruits, helped to treat the sick and, at times, provided counseling.

He and Cherice formed a wide circle of friends, and he developed an attachment to the men he thought of as brothers in a surrogate, West Coast family. Last June, he extended his five-year enlistment by a year.

Late in the year, as the prospect of war grew, he was among fewer than half-dozen of the clinic co-workers he knew who volunteered for the Middle East, Cherice Johnson said.

He did not ask his mother for her opinion before deciding. If he had, she would have told him not to go, ''because that's what mothers say,'' Norfleet said. ''I'm selfish. I'm going to tell you that right here and now. That's my baby. But he didn't ask me. He's a man.

She told him, once again, that she supported his choice, but her feelings slipped out. ''Don't you think you could find a tent like on the 'M*A*S*H' series, a tent to treat the wounded back behind? she asked.

He replied, she recalled, that ''they were his brothers, and he wanted to be there with them and for them.''

His final conversation with his mother went on for two hours, on a cell phone as he was about to be deployed from California. He last called his wife on a refueling stop in Spain.

The last letter to his mother arrived just over two weeks ago from Kuwait. ''By the time you receive this letter, I will have gone to war,'' he wrote. ''If I don't make it back don't be sad for me. Be happy for me and praise God, because I've gone to heaven to be with grandma.''

''The reality of war draws you closer to God,'' the medic wrote. ''It lets you know how valuable life really is.''

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I will take some time this afternoon to recognize what is being done for us and for this country. All of us have strong feelings about those who are defending freedom. We have talked about the risks they take, but I rise today to recognize the sacrifice of a particular Marine Corps Second Lieutenant, Therrel Shane Childers.

Certainly all of us recognize the necessity of defending freedom. We recognize the willingness of brave men and women to do what is necessary. We recognize the connection between the land of the free and the home of the brave. However, when we have these losses,

they are a great tragedy to all of us, particularly to the families and loved ones.

Known as Shane to his family and friends, he was assigned to the 1st Battalion, 5th Regiment of the 1st Marine Division of Camp Pendleton. Shane was the first combat casualty of Operation Iraqi Freedom. He was 30 years old.

2LT Childers was lost while leading his platoon in a fight to secure a pumping station in southern Iraq. Shane's parents, Joseph and Judy Childers of Powell, WY, say that Shane always wanted to be a marine. His family says he liked the rhythm of life in the Corps, the pride that goes with wearing the Marine uniform.

After his high school graduation in 1990, he enlisted in the Marine Corps and served in the Persian Gulf war. After his duty in the gulf war, Shane served as a Marine security guard at the American consulate in Geneva, Switzerland, and at the American Embassy in Nairobi, Kenya.

Shane later left the Marines and attended college at the Citadel where he completed his studies in an untraditional 3 years and was commissioned in 2001. Today, we mourn the loss of this young man and certainly pray for his family.

I express my condolences to the Childers family and my gratitude to the men and women who wear the uniform and walk the line so that our Nation can continue to remain free.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, more than anything else, we all are thinking about the conflicts that are going on in Iraq and about our men and women who are fighting there. Of course, we have to continue to do what we have to do. Our lives go forward. We think about it a lot, and hear a great deal about it—I suppose more because of the embedded media—than we have ever heard before. We hear various kinds of reports. Certainly they are good for us to hear. We need to know what is happening. From time to time, we also hear some questionable comments and questions about the commitment of our leadership. Nevertheless, that is where we are.

I guess all of us think a lot about why we are there, what needs to be done, and what will be the outcome. This morning I met with a group of 8th graders from Big Piney, WY, one of the smaller towns in western Wyoming. The whole class from the high school came. I think there were 30 of them. One of them asked: What do you think of the war?

Well, how would you react to 8th graders who ask that? I think it makes you really wonder. So we talked a little bit about it. We talked about the fact that it is a war that was brought about by terrorism, a war that was brought about by what happened in the Persian Gulf 12 years ago, a war that was brought about by the fact that Saddam Hussein, who had to sign an agreement to finish that war because he was defeated, has not done what he was required to do.

We have to talk a little bit about the fact that the whole reason we are there, the whole effort, is to disarm Saddam for the safety of the United States, for the safety of the world. No one wants to have a war, certainly. It is not anything that we would like to do. He had great opportunities to do something different in these past 12 years. He refused to do so.

These 8th grade kids seemed to understand that no one wants war but we have to defend freedom. We have had to defend freedom numerous times, of course—quite different situations, quite different circumstances, but we find ourselves in different circumstance now as a result of 11 September, where instead of having to be afraid of divisions landing on your shore with artillery, and so on, now we find that one or two persons with mass destruction tools and weapons can destroy 3,000 people very easily. So it is a different situation. It is hard for young people to understand that, but I was very pleased with the fact that they do not like war—neither do we—but they understood that you have to defend those things that threaten the basis of our country.

They were in Washington, DC, to see the foundation of the United States, to see what freedom is about: The Government of the people, by the people and for the people. They were here to see the Supreme Court. They were here to see the Constitution, the thing that probably ensures our freedom more than any other document. They understood that we have to defend those things, and I was so pleased.

They were very skeptical. When they thought about it some and they thought about it in terms of the kinds of threats that are there and then when they thought about it in terms of those people who are voluntarily protecting our freedoms, who have gone into a war situation—I am a little bit prejudiced, being a marine, as to the Marine aspect of it, but everyone who is there is sacrificing for our freedom. Certainly we have a right to speak out and we have a right to have different views, but I hope we all recognize our responsibility to support our troops, people who are giving more than they could possibly be asked. We have the opportunity to do that.

It is a good exercise for us to be able to talk to young people about why it is we are involved and the importance of protecting the kind of country we have and want to maintain. Certainly there is nothing more important than that.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. COLEMAN. Mr. President and distinguished colleagues, America is the greatest country the world has ever known. And, today, in places across the world, the greatest fighting men and women the world has ever known continue America's legacy of liberating oppressed people.

My friends, America went to Bosnia to offer liberation and hope from despair and suffering—we went to Haiti to offer hope to an oppressed people—we went to Somalia to offer America's legacy of a better life for people who had rarely seen a day free of suffering, persecution and torture.

Freedom and liberty are two words that should stir great emotions in all Americans.

Freedom and liberty are the gift of America to oppressed people everywhere.

Freedom and liberty, speak often these words because America's sons and daughters are in Iraq today doing what Americans have done for generations: We offer hope for a better tomorrow.

Let's talk about America's sons and daughters. They come from an America today that is no less interested in its own freedom and liberties than the freedom and liberties we wish for all people.

They are the sons and daughters of a great American revolution that never ends. The cause of freedom and liberty never ends.

We have seen the pros and cons in the streets of American cities these past several weeks. There are great passions on both sides. The great glory of America is that 28 protestors can occupy the office of a U.S. Senator and not fear being put to death for their views.

This is the fight that America's sons and daughters wage today.

If we may, for a moment, find peace in the haze of conflict between those who support our efforts today, and those who do not, I ask that we do it in the name of America's sons and daughters who have been called upon to duty and service. Perhaps our energies now can be better spent by focusing on the world that we create in America today when our troops return.

Get off the couch; stop watching the news; forget the radio broadcasts; turn off the playstation; unplug the TV; get outside, America.

We've had our say. Now let's have our say for the tens of thousands of Americans fighting for freedom and liberty.

Let us dedicate our energy—our pro and our con—to building the best possible Nation for our troops to come home to.

Join hands and voices to help the moms, the dads, the husbands, the wives, the sons, the daughters, the brothers and the sisters to get through these difficult days. Offer more than words; offer hope indeed.

Walk with them together during these times, open your homes and open your hearts. Our Nation is at war with an enemy across the world.

Let us not be a nation at war with each other within. We have a common goal: Offer comfort and hope and encouragement to those who fight for our freedom, and those who are left behind to pray for their success and safe return home.

America, the greatness of our Nation is not that we can survive conflict and division. The greatness of America is that we can build upon our differences and multiply our blessings.

For the sake of the families of those who sacrifice, for the sake of the soldiers who are in harm's way, let us build a better America for their return.

These are momentous days in the history of this country. They remind me of this remarkable statement by one of our early patriots, Patrick Henry, during our war of independence. He wrote:

> These are the times that try men's souls. The summer soldier and the sunshine patriot will in this crisis shrink from the service of their country; but he that stands it now, deserves the love and thanks of man and woman. Tyranny, like Hell, is not easily conquered; yet we have this consolation with us, that the harder the conflict, the more glorious the triumph. What we obtain too cheaply, we esteem too lightly; tis dearness only that gives everything its value. Heaven knows how to put a proper price on its goods; and it would be strange indeed if so celestial an article as Freedom should not be highly rated.

You can talk about equality or you can make it happen.

You can sympathize with the poor or you can help create a job for them.

Yes, these are challenging times; we are witnessing the birth of a new century and a new moment of hope for mankind. Yes, these are dangerous, trying times, but it is a great time to be alive.

Allow me to share some of my favorite quotes from Abraham Lincoln to guide our thoughts about this momentous time.

In the second inaugural, Lincoln said:

> The dogmas of the quite past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise to the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country.

You don't undertake change for the sake of change. But when the circumstances have changed, it is folly to stick with the old game plan.

The fall of the Soviet Union changed the world forever.

September 11 changed the world forever.

The problem with some at the United Nations and even some in our own Congress is that they are ''enthralled'' with the old way of doing things. To them you don't deal with evil, you just contain it. But that dogma led to the deaths of millions in Rwanda and Cambodia because we were too timid to act.

For decades we allowed terror networks to grow and infiltrate even free societies. Because we thought there was nothing we could do about so pervasive an evil, we just hoped for the best.

Now we have historic opportunity to strike a decisive blow against tyranny and terrorism in one place and give birth to a new century of hope for freedom and security. We must accept the moral responsibility our power gives us.

Lincoln also said:

> Let us have faith that right makes might, and in that faith let us do our duty as we understand it.

Our Nation, more than any other, was born on eternal values—That God had endowed all people with inalienable rights to life, liberty and the pursuit of happiness. But as much as we would like to believe it, the power of those ideals do not sweep the globe and enforce themselves. Somebody has to do it.

Right now the United States, Britain and a couple of dozen other nations are doing the dirty work of liberty. The lesson of history is: somebody has to do it.

Lincoln was right; it takes faith to do it. Certain things can't be proven to people who are devoted to another path.

We have a duty to do, and to most of us it is clear. Just because everybody doesn't see it doesn't mean it isn't exactly the right thing to do.

Finally, a word about our great President. Here is a message for ''43'' from ''16''. Lincoln said:

> If I were to read, much less answer all the attacks made on me, this shop might as well be closed for business. I do the very best I know how—the very best I can; and I mean to keep doing so until the end. If the end brings me out all right, what's said against me won't amount to anything. If the end brings me out wrong, then angels swearing I was right would make no difference.

I am profoundly grateful that we have a President who does not run his life by what the polls say. That is the opposite of leadership.

I believe in a free media. I believe in the power of public opinion. But I see red when I see newspaper and Internet polls one week into the war in Iraq, asking about whether we are bogged down or if the President is using the right strategy.

So much of the 24–7 commenting and opinionating out there is precisely the substance that covers the floors of Minnesota feedlots.

In a long ago war it was said:

> They also serve who only stand and wait.

The same is not true for those who just sit and wait.

Public opinion is, as it should be, strongly with this President; strongly with our fighting men and women; strongly that we are doing the right thing in the name of freedom, in the name of liberty; to be an end to terror, to be an end to oppression, to be an end to rape, to be an end to torture, and to open up new worlds of possibilities. But I do ardently wish people would shut off the TV and shut off the computer and get out there and build the best possible great Nation for our troops to come home to. Shut it all off, say a prayer for our troops, say a prayer for our leaders, and go to work building a great America.

Finally, one more word from Lincoln and I am done:

> With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive to finish the work we are in; to bind up the Nation's wounds; to care for him who shall have borne the battle, and for his widow and orphan—to do all which may achieve and cherish a just and lasting peace among ourselves and all Nations.

May God bless our fighting men and women on the front line. May God bless and support and hold and comfort the families of those who have given the ultimate sacrifice. May God bless the United States of America.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I understand it is appropriate to speak in morning business.

The ACTING PRESIDENT pro tempore. The Senator is correct.

DANIEL PATRICK MOYNIHAN

Mr. DOMENICI. Mr. President, I came to the floor to say a few words about Senator Patrick Moynihan. Obviously, I didn't know him for all of his very successful and rather stupendous life, but I knew him rather well for that portion spent in the Senate. Even as to that portion, it was not my privilege to spend a great deal of time on the same committees with the Senator. But it was obvious to me he was a very big man, not big only in stature—he was very tall—but clearly he spoke eloquently and could grasp the situation with a demeanor and in a manner that was not very common and ordinary here.

From my standpoint, we struck up a friendship principally based upon his asking me a lot of questions about the budget and about my work as chairman or ranking member on the Senate floor.

Today it was my privilege to attend, with my wife Nancy, his funeral mass and some of the other ceremonial

events that bid him goodbye. My wife Nancy and I got to share with his marvelous wife Elizabeth; everybody calls her Liz. We had had on one occasion as couples an opportunity to travel with Senator Moynihan and his wife and others on a very lengthy trip that included China and other parts of the world, Japan. It was rather marvelous to have him regale us with stories and tales and history as we would be traveling from one country to another. When he was around on those kinds of events, you didn't have to have books to read. You would just get a seat close to him and ask questions, and he would tell you something significant, different, important, something you clearly never would read and never had heard.

We all miss him. There is no doubt about it.

One day I recall the close of a budget session, a long debate on the budget. Final passage came up. It had been a very arduous and difficult one, much like the last one we just experienced, but more so. I had counted votes and thought I would win. I thought I would get 51 votes, which is what I needed. I noted that during the time of the debate and in particular the closing, Senator Moynihan had listened a little more than I had expected. No reason for him to do that. Senators were in and out.

I had also noticed during the course of events that he would stop by and talk with me and say something to me about what was going on.

The vote occurred, and I was not paying attention to the vote. I knew I would get the votes necessary. But when the votes were counted, I had one more than expected. So I asked, who was that; what happened? Somebody on the other side of the aisle, without saying much and perhaps without talking to his own leadership, had voted for the resolution. Sure enough, it was Patrick Moynihan. I didn't have a chance then to say anything to him, but later on, I purposely found him and thanked him, and I asked him what was that all about.

He said: Well, to tell you the truth, that Budget Act is too confusing and confounds everybody. You worked too hard to try to get it done, and you made an awful lot of sense. I just decided that regardless of the philosophy, that was enough for me to vote for the budget resolution, in the sense that I was just voting for you.

Things like that don't happen very often. I am sure everybody has stories similar to that and more so. Today, as we attended the funeral mass, there were literally hundreds of people from all walks of life—kind of befitting what he had done and the life he had lived. On one side I noticed the Secretary of Defense had kind of eased his way into the church and was kneeling on one side there in an inconspicuous way—many ambassadors, a lot of Senators, a very large entourage of Senators. Perhaps as many as 10 former Senators from our day who now live somewhere else doing other things had found their way into Washington to be there.

I choose today for these very few moments to say thank you to him for his great service in the Senate, to his family, and particularly to his wife, who obviously sacrificed greatly while he was being a Senator. She, too, has a profession of her own and was somewhat restrained and had to live more of a life in Washington, tied sort of to his career, than she had at other times in her life. But from what I have gathered, they were both great citizens and very pleased and proud to be part of this Senate.

I thank him and bid him adieu.

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

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

Mr. GRAHAM of Florida. Mr. President, I join my colleagues today in mourning the passing of a giant of the 20th century—our former colleague, Senator Daniel Patrick Moynihan. The list of his contributions to this Nation is long and impressive: from White House aide, to Ambassador to India and the United Nations, to Senator from the State of New York for 24 years. Pat Moynihan left an indelible mark on our Nation and the world.

Senator Moynihan has been described as the best thinker among politicians since Woodrow Wilson and the best politician among thinkers since Thomas Jefferson. Few Senators in the 241-year history of this institution have had the intellectual impact on public policy as did Patrick Moynihan. From tax policy to environmental protection, he was an always constructive and frequently dominant advocate. He frequently converted a Senate committee hearing or floor debate into what was his first passion, a college classroom. Those of us who were fortunate to be his students are forever in his debt.

Adele and I offer our condolences to Elizabeth and their family, and we will recognize in our prayers the loss that the Nation and each of us individually have suffered.

Mr. President, I add that I consider it a terrible irony that on the eve of Senator Moynihan's death, March 26, the White House announced the signing of amended Executive Order 12,958. This Executive order delays the release of millions of long-classified Government documents and grants to Government bureaucrats new authority to reclassify information. The vast majority of these documents are more than 25 years old and were to have been automatically declassified on April 17 of this year.

I consider this ironic because Senator Moynihan was a champion of open government. Among his many writings, including 18 books, was ''The Torment of Secrecy: The Background and Consequences of American Security Policy.'' Senator Moynihan concluded that book with these words:

> A case can be made that secrecy is for losers, for people who don't know how important information really is. The Soviet Union realized this too late. Openness is now a singular and singularly American advantage. We put it in peril by poking along in the mode of an age now past. It is time to dismantle government secrecy, this most pervasive of cold war era regulations. It is time to begin building the supports for the era of openness, which is already upon us.

Mr. President, we in the Senate and those in the White House should heed Pat Moynihan's wise words. As a former chairman of the Senate Select Committee on Intelligence, I can tell you that this administration is being excessively cautious in keeping information from the American people. Certainly, when we are at war and facing increased threats from international terrorist networks, we need to keep secret that information that could pose a threat to our security if it were to fall into the wrong hands. But that hardly seems to be the case with most of the information that is covered by this overly broad Executive order.

Again, I emphasize that the overwhelming bulk of this material is more than 25 years old. Ultimately, excessive secrecy will undermine the public's confidence in our Government and its essential institutions. Excessive secrecy denies to the American people their full capability to participate, evaluate, and act as they determine to be in the national interest.

By restricting access to crucial and often conflicting information, excessive secrecy creates the environment for what is known as incestuous amplification. This is a military term and is defined by Jane's Defense Weekly. Incestuous amplification is ''a condition in warfare where one only listens to those who are already in lockstep agreement, reinforcing set beliefs and creating a situation ripe for miscalculation.''

Excessive secrecy undermines the classification value of information which is genuinely critical to our national security. Last year, I had the honor to cochair a joint House-Senate inquiry into the events of September 11, 2001. Our purpose was to help the American people understand what our Government knew about potential threats from al-Qaida prior to the attacks on the World Trade Center and the Pentagon, and how our intelligence and law enforcement agencies responded. But even more important, our responsibility was to develop an action plan of recommendations to mitigate a repeat of this tragedy.

Our staff reviewed more than 500,000 pages of documents. We conducted 22 hearings, 13 of them closed, 9 open to the public. We filed our final report—the classified version—on December 20, 2002.

The joint inquiry has requested declassification of our final report, as well as key documents related to the Government's knowledge of al-Qaida and potential terrorist threats. For 100 days, congressional staffers have been working with the Central Intelligence Agency, the Federal Bureau of Investigation, and other relevant agencies to get the final report of the joint inquiry declassified. We have not yet been successful. I am hopeful that we can present most of this material to the public at the earliest date. We have already released, in declassified form, our findings and our recommendations.

I ask unanimous consent to have printed in the RECORD a copy of those recommendations at the conclusion of my statement.

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

(See Exhibit 1.)

Mr. GRAHAM of Florida. Mr. President, I want to read one of the recommendations from the joint inquiry committee. It is recommendation No. 15:

The President should review and consider amendments to the Executive Orders, policies and procedures that govern the national security classification of intelligence information, in an effort to expand access to relevant information for Federal agencies outside the Intelligence Community, for State and local authorities, which are critical to the fight against terrorism, and to the American public.

In addition, the President and heads of Federal agencies should ensure that the policies and procedures to protect against the unauthorized disclosure of classified intelligence information are well understood, fully implemented, and vigorously enforced.

Congress should also review the statutes, policies, and procedures that govern the national security classification of intelligence information and its protection from unauthorized disclosure.

Among other matters, Congress should consider the degree to which excessive classification has been used in the past and the extent to which the emerging threat environment has greatly increased the need for real-time sharing of sensitive information.

The Director of National Intelligence, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the Attorney General, should review and report to the House and Senate Intelligence Committees on proposals for a new and more realistic approach to the processes and structures that have governed the designation of sensitive and classified information.

The report should include proposals to protect against the use of the classification process as a shield to protect agency self-interest.

The public has the right to know what its Government has done and is doing to protect Americans and United States interests. Potential embarrassment is not a good enough reason to keep past or current Government materials secret.

One of the most fitting tributes we could pay to Pat Moynihan would be a heightened recognition of the damage that excessive secrecy exacts on our Government's credibility, and to recommit ourselves to a Government which trusts its people to know the truth.

Mr. President, I ask unanimous consent to print in the RECORD an editorial from the New York Times of March 28, 2003.

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

SECRECY: THE BUSH BYWORD

Add one more item to the list of things the Bush administration has been quietly doing on the home front while the nation is preoccupied with Iraq. This week President Bush signed an executive order that makes it easier for government agencies, including the White House, to keep documents classified and out of public view.

The order does a number of things at once. It delays by three years the release of declassified government documents dating from 1978 or earlier. It treats all material sent to American officials from foreign governments—no matter how routine—as subject to classification. It expands the ability of the Central Intelligence Agency to shield documents from declassification. And for the first time, it gives the vice President the power to classify information. Offering that power to Vice President Dick Cheney, who has shown indifference to the public's right to know what is going on inside the executive branch, seems a particularly worrying development.

All of this amends an order by President Bill Clinton that actually eased the process of declassification. The administration says the three-year delay in declassifying documents dating to the Carter administration and earlier is necessary because of a huge backlog of documents that must be reviewed before decisions are made on whether to declassify them.

Taken individually, each of these actions might raise eyebrows for anyone who values open government. Taken together, they are reminders that this White House is obsessed with secrecy. President Clinton's policy was that ''when in doubt,'' a document was not automatically classified. That ensured that government papers would not easily be kept under wraps without a compelling reason. And while President Bush keeps in place many of the mechanisms for automatic declassification, he has raised a bar that can only hurt the ability of historians, researchers and all Americans to arrive at informed judgments about the actions of the presidents and their administrations.

EXHIBIT 1

RECOMMENDATIONS

Since the National Security Act's establishment of the Director of Central Intelligence and the Central Intelligence Agency in 1947, numerous independent commissions, experts, and legislative initiatives have examined the growth and performance of the U.S. Intelligence Community. While those efforts generated numerous proposals for reform over the years, some of the most significant proposals have not been implemented, particularly in the areas of organization and structure. These Committees believe that the cataclysmic events of September 11, 2001 provide a unique and compelling mandate for strong leadership and constructive change throughout the Intelligence Community. With that in mind, and based on the work of this Joint Inquiry, the Committees recommend the following:

1. Congress should amend the National Security Act of 1947 to create and sufficiently staff a statutory Director of National Intelligence who shall be the President's principal advisor on intelligence and shall have the full range of management, budgetary and personnel responsibilities needed to make the entire U.S. Intelligence Community operate as a coherent whole. These responsibilities should include:

Establishment and enforcement of consistent priorities for the collection, analysis, and dissemination of intelligence throughout the Intelligence Community;

Setting of policy and the ability to move personnel between elements of the Intelligence Community;

Review, approval, modification, and primary management and oversight of the execution of Intelligence Community budgets;

Review, approval, modification, and primary management and oversight of the execution of Intelligence Community personnel and resource allocations;

Review, approval, modification, and primary management and oversight of the execution of Intelligence Community research and development efforts;

Review, approval, and coordination of relationships between the Intelligence Community agencies and foreign intelligence and law enforcement services; and

Exercise of statutory authority to insure that Intelligence Community agencies and components fully comply with Community-wide policy, management, spending, and administrative guidance and priorities.

The Director of National Intelligence should be a Cabinet level position, appointed by the President and subject to Senate confirmation. Congress and the President should also work to insure that the Director of National Intelligence effectively exercises these authorities.

To insure focused and consistent Intelligence Community leadership, Congress should require that no person may simultaneously serve as both the Director of National Intelligence and the Director of the Central Intelligence Agency, or as the director of any other specific intelligence agency.

2. Current efforts by the National Security council to examine and revamp existing intelligence priorities should be expedited, given the immediate need for clear guidance in intelligence and counterterrorism efforts. The President should take action to ensure that clear, consistent, and current priorities are established and enforced throughout the Intelligence Community. Once established, these priorities should be reviewed and updated on at least an annual basis to ensure that the allocation of Intelligence Community resources reflects and effectively addresses the continually evolving threat environment. Finally, the establishment of Intelligence Community priorities, and the justification for such priorities, should be reported to both the House and Senate Intelligence Committees on an annual basis.

3. The National Security Council, in conjunction with the Director of National Intelligence, and in consultation with the Secretary of the Department of Homeland Security, the Secretary of State and Secretary of Defense, should prepare, for the President's approval, a U.S. government-wide strategy for combating terrorism, both at home and abroad, including the growing terrorism threat posed by the proliferation of weapons of mass destruction and associate technologies. This strategy should identify and fully engage those foreign policy, economic, military, intelligence, and law enforcement elements that are critical to a comprehensive blueprint for success in the war against terrorism.

As part of that effort, the Director of National Intelligence shall develop the Intelligence Community component of the strategy, identifying specific programs and budgets and including plans to address the

threats posed by Osama Bin Laden and al Qa'ida, Hezbollah, Hamas, and other significant terrorist groups. Consistent with applicable law, the strategy should effectively employ and integrate all capabilities available to the Intelligence Community against those threats and should encompass specific efforts to:

Develop human sources to penetrate terrorist organization and networks both overseas and within the United States;

Fully utilize existing and future technologies to better exploit terrorist communications; to improve and expand the use of data mining and other cutting edge analytical tools; and to develop a multi-level security capability to facilitate the timely and complete sharing of relevant intelligence information both within the Intelligence Community and with our appropriate federal, state, and local authorities;

Enhance the depth and quality of domestic intelligence collection and analysis by, for example, modernizing current intelligence reporting formats through the use of existing information technology to emphasize the existence and the significance of links between new and previously acquired information;

Maximize the effective use of covert action in counterterrorist efforts;

Develop programs to deal with financial support for international terrorism; and

Facilitate the ability of CIA paramilitary units and military special operations forces to conduct joint operations against terrorist targets.

4. The position of National Intelligence Officer for Terrorism should be created on the National Intelligence and a highly qualified individual appointed to prepare intelligence estimates on terrorism for the use of Congress and policymakers in the Executive Branch and to assist the Intelligence Community in developing a program for strategic analysis and assessments.

5. Congress and the Administration should ensure the full development within the Department of Homeland Security of an effective all-source terrorism information fusion center that will dramatically improve the focus and quality of counterterrorism analysis and facilitate the timely dissemination of relevant intelligence information, both within and beyond the boundaries of the Intelligence Community. Congress and the Administration should ensure that this fusion center has all the authority and the resources needed to:

Have full and timely access to all counterterrorism-related intelligence information, including ''raw'' supporting data as needed;

Have the ability to participate fully in the existing requirements process for tasking the Intelligence Community to gather information on foreign individuals, entities and threats;

Integrate such information in order to identify and assess the nature and scope of terrorist threats to the United States in light of actual and potential vulnerabilities;

Implement and fully utilize data mining and other advanced analytical tools, consistent with applicable law;

Retain a permanent staff of experienced and highly skilled analysts, supplemented on a regular basis by personnel on ''joint tours'' from the various Intelligence Community agencies;

Institute a reporting mechanism that enables analysts at all the intelligence and law enforcement agencies to post lead information for use by analysts at other agencies without waiting for dissemination of a formal report;

Maintain excellence and creativity in staff analytic skills through regular use of analysis and language training programs; and

Establish and sustain effective channels for the exchange of counterterrorism-related information with federal agencies outside the Intelligence Community as well as with state and local authorities.

6. Given the FBI's history of repeated shortcomings within its current responsibility for domestic intelligence, and in the face of grave and immediate threats to our homeland, the FBI should strengthen and improve its domestic capability as fully and expeditiously as possible by immediately instituting measures to:

Strengthen counterterrorism as a national FBI program by clearly designating national counterterrorism priorities and enforcing field office adherence to those priorities;

Establish and sustain independent career tracks within the FBI that recognize and provide incentives for demonstrated skills and performance of counterterrorism agents and analysts;

Significantly improve strategic analytical capabilities by assuring the qualification, training, and independence of analysts, coupled with sufficient access to necessary information and resources;

Establish a strong reports officer cadre at FBI Headquarters and field offices to facilitate timely dissemination of intelligence from agents and to analysts within the FBI and other agencies within the Intelligence Community;

Implement training for agents in the effective use of analysts and analysis in their work;

Expand and sustain the recruitment of agents and analysts with the linguistic skills needed in counterterrorism efforts;

Increase substantially efforts to penetrate terrorist organizations operating in the United States through all available means of collection;

Improve the national security law training of FBI personnel;

Implement mechanisms to maximize the exchange of counterterrorism-related information between the FBI and other federal, state and local agencies; and

Finally solve the FBI's persistent and incapacitating information technology problems.

7. Congress and the Administration should carefully consider how best to structure and manage U.S. domestic intelligence responsibilities. Congress should review the scope of domestic intelligence authorities to determine their adequacy in pursuing counterterrorism at home and ensuring the protection of privacy and other rights guaranteed under the Constitution. This review should include, for example, such questions as whether the range of persons subject to searches and surveillances authorized under the Foreign Intelligence Surveillance Act (FISA) should be expanded.

Based on their oversight responsibilities, the Intelligence and Judiciary Committees of the Congress, as appropriate, should consider promptly, in consultation with the Administration, whether the FBI should continue to perform the domestic intelligence functions of the United States Government or whether legislation is necessary to remedy this problem, including the possibility of creating a new agency to perform those functions.

Congress should require that the new Director of National Intelligence, the Attorney General, and the Secretary of the Department of Homeland Security report to the President and the Congress on a date certain concerning:

The FBI's progress since September 11, 2001 in implementing the reforms required to conduct an effective domestic intelligence program, including the measures recommended above;

The experience of other democratic nations in organizing the conduct of domestic intelligence;

The specific manner in which a new domestic intelligence service could be established in the United States, recognizing the need to enhance national security while fully protecting civil liberties; and

Their recommendations on how to best fulfill the nation's need for an effective domestic intelligence capability, including necessary legislation.

8. The Attorney General and the Director of the FBI should take action necessary to ensure that:

The Office of Intelligence Policy and Review and other Department of Justice components provide in-depth training to the FBI and other members of the Intelligence Community regarding the use of the Foreign Intelligence Surveillance Act (FISA) to address terrorist threats to the United States;

The FBI disseminates results of searches and surveillances authorized under FISA to appropriate personnel with the FBI and the intelligence Community on a timely basis so they may be used for analysis and operations that address terrorist threats to the United States.

The FBI develops and implements a plan to use authorities provided by FISA to assess the threat of international terrorist groups within the United States fully, including the extent to which such groups are funded or otherwise supported by foreign governments.

9. The House and Senate Intelligence and Judiciary Committees should continue to examine the Foreign Intelligence Surveillance Act and its implementation thoroughly, particularly with respect to changes made as a result of the USA PATRIOT Act and the subsequent decision of the United States Foreign Intelligence Court of Review, to determine whether its provisions adequately address present and emerging terrorist threats to the United States. Legislation should be proposed by those Committees to remedy any deficiencies identified as a result of that review.

10. The Director of the National Security Agency should present to the Director of National Intelligence and the Secretary of Defense by June 30, 2003, and report to the House and Senate Intelligence Committees, a detailed plan that:

Describes solutions for the technological challenges for signals intelligence;

Requires a review, on a quarterly basis, of the goals, products to be delivered, Funding levels and schedules for every technology development program;

Ensures strict accounting for program expenditures;

Within their jurisdiction as established by current law, makes NSA a full collaborating partner with the Central Intelligence Agency and the Federal Bureau of Investigation in the war on terrorism, including fully integrating the collection and analytic capabilities of NSA, CIA, and the FBI; and

Makes recommendations for legislation needed to facilitate their goals.

In evaluating the plan, the Committees should also consider issues pertaining to whether civilians should be appointed to the position of Director of the National Security Agency and whether the term of service for the position should be longer than it has been in the recent past.

11. Recognizing that the Intelligence Community's employees remain its greatest resource, the Director of National Intelligence should require that measures be implemented to greatly enhance the recruitment and development of a workforce with the intelligence skills and expertise needed for success in counterterrorist efforts, including:

The agencies of the Intelligence Community should act promptly to expand and improve counterterrorism training programs within the Community, insuring coverage of

such critical areas as information sharing among law enforcement and intelligence personnel; language capabilities; the use of the Foreign Intelligence Surveillance Act; and watchlisting;

The Intelligence Community should build on the provisions of the Intelligence Authorization Act for Fiscal Year 2003 regarding the development of language capabilities, including the Act's requirement for a report on the feasibility of establishing a Civilian Linguist Reserve Corps, and implement expeditiously measures to identify and recruit linguists outside the Community whose abilities are relevant to the needs of counterterrorism;

The existing Intelligence Community Reserve Corps should be expanded to ensure the use of relevant personnel and expertise from outside the Community as special needs arise;

Congress should consider enacting legislation, modeled on the Goldwater-Nichols Act of 1986, to instill the concept of ''jointness'' through the Intelligence Community. By emphasizing such things as joint education, a joint career specialty, increased authority for regional commanders, and joint exercises, that Act greatly enhanced the joint warfighting capabilities of the individual military services. Legislation to instill similar concepts throughout the Intelligence Community could help improve management of Community resources and priorities and insure a far more effective ''team'' effort by all the intelligence agencies. The Director of National Intelligence should require more extensive use of ''joint tours'' for intelligence and appropriate law enforcement personnel to broaden their experience and help bridge existing organizational and cultural divides through service in other agencies. These joint tours should include not only service at Intelligence Community agencies, but also service in those agencies that are users or consumers of intelligence products. Serious incentives for joint service should be established throughout the Intelligence Community and personnel should be rewarded for joint service with career advancement credit at individual agencies. The Director of National Intelligence should also require Intelligence Community agencies to participate in joint exercises;

Congress should expand and improve existing educational grant programs focused on intelligence-related fields, similar to military scholarship programs and others that provide financial assistance in return for a committee to serve in the Intelligence Community; and

The Intelligence Community should enhance recruitment of a more ethnically and culturally diverse workforce and devised a strategy to capitalize upon the unique cultural and linguistic capabilities of first-generation Americans, a strategy designed to utilize their skills to the greatest practical effect while recognizing the potential counterintelligence challenges such hiring decisions might pose.

12. Steps should be taken to increase and ensure the greatest return on this nation's substantial investment in intelligence, including:

The President should submit budget recommendations, and Congress should enact budget authority, for sustained, long-term investment in counterterrorism capabilities that avoid dependence on repeated stop-gap supplemental appropriations;

In making such budget recommendations, the President should provide for the consideration of a separate classified Intelligence Community budget;

Long-term counterterrorism investment should be accompanied by sufficient flexibility, subject to congressional oversight, to enable the Intelligence Community to rapidly respond to altered or unanticipated needs;

The Director of National Intelligence should insure that Intelligence Community budgeting practices and procedures are revised to better identify the levels and nature of counterterrorism funding within the Community;

Counterterrorism funding should be allocated in accordance with the program requirements of the national counterterrorism strategy; and

Due consideration should be given to directing an outside agency or entity to conduct a thorough and rigorous cost-benefit analysis of the resources spent on intelligence.

13. The State Department, in consultation with the Department of Justice, should review and report to the President and the Congress by June 30, 2003 on the extent to which revisions in bilateral and multilateral agreements, including extradition and mutual assistance treaties, would strengthen U.S. counterterrorism efforts. The review should address the degree to which current categories of extraditable offenses should be expanded to cover offenses, such as visa and immigration fraud, which may be particularly useful against terrorists and those who support them.

14. Recognizing the importance of intelligence in this nation's struggle against terrorism, Congress should maintain vigorous, informed, and constructive oversight of the Intelligence Community. To best achieve that goal, the National Commission on Terrorist Attacks Upon the United States should study and make recommendations, concerning how Congress may improve its oversight of the Intelligence Community, including consideration of such areas as:

Changes in the budgetary process;

Changes in the rules regarding membership on the oversight committees;

Whether oversight responsibility should be vested in a joint House-Senate Committee or, as currently exists, in separate Committees in each house;

The extent to which classification decisions impair congressional oversight; and

How Congressional oversight can best contribute to the continuing need of the Intelligence Community to evolve and adapt to changes in the subject matter of intelligence and the needs of policy makers.

15. The President should review and consider amendments to the Executive Orders, policies and procedures that govern the national security classification of intelligence information, in an effort to expand access to relevant information for federal agencies outside the Intelligence Community, for state and local authorities, which are critical to the fight against terrorism, and for the American public. In addition, the President and the heads of federal agencies should ensure that the policies and procedures to protect against the unauthorized disclosure of classified intelligence information are well understood, fully implemented and vigorously enforced.

Congress should also review the statues, policies and procedures that govern the national security classification of intelligence information and its protection from unauthorized disclosure. Among other matters, Congress should consider the degree to which excessive classification has been used in the past and the extent to which the emerging threat environment has greatly increased the need for real-time sharing of sensitive information. The Director of National Intelligence, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the Attorney General, should review and report to the House and Senate Intelligence Committees on proposals for a new and more realistic approach to the processes and structures that have governed the designation of sensitive and classified information. The report should include proposals to protect against the use of the classification process as a shield to protect agency self-interest.

16. Assured standards of accountability are critical to developing the personal responsibility, urgency, and diligence which our counterterrorism responsibility requires. Given the absence of any substantial efforts within the Intelligence Community to impose accountability in relation to the events of September 11, 2001, the Director of Central Intelligence and the heads of Intelligence Community agencies should require that measures designed to ensure accountability are implemented throughout the Community.

To underscore the need for accountability:

The Director of Central Intelligence should report to the House and Senate Intelligence Committee no later than June 30, 2003 as to the steps taken to implement a system of accountability throughout the Intelligence Community, to include processes for identifying poor performance and affixing responsibility for it, and for recognizing and rewarding excellence in performance.

As part of the confirmation process for Intelligence Community officials, Congress should require from those officials an affirmative commitment to the implementation and use of strong accountability mechanisms throughout the Intelligence Community; and

The Inspectors General at the Central Intelligence Agency, the Department of Defense, the Department of Justice, and the Department of State should review the factual findings and the record of this Inquiry and conduct investigations and reviews as necessary to determine whether and to what extent personnel at all levels should be held accountable for any omission, commission, or failure to meet professional standards in regard to the identification, prevention, or disruption of terrorist attacks, including the events of September 11, 2001. These reviews should also address those individuals who performed in a stellar or exceptional manner, and the degree to which the quality of their performance was rewarded or otherwise impacted their careers. Based on those investigations and reviews, agency heads should take appropriate disciplinary and other action and the President and the House and Senate Intelligence Committees should be advised of such action.

17. The Administration should review and report to the House and Senate Intelligence Committees by June 30, 2003 regarding what progress has been made in reducing the inappropriate and obsolete barriers among intelligence and law enforcement agencies engaged in counterterrorism, what remains to be done to reduce those barriers, and what legislative actions may be advisable in that regard. In particular, this report should address what steps are being taken to insure that perceptions within the Intelligence Community about the scope and limits of current law and policy with respect to restrictions on collection and information sharing are, in fact, accurate and well-founded.

18. Congress and the Administration should ensure the full development of a national watchlist center that will be responsible for coordinating and integrating all terrorist-related watchlist systems; promoting awareness and use of the center by all relevant government agencies and elements of the private sector; and ensuring a consistent and comprehensive flow of terrorist names into the center from all relevant points of collection.

19. The Intelligence Community, and particularly the FBI and the CIA, should aggressively address the possibility that foreign

governments are providing support to or are involved in terrorist activity targeting the United States and interests. State-sponsored terrorism substantially increases the likelihood of successful and more lethal attacks within the United States. This issue must be addressed from a national standpoint and should not be limited in focus by the geographical and factual boundaries of individual cases. The FBI and CIA should aggressively and thoroughly pursue related matters developed through this Joint Inquiry that have been referred to them for further investigation by these Committees.

The Intelligence Community should fully inform the House and Senate Intelligence Committees of significant developments in these efforts, through regular reports and additional communications as necessary, and the Committee should, in turn, exercise vigorous and continuing oversight of the Community's work in this critically important area.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the submission of S. Res. 101 is located in today's RECORD under ''Submitted Resolutions.'')

Mr. CONRAD. Mr. President, it was with great sorrow that I learned last week of the death of our former colleague, Senator Daniel Patrick Moynihan of New York.

Senator Moynihan, was an intellectual giant in the Senate and throughout his service to our Nation. The breadth of his interests—and his knowledge—was extraordinary. From questions about the architecture and urban development of Washington, D.C. to the problems created by single parent families to the workings of the International Labor Organization, Senator Moynihan had thought deeply and designed policy answers. I don't think there was a Senator who served with Pat Moynihan who didn't learn something from Senator Moynihan's vast stock of personal experience, understanding of history, and ability to draw parallels between seemingly unrelated topics to enlighten our understanding of both.

I will always have fond memories of the several occasions on which I joined Senator Moynihan in the Senators' private dining room and was treated to a lunchtime tutorial. I could ask a question on virtually any topic and get a dissertation in response. Our conversations ranged from art history to baseball, American history, our Middle East policy, the history of science and scientific advancement, and more. Seemingly there was no topic on which Pat did not have unique insight, and I always came away from those lunches feeling like I had just emerged from an intellectually stimulating graduate seminar.

I had the particular pleasure of serving with Senator Moynihan on the Finance Committee for eight years. As Chairman and as ranking member of the Finance Committee, Senator Moynihan was a true leader. Starting in 1993, when I took Senator Bentsen's seat on the Committee and Senator Moynihan claimed his chairmanship, Chairman Moynihan successfully guided the 1993 economic plan through the committee and the Senate. That budget, which I was proud to help shape and support, laid the foundation for the record economic expansion of the 1990s.

After Republicans took control of the Senate in the 1994 election, Senator Moynihan was a fierce critic of their excessive tax cut proposals. We joined in opposing shortsighted proposals to have Medicare ''wither on the vine,'' turn Medicaid into a block grant, and destroy welfare rather than reforming it. Senator Moynihan was, as always, an especially passionate defender of teaching hospitals, warning that the plan to slash spending for Medicare's graduate medical education would threaten medical research in this country—a fear that has proved well-founded as teaching hospitals have struggled to survive the much smaller changes enacted as part of the compromise Balanced Budget Act that emerged in 1997.

The Finance Committee—and the Senate—would not have been the same without him. Who else will be able to gently tutor witnesses on the relevance of the grain trade in upstate New York in the early nineteenth century to a current debate about health care policy? Who else will call for the Boskin and Secrecy Commissions of the future? And who else will educate his colleagues on the impact on our society of the demographic time bomb of the baby boom generation?

The Senate has lost a legend. The country has lost a brilliant and unconventional thinker who contributed greatly to our society on fronts ranging across transportation, welfare and poverty, racism and civil rights, and architecture and urban planning.

I will miss Pat Moynihan. I will miss his sly wit, his apt and splendidly diverse quotations, his sharp questioning and distrust of glib answers, and his fierce humanity. On behalf of myself and my wife Lucy, I want to express my deepest condolences to his wife Liz, their children and the rest of his family and friends. My heart goes out to them.

Mr. LIEBERMAN. Mr. President, I rise today to honor Senator Daniel Patrick Moynihan, an intellectual pioneer who I felt honored to serve with in the U.S. Senate. He rose from humble beginnings to Harvard, and to a life of service in four different Presidential administrations, as an ambassador to India and the U.N., and as New York's Senator for four terms. Throughout his career in service, he paved his own path—one of integrity, independence, and principled leadership on the critical national questions of our age.

Whenever he spoke I listened closely, because I knew I would always learn something from him. He possessed tremendous intellect and foresight, showed unflagging courage in championing unsung causes, and commanded extraordinary respect on both sides of the aisle. He was a true renaissance man who put action behind his diverse interests: from protecting the sanctity of the American family, to preserving historic art and architecture, to restoring Pennsylvania Avenue as America's ''main street,'' to saving Social Security for future generations.

I offer my condolences to his wife Elizabeth, who was truly his life partner. There will no doubt be a memorial built in his honor someday soon on the streets of New York; but Senator Moynihan's legacy is already living—in safer streets in our cities, a cleaner environment, and a stronger national community. To borrow a memorable Moynihan phrase, his life defined public service and public policy up for all who aspire to contribute to our country.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Montana.

HONORING OUR ARMED FORCES

Mr. BURNS. Madam President, as we stand here today, the conflict goes on in Iraq. I was just talking to a friend. He asked me when are we going to make a move and how is it going?

We have only been there a week and a half, but one would think from the television coverage that we are in the middle of the Hundred Years War.

There will be many stories that come out of conflicts such as this. I want to relate one.

SSG Charles Donovan, Jr., is a 27-year-old 8-year Marine Corps veteran, born and raised in Great Falls, MT. On the 17th of February he was deployed to Kuwait for military service with the First Marine Division. He is a communications expert and a towgunner. A towgunner is the one who fires ammunition from the tank.

He has been married to his wife Candice for almost 8 years. They met at Camp Pendleton, CA. They served in the Marine Corps together for 4 years. Since his deployment, Donovan has been able to contact his family frequently and recently received the news from his wife that they are expecting their first child. He was able to reply to his wife by e-mail.

It is needless to say anything more about the news and the elation that is experienced by this couple. No. 1, he was all right and getting along fine; and, second, the experience of learning of the good news of an expected first child is always great.

So my congratulations go out to Charles and Candice. And I have every

faith that he will complete his mission and come home.

There are thousands of similar stories stemming from this mission, so ably carried out by our men and women in uniform. It is uniquely American and typical of our warriors of freedom. It distinguishes and sets the American military apart from any other nation in the history of man's constant struggle for freedom and human dignity.

We see the pictures every day, not of the ugliness of war but of the men and women who carry out the humanitarian acts as war is carried on. We will succeed in our mission. And we look forward to the day when they all come home.

Also, I take great pride to stand here today on the Senate floor to recognize and say thank you to the men and women from Montana and all who serve across this land.

We have support organizations popping up in just about every State, organizations formed to give comfort to families and provide various programs such as the one I just mentioned. It is happening everywhere, and there are far too many to mention today.

I commend the efforts of one program especially because I met with this group in Livingston, MT. They call themselves MOST—the Military Overseas Support Team—made up of people who have family members serving in that area, and they act as a support system for each person.

Then there is another one called Operation Clean Socks. It has been set up to collect and send socks to our military men and women in the Middle East. That sounds strange, but to those of us who have worn the uniform of this great country, socks become a big item, especially to us old marines who traveled on our feet.

Folks all over this country are rallying their communities to get support for our troops. I am pleased to see so many of them supportive in Montana.

Here in Washington we see the images on television. We are thinking about the troops every day. We know how hard it is fighting for the freedoms of those who are oppressed, and we thank you. We thank you for what you are doing and want you to know that our thoughts and prayers are not only with you but also with your families.

You are the best and the greatest ambassadors of the American dream. You will succeed in the efforts to disarm Saddam Hussein and free the Iraqi people. I am confident in our military. I know this effort will be accomplished as soon as possible so they all can come home to the welcoming arms of their families, so that every Charles Donovan, Jr., can see his first child enter the world with the same freedoms with which he was born. We think about them every day.

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. GREGG. I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

EXECUTIVE SESSION

NOMINATION OF THERESA LAZAR SPRINGMANN, OF INDIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF INDIANA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to consideration of Executive Calendar No. 77, which the clerk will report.

The legislative clerk read the nomination of Theresa Lazar Springmann, of Indiana, to be United States District Judge for the Northern District of Indiana.

Mr. HATCH. Mr. President, I am pleased today to rise in support of Judge Theresa Lazar Springmann, who has been nominated to the United States District Court for the Northern District of Indiana.

Judge Springmann has served on both sides of the bench with distinction. Upon graduation from the University of Notre Dame Law School, Judge Springmann clerked for the Honorable James T. Moody of the United States District Court for the Northern District of Indiana—the very court she will join upon her confirmation. She then entered private practice as an associate with Spangler, Jennings & Dougherty, P.C., and later became the first woman partner there. During her tenure in private practice, she specialized in insurance defense litigation, automobile liability, contract disputes, unfair competition and trade infringement. She also participated in her firm's pro bono program, accepting at least three cases a year from Legal Services of Northwest Indiana, Inc., in Gary IN.

Judge Springmann has made a broad range of contributions to the bar. She was a founding member of the Lake County Bar Association and has served in various leadership roles with this organization. Judge Springmann is also a member of the Federal Bar Association and the Women Lawyers Association.

Since 1995, Judge Springmann has served as a United States Magistrate Judge for the Northern District of Indiana. From 2000 to 2002, she served as the Federal Magistrate Judges Association Seventh Circuit Director, where she represented all magistrate judges in the Seventh Circuit in forming policy positions and recommendations to the Administrative Office and Federal Judicial Council on issues concerning magistrate judges.

I am confident that Judge Springmann will serve on the bench with integrity, intelligence and fairness.

Mr. LEAHY. Mr. President, today we again demonstrate how cooperative the Senate and, in particular, Democratic Senators are being to an administration that continues to refuse to work with us to select consensus court judges who could be confirmed relatively quickly by the Senate and fill the remaining Federal court vacancies.

In the prior 17 months I chaired the Judiciary Committee, we were able to confirm 100 judges and vastly reduce the judicial vacancies that Republicans had stored up by refusing to allow nominees of President Clinton to be considered. We were able to do so despite the hostility of the White House. The judicial nominees of this President are conservatives, many of them quite to the right of the mainstream. Many of these nominees have been active in conservative political causes or groups. Democrats moved fairly and expeditiously on as many as we could consistent with our obligations to evaluate carefully and thoroughly these nominees to lifetime seats in the federal courts.

Last year alone, in an election year, the Democratic-led Senate confirmed 72 judicial nominees, more than in any of the prior six years of Republican control. Not once did the Republican-controlled Committee consider that many of President Clinton's district and circuit court nominees.

While Republicans point to the 377 judges confirmed under President Clinton, but they fail to mention that only 245 of them were confirmed during the 6½ years Republicans controlled the Senate. That amounts to only 38 confirmations per year when the Republicans last held a majority and there was a Democrat in the White House. In 1999, the Republican majority did not hold a hearing on any judicial nominee until June. Tomorrow, the Republican majority will hold its seventh hearing including a 32nd judicial nominee in the last 2 months. The Senate Judiciary Committee is acting like a runaway train, operating at breakneck speed and breaking longstanding rules and practices of the committee.

This year we have had a rocky beginning with a hearing for three controversial circuit court nominees that has caused a great many problems we might have avoided. The chairman's insistence on terminating debate on the Cook and Roberts nominations is another serious problem. Of course, the administration's unwillingness to work with the Senate so that we may be provided the documents and information needed to proceed with a final vote on the Estrada nomination has already proved to be a significant problem. The opposition to the Sutton nomination is

also extensive. The concerns about the Tymkovich nomination are significant. The unprecedented nature of a President renominating someone for the same judicial position after a defeat in committee has led to the Owen nomination is pending on the floor with the assent of only the Republicans on the committee.

Nonetheless, the Senate has proceeded to confirm 114 of President Bush's judicial nominees, including 14 this year alone. The Senate confirmed the controversial nomination of Jay Bybee to the Ninth Circuit, another pro-life judicial nominee. With this one circuit court confirmation, the Senate has confirmed more circuit court judges than Republicans allowed to be confirmed in the entire 1996 session. In addition, I note that it was not until September 1999, 9 months into the year, that 14 of President Clinton's judicial nominees were confirmed in the first session of the last Congress in which Republicans controlled the Senate majority. At the pace set by Republicans now, we are a full six months ahead of that schedule.

The Indiana nominee, Theresa Lazar Springmann, is currently a U.S. Magistrate Judge for the U.S. District Court for the Northern District of Indiana. She has the bipartisan support of her home State Senators. The fact that she is being confirmed to the district court months in advance of the vacancy arising demonstrates how cooperative the Senate is being. Only rarely has a nominee been confirmed in advance of a vacancy arising. The nominee is well regarded and supported by her home State Senators. I congratulate Judge Springmann and her family on her confirmation.

Mr. LUGAR. Mr. President, I rise today in support of Theresa Springmann who is being considered for a position on the United States District Court of Northern Indiana.

Early last year, Judge William Lee and Judge James Moody informed me of their decisions to assume senior status after distinguished careers of public service. Both of these individuals are remarkable leaders on the Federal bench, and I applaud their leadership to Indiana and to the legal profession.

Immediately upon hearing of these decisions, I notified the White House and was asked by the President to help find the most qualified candidates to fill these two important positions in Hammond and Fort Wayne. I took this role very seriously and selected the candidates who would best serve the Northern District of Indiana.

After sharing my selections with my friend and colleague Senator EVAN BAYH, I submitted the names and applications of three outstanding candidates to the White House for their consideration. The President recently selected Assistant United States Attorney Philip Simon and United States Magistrate Theresa Springmann.

Judge Theresa Springmann was the first woman to be made partner at Spangler, Jennings & Dougherty, the largest law firm in Northwest Indiana. She followed up this distinction by becoming the first woman judicial officer in the Northern District of Indiana. Judge Springmann has served as a United States magistrate judge since March of 1995, where she has presided over 30 civil jury trials, 10 civil and criminal bench trials, and conducted over 300 settlement conferences for the district court.

She has received a number of high performance ratings throughout her tenure as a magistrate judge, including the A.V. rating from Martindale-Hubbell and the highest judicial rating from the Lake County Bar Association.

I believe that Theresa Springmann will demonstrate remarkable leadership to Northern Indiana and will appropriately uphold and defend our laws under the Constitution. I encourage my colleagues to support her nomination.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Theresa Lazar Springmann, of Indiana, to be United States District Judge for the Northern District of Indiana? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Missouri (Mr. BOND), the Senator from Ohio (Mr. DEWINE), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''aye.''

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 112 Ex.]

YEAS—93

Akaka	Chambliss	Feingold
Alexander	Clinton	Feinstein
Allard	Cochran	Fitzgerald
Allen	Coleman	Frist
Baucus	Collins	Graham (FL)
Bayh	Conrad	Graham (SC)
Bennett	Cornyn	Grassley
Biden	Corzine	Gregg
Bingaman	Craig	Hagel
Boxer	Crapo	Harkin
Breaux	Daschle	Hatch
Brownback	Dayton	Hollings
Bunning	Dodd	Hutchison
Burns	Dole	Inhofe
Byrd	Domenici	Jeffords
Campbell	Dorgan	Johnson
Cantwell	Durbin	Kennedy
Carper	Ensign	Kohl
Chafee	Enzi	Kyl
Landrieu	Murray	Sessions
Lautenberg	Nelson (FL)	Shelby
Leahy	Nelson (NE)	Smith
Levin	Nickles	Snowe
Lincoln	Pryor	Specter
Lott	Reed	Stabenow
Lugar	Reid	Sununu
McCain	Roberts	Talent
McConnell	Rockefeller	Thomas
Mikulski	Santorum	Voinovich
Miller	Sarbanes	Warner
Murkowski	Schumer	Wyden

NOT VOTING—7

Bond	Inouye	Stevens
DeWine	Kerry	
Edwards	Lieberman	

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

The Senator from Utah.

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE A UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now resume consideration of the Estrada nomination.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia.

CLOTURE MOTION

Mr. BENNETT. Mr. President, I send a cloture motion to the desk.

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

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, 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.

Bill Frist, Orrin G. Hatch, John Ensign, Sam Brownback, Jim Inhofe, Michael B. Enzi, Wayne Allard, Michael Crapo, Susan M. Collins, Robert F. Bennett, Pete V. Domenici, Conrad R. Burns, Kay Bailey Hutchison, John E. Sununu, Norm Coleman, Charles E. Grassley.

Mr. BENNETT. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived and the Senate resume legislative session.

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

Mr. BENNETT. For the information of all Senators, this cloture vote will occur on Wednesday. This will be the fourth cloture vote with respect to the Estrada nomination. Unfortunately, in my view, this will set a record for cloture votes relative to a nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

MOCKING PACIFIC ALLIES

Mr. CRAIG. Mr. President, last week, the Washington Post saw fit to print an article entitled ''Many Willing, But Only A Few Are Able.'' Ostensibly about the U.S. and British-led force of the coalition now fighting in Iraq, the Post's article mocks the sovereign nations of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau—three of our country's most steadfast allies in the Western Pacific. This is both offensive and undeserved. As Chairman of the Energy and Natural Resources Committee's subcommittee with responsibility for our relations with the freely associated states, I would like to set the record straight. In making this statement, I am speaking not only for myself but also on behalf of Senator DOMENICI, the chairman of the Energy and Natural Resources Committee. The citizens of these nations deserve better.

The Post would have its readers believe that these Pacific islands are nothing more than banana republics. This is not the case. It is obvious to me and anyone familiar with the special relationship between our Nations that the Post is unaware of the islands' historical significance and continued role in our national defense. The Post's failure to learn the most basic facts about our allies is sloppy and irresponsible.

These islands endured occupation by Japan under a League of Nation's Mandate and then saw some of the bloodiest fighting during World War II. It was the residents of these islands who endured the contests for Enewetak, Pelilieu, and Kwajalein.

After the War, the islands were placed under the United Nations' Trusteeship system. The United States brought self-government and the development of political institutions. The Congress of Micronesia rejected both integration with the United States and independence in favor of sovereignty and free association and Congress overwhelmingly ratified the Compacts of Free Association. An important aspect of that relationship is the ability of citizens of the freely associated states to attend the United States military academies and serve in the United States Armed Services.

As we speak, there are citizens of all three countries serving in Iraq in every branch of the U.S. military, ready to make the ultimate sacrifice. Marshallese citizens are fighting with the 101st Airborne Division and the Third Infantry Division, in harm's way and approaching Baghdad. The Federated States of Micronesia has hundreds of its people on active duty. Indeed, the son of the current President of Micronesia, Leo Falcam, is a Lieutenant Colonel with the U.S. Marines and commands an air squadron in Okinawa. Clearly, the Marshall Islands and Micronesia are contributing to the war effort.

The Compact of Free Association has guided our relationship with these nations for nearly 20 years. During that time, these nations have been among our strongest allies in the United Nations and elsewhere. Their sons and daughters have known oppression and have volunteered to serve with our citizens to end despotism and terrorism. It is offensive to read articles like that published by the Washington Post that denigrate foreign nations and their citizens in an effort to ridicule President Bush and the administration.

The Post conveniently forgets the outrages committed by Saddam Hussein against the Kurds and the people of Iraq and now chooses to insult good and decent people who have the courage to stand with the United States.

As I said, I take issue with this article. So while the reporter and editor of the Post congratulate themselves on one more cheap and vulgar attack on the Administration, I would like to offer my apology to the thousands of citizens in our freely associated states. We owe them our gratitude for their commitment. The Post should be ashamed.

WOMEN'S HISTORY MONTH

Mr. SARBANES. Mr. President, I rise today in recognition of Women's History Month. This time has been appropriately designated to reflect upon the important contributions and heroic sacrifices that women have made to our Nation and to consider the challenges they continue to face. Throughout our history, women have been at the forefront of every important movement for a better and more just society, and they have been the foundation of our families and communities.

In Maryland, we are proud to honor those women who have given so much to improve our lives. Their achievements illustrate their courage and tenacity in conquering what others perceive as overwhelming obstacles. They include Harriet Elizabeth Brown, civil rights leader, teacher and principal. In the 1930s in Calvert County, she fought to eliminate pay disparities between white and black teachers. Another noteworthy Marylander was Anna Ella Carroll who served as an unofficial adviser and strategist to President Abraham Lincoln in her efforts to preserve the Union during the Civil War. We are all indebted to Rose Kushner, teacher, medical writer, and psychologist, who worked tirelessly as an advocate for better screening and treatment of breast cancer. Their accomplishments and talent provide inspiration not only to the residents of Maryland, but to people all over the globe.

My good friend and colleague from Maryland, Senator BARBARA MIKULSKI, is a tremendous example of the commitment and dedication women give to public service. From her background as a social worker to her election to the U.S. Senate, Senator MIKULSKI, who has served longer than any other woman currently in the Senate, has always worked to ensure those in need receive the critical support services necessary for them to live independently and with dignity. She appropriately played a key role in establishing this month when in 1981, cosponsoring a resolution establishing National Women's History Week, a predecessor to Women's History Month. Today, I wish to honor her dedication and service to the people of Maryland and this Nation.

This Women's History Month is a fitting time to honor the women of the armed services and recognize the sacrifice they make for our country, especially in light of the unprecedented role women are playing in our military engagement in Iraq. Approximately 15 percent of all active duty personnel are women. From the American Revolution and the Civil War through modern day armed conflict, American women have made sacrifices along side their husbands, sons, brothers and fathers to preserve the freedom upon which this Nation was founded. At this time, we know that Army Specialist Shoshawna Johnson is being held as a POW in Iraq, and Private First Class Jessica Lynch is missing in action. We send our hopes and prayers for the safe return of these brave young women, and all of those serving our country, and want their families to know that our thoughts are with them during this very difficult time.

Women have made great strides in overcoming historic adversity and bias but they still face many obstacles. Unequal pay, poverty, inadequate access to healthcare and violent crime are among the challenges that continue to disproportionately affect women. While the most recent Census Bureau figures show that the percentage of women holding managerial jobs grew from one-third to a high of 46 percent since 1983, this figure has not improved since 2001. In addition, women continue to earn less than their male colleagues, earning only 77.5 percent of every dollar earned by men. Despite these obstacles, women push on. In recent years, the poverty rate for single women has declined and more women hold advanced degrees than ever before. Recent figures show that women received approximately 45 percent of law and 42 percent of medical degrees awarded in this country. This is a dramatic improvement from a few decades ago and should continue as more and more young women recognize their opportunities are limitless.

Indeed women continue to make great progress. As we highlight their accomplishments in history this month, I believe it is also important to educate present and future generations about gender discrimination so that we do not repeat past mistakes. During my service in Congress, I have strongly supported efforts to address women's issues and eradicate gender discrimination and inequality. These include cosponsoring the Paycheck Fairness Act, the Equity in Prescription Insurance and Contraceptive Coverage Act, and continually supporting an Equal Rights Amendment to the Constitution. I am proud of these efforts and I will continue my commitment to bring fuller equality to all women. I am confident that the women of America will continue to excel while continuing their role as advocates for those values and ideals which are at the heart of a decent, caring and fair society.

NEXT STEPS: MA AND PA METHAMPHETAMINE LABS

Mr. GRASSLEY. Mr. President, I rise today after hearing several reports of the continued problem of methamphetamine production in rural America. Law enforcement must dedicate more and more resources to the small, ''ma and pa'' meth labs. These small labs pose a threat not only because of the drugs they produce, but also the serious health and environmental risk caused by the production process.

In years past, methamphetamine production was controlled by skilled chemists or well-educated individuals who were paid significant amounts of money to manufacture the narcotic. Methamphetamine production at times took an entire day to produce. Today, with modern technology and the help of information readily available over the Internet, methamphetamine production can be accomplished within a very few hours. Production no longer takes a highly skilled individual or chemist. Recipes for producing meth can be downloaded off the Internet, complete with step-by-step instructions anyone can follow. These recipes use products available at any number of local retail outlets as ingredients, first reducing them to the needed chemical components and then recombining them to produce meth.

Small cooks, often producing only enough meth for themselves and a few friends, dominate the concerns of rural law enforcement organizations. Several of the narcotics task forces in Iowa report that while they believe over 80 percent of the meth within their jurisdiction comes from outside the State, they spend 80 percent of their time and resources on these small cooks. If we are going to get ahead of this problem, we must change this ratio.

Several years ago we took some important steps in limiting access to many of the precursors needed for meth production. These were good steps, and have proven somewhat effective. But more needs to be done.

Officers from the Southeast Iowa Task Force will tell you stories of suspects they have followed all over the county, stopping at each convenience store, supermarket, and drug store they passed to pick up as much cold medicine as they could. Not because they were sick, but because they needed the ephedrine in these drugs to cook meth. Sometimes it is purchased, but just as often it is stolen. These suspects were followed back to apartments, farm houses, motel rooms, or even deserted areas of gravel roads where the cold medicines were combined with other chemicals like starter flud, anhydrous ammonia, and drain cleaner solvents for a ''cook'' of methamphetamine. This is all too common anyplace we find meth being cooked by amateurs using recipes off the Internet.

There are several different recipes for cooking meth. In rural areas, many of the small cooks use a receipt calling for anhydrous ammonia, which is a fertilizer readily available wherever farming occurs. Other recipes call for the use of red phosphorous, the common ingredient in emergency road flares. But all of these recipes need some form of ephedrine or pseudoephedrine, a common ingredient in cold medicine.

If we make it more difficult for meth cooks to acquire ephedrine, then it will be more difficult for them to manufacture this poison. Several proposals have been put forth by the DEA and others which would help control access to ephedrine products. Many of these have merit, and I hope we will continue to pursue these proposals.

One method that could be very effective would be to put products containing ephedrine or pseudoephedrine behind the counter, such as is currently do with cigarettes. Other proposals would increase the penalties for possession of excessive amounts of precursor chemicals for meth. Some quarters have suggested collecting names or even social security numbers for everyone who purchases products containing ephedrine or pseudoephedrine. Clearly, each of these proposed solutions brings its own set of challenges.

But new steps need to be taken. Spending 80 percent of the time on 20 percent of the problem is not a way to get ahead. Increasing the difficulty of getting the products needed to do a small ''cook'' of meth decreases the likelihood these ''cooks'' will take place at all. While none of these proposals will stop all of the ma and pa meth operations, the status quo is not acceptable. Our cops are being overwhelmed, and our kids are dying—we cannot remain silent.

SUPPORT FOR NATO EXPANSION

Ms. LANDRIEU. Mr. President, on March 26, NATO signed the Protocols on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Slovakia, Slovenia, and Romania. This is an important step toward the full membership in NATO for these countries. Soon, the Senate will debate whether to approve admission for these seven new and vibrant democracies. These countries have thrown off the shackles of communism. They are pressing forward, and I am confident their admission to NATO will only make that great alliance stronger and more robust.

The enlargement process presents a historic opportunity for NATO to strengthen security and peace, as well as a significant step toward fulfilling the vision of a Europe whole and free. The new members have proved willing and capable of adding value to NATO's missions, and they strongly reinforce the importance of a trans-Atlantic link.

The aspirant members have long contributed to NATO and allied missions, and they will bolster similar NATO and allied operations in the future. They have provided logistical support and troops in combat or peace support missions in Western Balkans, Afghanistan, and Iraq. Romania, for example, currently has over 1,300 troops engaged in allied missions, including a combat battalion that carries out operations shoulder to shoulder with U.S. forces in Afghanistan, and a NBC unit in Iraq. Additionally, the Romanian Government will shelter up to 1,500 war refugees from Iraq if needed. Romania and Bulgaria are currently providing host nation support at the Black Sea airbase and seaport bases. Moreover, Slovakia and the Baltic countries have provided peacekeeping troops, air surveillance support, as well as NBC specialists.

I look forward to the debate in the U.S. Senate on ratification of the protocols for NATO expansion. NATO expansion will prove beneficial to those countries seeking entrance to NATO and the those countries already in the alliance.

TRIBUTE TO GENERAL WALLACE M. GREENE, JR.

Mr. JEFFORDS. Mr. President, I rise today to mourn the passing on March 8, 2003, of GEN Wallace M. Greene, Jr., of Waterbury, VT. General Greene served with distinction as Commandant of the Marine Corps from 1964 until he retired in 1967.

General Greene was born on December 27, 1907, in Waterbury, a small city in central Vermont. He began his academic career at the University of Vermont, and after one year he entered the armed forces at the U.S. Naval Academy, Annapolis, MD, graduating in 1930, commissioned as a Second Lieutenant.

After Annapolis, General Greene first assignment was the Philadelphia Navy Yard and from there, his career took him to Portsmouth, NH; San Diego, CA; on board the battleship USS *Tennessee*; Quantico, VA; and Guantanamo Bay, Cuba. During World War II, General Greene took part in planning the invasion of the Marshall Islands in 1943

and, in 1944, in the Saipan and Tinian operations.

After the war, General Greene returned to the Marine Corps Headquarters and in 1953, he graduated from the National War College, after which he served as Special Assistant to the Joints Chiefs of Staff for National Security Affairs. Beginning in 1955, he commanded the bases at Parris Island, SC, and Camp Lejeune, NC. After holding the post of Deputy Chief of Staff for Plans, General Greene earned his third star in 1960 and became Chief of Staff. In 1964, after his promotion General, he became Commandant of the Marine Corps.

During General Greene's career, he earned myriad citations, commendations, and awards including the Distinguished Service Medal, with one gold star, and prestigious medals from the governments of China, Korea, Brazil, and Vietnam.

I have come to the Senate floor on many occasions to extol Vermonters' contributions to the United States and to our military forces. General Wallace Greene served his country and his people with honor, pride, and dignity. General Greene will be laid to rest at Arlington National Cemetery on Thursday, April 3, 2003, among the many other Americans who have dedicated their lives to public service in the Armed Forces.

ANNIVERSARY OF TUNISIAN INDEPENDENCE

Mr. LUGAR. Mr. President, I rise to recognize the 47th anniversary of Tunisian independence. On March 20, 1956, Tunisia took its place among the free nations of the modern era.

Shortly after Tunisia's independence, in 1957, the United States stood by Tunisia in a challenging post-independence environment. Through the pledge of economic and technical assistance, the United States helped Tunisia to achieve its national goal of a self-confident and self-sustaining modern nation.

Through the vicissitudes of history Tunisia has sustained the hardiness of its Berber forebears as Roman, Vandal, Moor and Ottoman Empires have come and gone. Each has left its cultural mark, but today Tunisia stands independent, and proud of its history. Today, Tunisia has shown its commitment to democratic ideals as a leader in the Arab world in promoting the legal and social status of women.

In this its 47th anniversary of independence, Tunisia and the United States can look back on a much longer and more important relationship. In 1797 Tunisia was among the first countries to recognize the nascent United States of America. This recognition enabled America to make its way in the international community. In the 21st century, Tunisia has also shown support for the United States in the war against terrorism, and our two nations should seek ways to enhance cooperation.

Congratulations on your 47 years of independence, and may you find that each subsequent year brings further peace and prosperity to Tunisia.

ADDITIONAL STATEMENTS

HONORING THE LIFE OF PHIL KAUBLE

● Mr. BAYH. Mr. President, I rise today to honor the life of a fellow Hoosier, Phil Kauble, who passed away on March 24, 2003.

Phil Kauble worked and lived in Kokomo, IN. He was the kind of man who helped to define that hard-working community. Phil was first a steelworker, and later in life a dedicated crusader for pension reform.

Those of us who knew Phil were inspired by his commitment to the cause of pension reform. After his career as a steelworker, Phil became dedicated to protecting retired steelworkers by fighting to correct a discrepancy in the pension laws that had hurt him and others when Continental Steel closed its Kokomo mill in the 1980s.

Phil was tireless in his work to correct this problem. For over 20 years he displayed an unwaivering commitment to help his fellow retired steelworkers and his community by making the pension system fairer. One of the many consequences of his determination is legislation I have authored to require improved notification procedures by the Pension Benefit Guaranty Corporation, PBGC, a Federal agency that oversees the maintenance of benefit pension plans, fondly referred to as ''Phil's Bill.''

Phil never gave up the fight. All who knew him were very proud of his many contributions. Phil always believed in the promise of America and the difference one man can make. He truly made a difference. Later today, I will be reintroducing ''Phil's Bill.'' I know that he would insist that we push on. That is what we intend to do.

Phil Kauble showed us that one person can make a difference. His own life experience led to an extraordinary commitment to correct a serious gap in the pension system and to help his fellow citizens. His tenacity and idealism will be missed.

When we reflect upon the lives of men such as Phil Kauble, we are reminded that we live in a country where the true power to shape the destiny of government is vested in the people. We will all miss Phil deeply, but his memory will serve as a beacon and his life as an example of the virtues of civic involvement.●

RETIREMENT OF ADJUTANT GENERAL BOENISCH

● Mr. THOMAS. Mr. President, I rise today to pay tribute to a man from my home state of Wyoming who has dedicated his life to public service. The Wyoming National Guard has been extremely fortunate to have MG Edmond W. Boenisch, Jr., to head its ranks for the last 8 years. As the adjutant general for the State of Wyoming, Ed has been responsible for managing Wyoming's Air National Guard and Army National Guard through over 500 deployments around the world and insuring that our citizen soldiers are highly motivated and properly prepared to meet any challenge. No leader can expect to maintain consistently high performance under stress and challenging conditions if the people he leads do not have confidence in him. I believe that the Wyoming Guard's success is a reflection of General Boenisch's personal commitment and dedication to the personnel under his command.

Through 20 years of service, General Boenisch has brought leadership to Wyoming's National Guard. Raised in a home of solid faith and the son of a drill instructor, Ed learned early to value self-discipline and moral conviction. Through his life and over 30 years of marriage, Ed and his wife Linda have shared their strong faith with their family. The challenges of raising two daughters, Laura and Lisa, and an ever demanding career have not shaken Ed and Linda's compass for God, family, and country. As Eucharistic Ministers, they both share their spirituality and are vital members of their church and community.

I would be doing a great disservice if I did not mention Ed's strong ties to the Wyoming education community. Before becoming adjutant general, Ed spent 20 years working in a variety of positions in Laramie County Community College. With a master's degree in student personnel and guidance and a PhD in college student personnel administration, Ed has written several books on stress management. After such a long and distinguished career, I can attest that General Boenisch knows a thing or two about managing stress.

Although we will miss General Boenisch, I am proud that he will continue his public service as deputy director for the Wyoming Community College Commission. As a warrior and a scholar, I know that Gen. Edmond W. Boenisch, Jr. will continue after this post to be a vital asset to our State. I would like to thank Ed on behalf of the people of Wyoming for his years of service and wish him success on the next stage of his career.●

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance:

Special Report entitled ''Report on the Activities of the Committee on Finance of the United States Senate During the 107th Congress'' (Rept. No. 108–31).

By Mr. WARNER, from the Committee on Armed Services:

Special Report entitled ''Report on the Activities of the Committee on Armed Services'' (Rept. No. 108–32).

NOMINATION DISCHARGED

As in executive session, I ask unanimous consent that the Small Business committee be discharged from further consideration of Harry Damelin, to be Inspector General for the Small Business Administration; I further ask consent that the nomination be referred to the Governmental Affairs committee as under a previous agreement, the nomination then be immediately discharged; further the Senate proceed to its consideration, the nomination be confirmed, and the motion to reconsider be laid upon the table; finally, I ask consent that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for Mr. EDWARDS):

S. 743. A bill to designate a building that houses the operations of the University Park United States Postal Service in Charlotte, North Carolina, as the ''Jim Richardson Post Office Building''; to the Committee on Governmental Affairs.

By Mr. BAYH:

S. 744. A bill to amend the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation to notify plan participants and beneficiaries of the commencement of proceedings to terminate such plan; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN:

S. 745. A bill to require the consent of an individual prior to the sale and marketing of such individual's personally identifiable information, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mr. KYL):

S. 746. A bill to prevent and respond to terrorism and crime at or through ports; to the Committee on Commerce, Science, and Transportation.

By Mr. WARNER (for himself and Mr. LEVIN) (by request):

S. 747. A bill to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes; to the Committee on Armed Services.

By Mr. SANTORUM (for himself, Mr. GRAHAM of Florida, and Mr. INHOFE):

S. 748. A bill to amend the Internal Revenue Code of 1986 to make inapplicable the 10 percent additional tax on early distributions from certain pension plans of public safety employees; to the Committee on Finance.

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:

S. Res. 101. A resolution calling for the prosecution of Iraqis and their supporters for war crimes, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. JOHNSON, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 68

At the request of Mr. INOUYE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 85

At the request of Mr. LUGAR, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 85, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Ms. CANTWELL) 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. 157

At the request of Mr. CORZINE, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 157, a bill to help protect the public against the threat of chemical attacks.

S. 226

At the request of Mr. BIDEN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 226, a bill to prohibit an individual from knowingly opening, maintaining, managing, controlling, renting, leasing, making available for use, or profiting from any place for the purpose of manufacturing, distributing, or using any controlled substance, and for other purposes.

S. 238

At the request of Mr. REED, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 238, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 249

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 249, a bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a deceased veteran after age 55 shall not result in termination of dependency and indemnity compensation otherwise payable to that surviving spouse.

S. 271

At the request of Mr. SMITH, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 303

At the request of Mr. HATCH, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 303, a bill to prohibit human cloning and protect stem cell research.

S. 338

At the request of Mr. LAUTENBERG, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor 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 Vermont (Mr. JEFFORDS) 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. 358

At the request of Mrs. LINCOLN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to modify the credit for the production of fuel from nonconventional sources for the production of electricity to include landfill gas.

S. 359

At the request of Mrs. LINCOLN, the names of the Senator from Utah (Mr. HATCH) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 359, a bill to amend the Internal Revenue Code of 1986 to modify the credit for the production of electricity to include electricity produced from municipal solid waste.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 380

At the request of Ms. COLLINS, the names of the Senator from Utah (Mr. HATCH), the Senator from Nebraska (Mr. HAGEL) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

S. 392

At the request of Mr. REID, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 423

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 423, a bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities.

S. 505

At the request of Mr. HATCH, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 505, a bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes.

S. 537

At the request of Mr. CRAPO, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 537, a bill to ensure the availability of spectrum to amateur radio operators.

S. 545

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of 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.

S. 547

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 547, a bill to encourage energy conservation through bicycling.

S. 569

At the request of Mr. ENSIGN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 589

At the request of Mr. AKAKA, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 589, a bill to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

S. 595

At the request of Mr. HATCH, the names of the Senator from Florida (Mr. NELSON) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 608

At the request of Mr. REED, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 608, a bill to provide for personnel preparation, enhanced support and training for beginning special educators, and professional development of special educators, general educators, and early intervention personnel.

S. 609

At the request of Mr. LEAHY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 609, a bill to amend the Homeland Security Act of 2002 (Public Law 107–296) to provide for the protection of voluntarily furnished confidential information, and for other purposes.

S. 647

At the request of Mr. KENNEDY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 647, a bill to amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes.

S. 678

At the request of Mr. AKAKA, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 704

At the request of Ms. COLLINS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 704, a bill to amend title 10, United States Code, to increase the amount of the death gratuity payable with respect to deceased members of the Armed Forces.

S. 728

At the request of Mr. COLEMAN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 728, a bill to reimburse the airline industry for homeland security costs, and for other purposes.

S. 731

At the request of Mr. BIDEN, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 731, a bill to prohibit fraud and related activity in connection with authentication features, and for other purposes.

S. 737

At the request of Mr. DURBIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 737, a bill to amend title 37, United States Code, to increase the rate of imminent danger special pay and the amount of the family separation allowance.

S. RES. 52

At the request of Mr. CAMPBELL, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Res. 52, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

S. RES. 82

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. Res. 82, a resolution expressing the sense of the Senate concerning the continuous repression of freedoms within Iran and of individual human rights abuses, particularly with regard to women.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for Mr. EDWARDS):

S. 743. A bill to designate a building that houses the operations of the University Park United States Postal Service in Charlotte, North Carolina, as the ''Jim Richardson Post Office Building''; to the Committee on Governmental Affairs.

Mr. DASCHLE. Mr. President, I rise today to introduce the ''James F. Richardson Post Office Act of 2003.'' This measure would name the University Park Post Office in Charlotte, NC, after a man who has come to mean so much to the City of Charlotte, Mecklenburg County and the State of North Carolina. His record of public service goes back 60 years.

A Charlotte native, Jim Richardson graduated from Second War High School, the only high school in the area African Americans were allowed to attend. In a separate and unequal society he learned early on the importance of character and serving the public good. Our World War II veterans are said to be the greatest generation. As part of that generation Jim Richardson entered the United States Navy and served our country honorably in the South Pacific theater during World War II. It is with character and a deep

and abiding hope for a better future that a man such as Jim Richardson fought for his country only to return to a society that did not afford all that was allowed them under the Constitution of the United States.

After the war, Jim returned to Charlotte and entered Johnson C. Smith University. He graduated with a degree in Physical Education and minored in General Sciences. His Post Office career began in 1949 as a postal clerk in Charlotte. With the railroads still being the dominant form of transporting the mail, Jim transferred to the Railway Postal Service. When he returned to the Charlotte Post Office years later he had risen through the ranks to having held several supervisory positions. With 33 years of service in the Federal Government, he retirement as the US Postmaster in Mt. Holly, NC.

Now, that would be a full career for most individuals. What I have not mentioned is that Jim Richardson was an elected official having served distinguishably in both the North Carolina State House and State Senate. It was here that this man whose family taught him the mantra ''do good for others and goodness will return to you'' continued his advocacy for those who needed it most. These were often the poor, minorities and the elderly. Jim's legislative record reflected his life's experiences. When he retired from the State Senate, he was a role model for elected officials of both parties. I include myself as being one who looks to Jim Richardson not on the issues of the day, but on the manner in which we conduct ourselves in the daily business of serving the people who elected us.

Again, you would think this would be enough public service for most people. Not for Jim. He returned from the State Legislature to Charlotte and was elected as a Mecklenburg County Commissioner. I came to know him during this his third career. When I called on him for advice and counsel, he opened the wealth of his life's experiences to me. He also opened his home where I stayed during my campaign for the Senate seat. I learned from the man and about him. He and his wife Mary are revered for so many of their contributions to the community. Chief among them is their work on HIV/AIDS awareness among young people. Their hope is to save lives and spare families the experience of losing a loved one to this dreaded disease.

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

S. 743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JIM RICHARDSON POST OFFICE BUILDING.

The building that houses operations of the University Park United States Postal Service, located at 2127 Beattys Ford Road, in Charlotte, North Carolina (or any other building to which the University Park United States Postal Service may relocate after the date of enactment of this Act), shall be known and designated as the ''Jim Richardson Post Office Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex to the building referred to in section 1 shall be deemed to be a reference to the Jim Richardson Post Office Building.

By Mrs. FEINSTEIN:

S. 745. A bill to require the consent of an individual prior to the sale and marketing of such individual's personally identifiable information, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce the ''Privacy Act of 2003.''

This legislation would establish, for the first time, a comprehensive national system of privacy protection.

It would: require companies to gain consumers' written consent prior to selling their most sensitive personal information including personal health information, financial information, Social Security numbers, and drivers' license data; and require companies to provide consumers' notice and an opportunity to refuse to allow their less sensitive personal information to be sold.

Simply put, this legislation would give consumers more control over how their personal information is used.

The personal information of today's consumer is too vulnerable to abuse. With access to sensitive data so widely available—often just at the touch of a keyboard—it is easy to understand why identity theft has become one of the country's fastest growing crimes.

Recent statistics on the growth of identity theft suggest we have no time to waste in protecting personal privacy.

Identity theft is the number one consumer complaint reported to the Federal Trade Commission. American consumers filed approximately 163,000 identity theft complaints with the FTC in 2002. Fully 43 percent of all the complaints the FTC receives are about identity theft.

An estimated 700,000 cases of identity theft occur each year. The average victim spends an average of 175 hours over a two-year period clearing off an average of $17,000 fraud off their credit reports.

My own State, California, has more victims than any other state. The FTC recorded 30,738 identity theft cases last year from California consumers alone.

While modern technology has increased the threat to personal security and privacy, the protections for individual privacy have not kept pace. Our country's privacy laws form an incomplete and inconsistent patchwork.

For example, Americans enjoy the highest level of privacy protection concerning the names of the movies they rent at a video store. But, at the same time, it is perfectly legal to sell another person's Social Security number over the Internet.

The Privacy Act would establish a Federal privacy standard that adjusts the level of privacy protection according to the sensitivity of the information at issue.

The legislation provides the highest level of protection for a person's most sensitive data—personal financial data, health data, driver's license information, and Social Security numbers.

For this sensitive data, the bill gives the individual ultimate control over whether or not his or her information is shared. If an individual does not actively decide to permit sharing of personal data, the data is not disclosed.

Specifically, this legislation tightens the privacy provisions of the Financial Services Modernization Act, commonly known as the Gramm-Leach-Bliley Act. Under Gramm-Leach-Bliley, a bank can share a customer's personal information with other companies so long as it gives consumers notice and the right to opt-out of the data sharing.

The problem with opt-out is that most people toss out their privacy notices from banks along with the rest of the unrelenting pile of commercial solicitations they receive. Since the passage of Gramm-Leach-Bliley, banks have sent out over one billion privacy notices.

According to available published information, fewer than 5 percent of bank customers have opted out of sharing their personal information, and for many financial institutions, the response rate has been less than one percent.

It is not surprising that consumers do not respond overwhelmingly to these notices, since, by some estimates, the average American household received a dozen of these notices. A consumer should not have the burden of constantly monitoring how his or her most sensitive personal information is shared with other companies.

Accordingly, the Privacy Act prohibits the sale or disclosure of sensitive personal financial information to third parties unless the consumer affirmatively consents or opts in.

This legislation also toughens Federal financial privacy laws for affiliate sharing and joint marketing. An affiliate is a company that is linked by common ownership with another company. Under Federal law, a bank can share with affiliates or joint marketing partners regardless of whether the consumer wants this information shared.

The Privacy Act of 2003 would require that banks give consumers the option of opting out of the sharing of their personal financial information with the bank's affiliates or joint partners.

Some banks argue that affiliates are just branches of an organization, and a bank should for efficiency purposes be able to share data within the entire organization. In an era where a bank had one or two affiliates, that might be true.

But, now, some companies are so big that if a customer has no control over

affiliate sharing, then the customer is unable to prevent the disclosure of their data to hundreds of companies. For example, in recent testimony before Congress, U.S. PIRG reported that Citibank has 2,761 affiliates, Key Bank had 871 affiliates, and Bank of America has 1,576 affiliates.

Similarly, a customer must be able to restrict a bank's sharing of personal information with its joint venture partners if the customer wants to maintain control over his personal information.

I would also like to describe several other key components of the financial privacy section.

The bill prohibits banks from denying a customer a financial product or financial service just because the customer chooses to not disclose his personal information to third parties, affiliates, or joint venture partners. However, the bill does allow banks to offer incentives to customers to encourage them to permit the sharing of their personal information.

Additionally, the bill permits banks to disclose, but not sell, personal information to third parties for vital public interest purposes such as identifying or locating missing and abducted children, witnesses, criminals and fugitives, parents delinquent in child support payments, organ and bone marrow donors, pension fund beneficiaries, and missing heirs.

Just as with financial data, personal health data deserves the most stringent privacy protections.

The recently adopted Department of Health and Human Services privacy regulations set a basic opt-in framework for disclosure of health information. But more can be done to protect patient privacy.

The regulations only prohibit ''covered entities''—namely health insurers, health providers, and health care clearinghouses—from selling a patient's health information without that patient's prior consent.

Meanwhile, non-covered entities such as business associates, health researchers, schools or universities, and life insurers are not subject to this opt-in requirement, except through contractual arrangements.

This legislation would preserve the privacy of health information wherever the information is sold. Any business associate, life insurer, school or non-covered entity trying to sell or market protected health information would, like covered entities, have to get the patient's prior consent.

Drivers' license data also is given the strongest level of protection under this bill.

With its recent amendments, the Driver's Privacy Protection Act, DPPA, offers some meaningful protections for drivers privacy.

For example, under the DPPA, a State Department of Motor Vehicles must obtain the prior consent, Opt-in, of the driver before ''highly sensitive information''—defined as the driver's photograph, image, Social Security number, medical or disability information—can be disclosed to a third party.

However, loopholes remain. Other sensitive information found on a driver's license deserves equal protection.

The Privacy Act would expand the definition of ''highly sensitive information'' to include a physical copy of a driver's license, the driver identification number, birth date, information on the driver's physical characteristics and any biometric identifiers, such as a fingerprint, that are found on the driver's license.

Thus, this bill would ensure consumers have control over how their motor vehicle records and driver's license data are used.

I would like to take a moment to highlight the Social Security number section of the privacy bill, which reflects over four years of negotiation with Senator HATCH, Senator GREGG, Senator GRASSLEY, Senator BAUCUS, and other Senate colleagues. I have also introduced this section as a stand-alone bill, Senate bill 228.

It is crucial to protect Social Security numbers because the numbers are the key to a person's identity. Many identity theft cases start with the theft of a Social Security number. Once a thief has access to a victim's Social Security number, it is only a short step to acquiring credit cards, driver's licenses, or other crucial identification documents.

Not surprisingly, members of the public have flooded our Federal agencies with pleas for assistance. Reports to the Social Security Administration of Social Security number misuse have increased from 7,868 in 1997 to 73,000 in 2002—an astonishing increase of over 800%.

The Feinstein/Gregg compromise bars the sale or display of Social Security numbers to the public except in a very narrow set of circumstances.

Display or sale is permitted if the Social Security number holder consents or if there are compelling public safety needs.

Government entities will have to redact Social Security numbers from electronic records that are readily available to the public on the Internet.

Moreover, State governments will no longer be permitted to use the Social Security number as the default driver's license number.

The legislation, however, recognizes that some industries rely on Social Security numbers to exchange information between databases and complete identification verification necessary for certain transactions.

Thus, the bill directs the Attorney General to develop regulations allowing for the sale or purchase of Social Security Numbers to facilitate business-to-business and business-to-government transactions so long as businesses put appropriate safeguards in place and do not permit public access to the number.

Recognizing that not all personal information merits the same restrictions, the bill permits businesses to collect and sell nonsensitive personal information, *e.g.*, name, phone number, address, to third parties so long as they give customers notice and the opportunity to opt-out of the sale.

The opt-out standard for non-sensitive information means that if a person fills out a warranty card, signs up for a computer service, or submits an entry for a sweepstakes, the business must notify him before it sells his personal information to other businesses or marketers.

This framework guarantees basic privacy protections for consumers without unduly impacting commerce.

To further minimize the regulatory burden of these privacy rules, the bill sets up a safe harbor so that industries and industry-sponsored seal programs which have already adopted Notice-and-Opt Out information policies, will be exempt from the regulatory requirements of the legislation.

To ensure uniformity of the laws across all 50 states, the bill preempts inconsistent state laws regarding the treatment of non-sensitive information.

A jumbled patchwork of State privacy laws helps neither businesses nor consumers. Consumers will have confused expectations about what information is protected.

Another distinguishing characteristic of the Privacy Act of 2003 is that it protects the privacy of information regardless of the medium through which it is collected.

Other privacy proposals have tried to confine privacy legislation to the Internet.

These proposals unfairly discriminate against high technology users. Put simply, companies and other entities can misuse personal information from off-line sources just as easily as with on-line sources.

For example, telemarketers who besiege consumers with phone calls during the dinner hour do not typically get customer information from the Internet. Much of the identifying information used to make these calls comes from consumers filling out and mailing back warranty and registration cards.

Regardless of how information is collected, it should get equal protection.

This legislation codifies steps Congress can take to protect citizens from identity thieves and other predators of personal information.

It restores to an individual more control over his or her most sensitive personal information such as Social Security numbers, health information, and financial information. It also sets reasonable guidelines for businesses that handle our personal information every day.

A byproduct of our information economy—personal information is much more vulnerable to exploitation than ever before.

Every American has a fundamental right to privacy, no matter how fast our technology grows or changes. A

person should be able to have control over how their most sensitive personal information is used.

But our right to privacy only will remain vital, if we take strong action to protect it.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

I look forward to working with my colleagues to enact the Privacy Act of 2003.

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

S. 745

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 ''Privacy Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMERCIAL SALE AND MARKETING OF PERSONALLY IDENTIFIABLE INFORMATION

Sec. 101. Collection and distribution of personally identifiable information.
Sec. 102. Enforcement.
Sec. 103. Safe harbor.
Sec. 104. Definitions.
Sec. 105. Preemption.
Sec. 106. Effective Date.

TITLE II—SOCIAL SECURITY NUMBER MISUSE PREVENTION

Sec. 201. Findings.
Sec. 202. Prohibition of the display, sale, or purchase of social security numbers.
Sec. 203. Application of prohibition of the display, sale, or purchase of social security numbers to public records.
Sec. 204. Rulemaking authority of the Attorney General.
Sec. 205. Treatment of social security numbers on government documents.
Sec. 206. Limits on personal disclosure of a social security number for consumer transactions.
Sec. 207. Extension of civil monetary penalties for misuse of a social security number.
Sec. 208. Criminal penalties for the misuse of a social security number.
Sec. 209. Civil actions and civil penalties.
Sec. 210. Federal injunctive authority.

TITLE III—LIMITATIONS ON SALE AND SHARING OF NONPUBLIC PERSONAL FINANCIAL INFORMATION

Sec. 301. Definition of sale.
Sec. 302. Rules applicable to sale of nonpublic personal information.
Sec. 303. Exceptions to disclosure prohibition.
Sec. 304. Conforming amendments.
Sec. 305. Regulatory authority.
Sec. 306. Effective date.

TITLE IV—LIMITATIONS ON THE PROVISION OF PROTECTED HEALTH INFORMATION

Sec. 401. Definitions.
Sec. 402. Prohibition against selling protected health information.
Sec. 403. Authorization for sale or marketing of protected health information by noncovered entities.
Sec. 404. Prohibition against retaliation.
Sec. 405. Rule of construction.
Sec. 406. Regulations.
Sec. 407. Enforcement.

TITLE V—DRIVER'S LICENSE PRIVACY

Sec. 501. Driver's license privacy.

TITLE VI—MISCELLANEOUS

Sec. 601. Enforcement by State Attorneys General.
Sec. 602. Federal injunctive authority.

TITLE I—COMMERCIAL SALE AND MARKETING OF PERSONALLY IDENTIFIABLE INFORMATION

SEC. 101. COLLECTION AND DISTRIBUTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) PROHIBITION.—

(1) IN GENERAL.—It is unlawful for a commercial entity to collect personally identifiable information and disclose such information to any nonaffiliated third party for marketing purposes or sell such information to any nonaffiliated third party, unless the commercial entity provides—

(A) notice to the individual to whom the information relates in accordance with the requirements of subsection (b); and

(B) an opportunity for such individual to restrict the disclosure or sale of such information.

(2) EXCEPTION.—A commercial entity may collect personally identifiable information and use such information to market to potential customers such entity's product.

(b) NOTICE.—

(1) IN GENERAL.—A notice under subsection (a) shall contain statements describing the following:

(A) The identity of the commercial entity collecting the personally identifiable information.

(B) The types of personally identifiable information that are being collected on the individual.

(C) How the commercial entity may use such information.

(D) A description of the categories of potential recipients of such personally identifiable information.

(E) Whether the individual is required to provide personally identifiable information in order to do business with the commercial entity.

(F) How an individual may decline to have such personally identifiable information used or sold as described in subsection (a).

(2) TIME OF NOTICE.—Notice shall be conveyed prior to the sale or use of the personally identifiable information as described in subsection (a) in such a manner as to allow the individual a reasonable period of time to consider the notice and limit such sale or use.

(3) MEDIUM OF NOTICE.—The medium for providing notice must be—

(A) the same medium in which the personally identifiable information is or will be collected, or a medium approved by the individual; or

(B) in the case of oral communication, notice may be conveyed orally or in writing.

(4) FORM OF NOTICE.—The notice shall be clear and conspicuous.

(c) OPT-OUT.—

(1) OPPORTUNITY TO OPT-OUT OF SALE OR MARKETING.—The opportunity provided to limit the sale of personally identifiable information to nonaffiliated third parties or the disclosure of such information for marketing purposes, shall be easy to use, accessible and available in the medium the information is collected, or in a medium approved by the individual.

(2) DURATION OF LIMITATION.—An individual's limitation on the sale or marketing of personally identifiable information shall be considered permanent, unless otherwise specified by the individual.

(3) REVOCATION OF CONSENT.—After an individual grants consent to the use of that individual's personally identifiable information, the individual may revoke the consent at any time, except to the extent that the commercial entity has taken action in reliance thereon. The commercial entity shall provide the individual an opportunity to revoke consent that is easy to use, accessible, and available in the medium the information was or is collected.

(4) NOT APPLICABLE.—This section shall not apply to disclosure of personally identifiable information—

(A) that is necessary to facilitate a transaction specifically requested by the consumer;

(B) is used for the sole purpose of facilitating this transaction; and

(C) in which the entity receiving or obtaining such information is limited, by contract, to use such formation for the purpose of completing the transaction.

SEC. 102. ENFORCEMENT.

(a) IN GENERAL.—In accordance with the provisions of this section, the Federal Trade Commission shall have the authority to enforce any violation of section 101 of this Act.

(b) VIOLATIONS.—The Federal Trade Commission shall treat a violation of section 101 as a violation of a rule under section 18a(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(c) TRANSFER OF ENFORCEMENT AUTHORITY.—The Federal Trade Commission shall promulgate rules in accordance with section 553 of title 5, United States Code, allowing for the transfer of enforcement authority from the Federal Trade Commission to a Federal agency regarding section 101 of this Act. The Federal Trade Commission may permit a Federal agency to enforce any violation of section 101 if such agency submits a written request to the Commission to enforce such violations and includes in such request—

(1) a description of the entities regulated by such agency that will be subject to the provisions of section 101;

(2) an assurance that such agency has sufficient authority over the entities to enforce violations of section 101; and

(3) a list of proposed rules that such agency shall use in regulating such entities and enforcing section 101.

(d) ACTIONS BY THE COMMISSION.—Absent transfer of enforcement authority to a Federal agency under subsection (c), the Federal Trade Commission shall prevent any person from violating section 101 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as provided to such Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Any entity that violates section 101 is subject to the penalties and entitled to the privileges and immunities provided in such Act in the same manner, by the same means, and with the same jurisdiction, power, and duties under such Act.

(e) RELATIONSHIP TO OTHER LAWS.—

(1) COMMISSION AUTHORITY.—Nothing contained in this title shall be construed to limit authority provided to the Commission under any other law.

(2) COMMUNICATIONS ACT.—Nothing in section 101 requires an operator of a website to take any action that is inconsistent with the requirements of section 222 or 631 of the Communications Act of 1934 (47 U.S.C. 222 and 5551).

(3) OTHER ACTS.—Nothing in this title is intended to affect the applicability or the enforceability of any provision of, or any amendment made by—

(A) the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.);

(B) title V of the Gramm-Leach-Bliley Act;

(C) the Health Insurance Portability and Accountability Act of 1996; or

(D) the Fair Credit Reporting Act.

(f) PUBLIC RECORDS.—Nothing in this title shall be construed to restrict commercial entities from obtaining or disclosing personally identifying information from public records.

(g) CIVIL PENALTIES.—In addition to any other penalty applicable to a violation of section 101(a), a penalty of up to $25,000 may be issued for each violation.

(h) ENFORCEMENT REGARDING PROGRAMS.—

(1) IN GENERAL.—A Federal agency or department providing financial assistance to any entity required to comply with section 101 of this Act shall issue regulations requiring that such entity comply with such section or forfeit some or all of such assistance. Such regulations shall prescribe sanctions for noncompliance, require that such department or agency provide notice of failure to comply with such section prior to any action being taken against such recipient, and require that a determination be made prior to any action being taken against such recipient that compliance cannot be secured by voluntary means.

(2) FEDERAL FINANCIAL ASSISTANCE.—The term ''Federal financial assistance'' means assistance through a grant, cooperative agreement, loan, or contract other than a contract of insurance or guaranty.

SEC. 103. SAFE HARBOR.

A commercial entity may not be held to have violated any provision of this title if such entity complies with self-regulatory guidelines that—

''(1) are issued by seal programs or representatives of the marketing or online industries or by any other person; and

''(2) are approved by the Federal Trade Commission, after public comment has been received on such guidelines by the Commission, as meeting the requirements of this title.

SEC. 104. DEFINITIONS.

In this title:

(1) COMMERCIAL ENTITY.—The term ''commercial entity''—

(A) means any person offering products or services involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; and

(B) does not include—

(i) any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(ii) any financial institution that is subject to title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); or

(iii) any group health plan, health insurance issuer, or other entity that is subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 201 note).

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) INDIVIDUAL.—The term ''individual'' means a person whose personally identifying information has been, is, or will be collected by a commercial entity.

(4) MARKETING.—The term ''marketing'' means to make a communication about a product or service a purpose of which is to encourage recipients of the communication to purchase or use the product or service.

(5) MEDIUM.—The term ''medium'' means any channel or system of communication including oral, written, and online communication.

(6) NONAFFILIATED THIRD PARTY.—The term ''nonaffiliated third party'' means any entity that is not related by common ownership or affiliated by corporate control with, the commercial entity, but does not include a joint employee of such institution.

(7) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means individually identifiable information about the individual that is collected including—

(A) a first, middle, or last name, whether given at birth or adoption, assumed, or legally changed;

(B) a home or other physical address, including the street name, zip code, and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a photograph or other form of visual identification;

(F) a birth date, birth certificate number, or place of birth for that person; or

(G) information concerning the individual that is combined with any other identifier in this paragraph.

(8) SALE; SELL; SOLD.—The terms ''sale'', ''sell'', and ''sold'', with respect to personally identifiable information, mean the exchanging of such information for any thing of value, directly or indirectly, including the licensing, bartering, or renting of such information.

(9) WRITING.—The term ''writing'' means writing in either a paper-based or computer-based form, including electronic and digital signatures.

SEC. 105. PREEMPTION.

The provisions of this title shall supersede any statutory and common law of States and their political subdivisions insofar as that law may now or hereafter relate to the—

(1) collection and disclosure of personally identifiable information for marketing purposes; and

(2) collection and sale of personally identifiable information.

SEC. 106. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE II—SOCIAL SECURITY NUMBER MISUSE PREVENTION

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of social security numbers has contributed to a growing range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used social security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a social security number in order to pay taxes, to qualify for social security benefits, or to seek employment. An unintended consequence of these requirements is that social security numbers have become one of the tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Federal Government to take steps to stem the abuse of social security numbers.

(4) The display, sale, or purchase of social security numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should seek to profit from the display, sale, or purchase of social security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this title provides each individual that has been assigned a social security number some degree of protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

SEC. 202. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028 the following:

''§ 1028A. Prohibition of the display, sale, or purchase of social security numbers

''(a) DEFINITIONS.—In this section:

''(1) DISPLAY.—The term 'display' means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual's social security number.

''(2) PERSON.—The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(3) PURCHASE.—The term 'purchase' means providing directly or indirectly, anything of value in exchange for a social security number.

''(4) SALE.—The term 'sale' means obtaining, directly or indirectly, anything of value in exchange for a social security number.

''(5) STATE.—The term 'State' means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

''(b) LIMITATION ON DISPLAY.—Except as provided in section 1028B, no person may display any individual's social security number to the general public without the affirmatively expressed consent of the individual.

''(c) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual's social security number without the affirmatively expressed consent of the individual.

''(d) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, selling or attempting to sell, or purchasing or attempting to purchase, an individual's social security number shall—

''(1) inform the individual of the general purpose for which the number will be used, the types of persons to whom the number may be available, and the scope of transactions permitted by the consent; and

''(2) obtain the affirmatively expressed consent (electronically or in writing) of the individual.

''(e) EXCEPTIONS.—Nothing in this section shall be construed to prohibit or limit the display, sale, or purchase of a social security number—

''(1) required, authorized, or excepted under any Federal law;

''(2) for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

''(3) for a national security purpose;

''(4) for a law enforcement purpose, including the investigation of fraud and the enforcement of a child support obligation;

''(5) if the display, sale, or purchase of the number is for a use occurring as a result of an interaction between businesses, governments, or business and government (regardless of which entity initiates the interaction), including, but not limited to—

''(A) the prevention of fraud (including fraud in protecting an employee's right to employment benefits);

''(B) the facilitation of credit checks or the facilitation of background checks of employees, prospective employees, or volunteers;

''(C) the retrieval of other information from other businesses, commercial enterprises, government entities, or private nonprofit organizations; or

''(D) when the transmission of the number is incidental to, and in the course of, the sale, lease, franchising, or merger of all, or a portion of, a business;

''(6) if the transfer of such a number is part of a data matching program involving a Federal, State, or local agency; or

''(7) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program;

except that, nothing in this subsection shall be construed as permitting a professional or commercial user to display or sell a social security number to the general public.

''(f) LIMITATION.—Nothing in this section shall prohibit or limit the display, sale, or purchase of social security numbers as permitted under title V of the Gramm-Leach-Bliley Act, or for the purpose of affiliate sharing as permitted under the Fair Credit Reporting Act, except that no entity regulated under such Acts may make social security numbers available to the general public, as may be determined by the appropriate regulators under such Acts. For purposes of this subsection, the general public shall not include affiliates or unaffiliated third-party business entities as may be defined by the appropriate regulators.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following:

''1028A. Prohibition of the display, sale, or purchase of social security numbers.''.

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Attorney General shall conduct a study and prepare a report on all of the uses of social security numbers permitted, required, authorized, or excepted under any Federal law. The report shall include a detailed description of the uses allowed as of the date of enactment of this Act and shall evaluate whether such uses should be continued or discontinued by appropriate legislative action.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall report to Congress findings under this subsection. The report shall include such recommendations for legislation based on criteria the Attorney General determines to be appropriate.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 30 days after the date on which the final regulations promulgated under section 5 are published in the Federal Register.

SEC. 203. APPLICATION OF PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code (as amended by section 3(a)(1)), is amended by inserting after section 1028A the following:

''§ 1028B. Display, sale, or purchase of public records containing social security numbers

''(a) DEFINITION.—In this section, the term 'public record' means any governmental record that is made available to the general public.

''(b) IN GENERAL.—Except as provided in subsections (c), (d), and (e), section 1028A shall not apply to a public record.

''(c) PUBLIC RECORDS ON THE INTERNET OR IN AN ELECTRONIC MEDIUM.—

''(1) IN GENERAL.—Section 1028A shall apply to any public record first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity after the date of enactment of this section, except as limited by the Attorney General in accordance with paragraph (2).

''(2) EXCEPTION FOR GOVERNMENT ENTITIES ALREADY PLACING PUBLIC RECORDS ON THE INTERNET OR IN ELECTRONIC FORM.—Not later than 60 days after the date of enactment of this section, the Attorney General shall issue regulations regarding the applicability of section 1028A to any record of a category of public records first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity prior to the date of enactment of this section. The regulations will determine which individual records within categories of records of these government entities, if any, may continue to be posted on the Internet or in electronic form after the effective date of this section. In promulgating these regulations, the Attorney General may include in the regulations a set of procedures for implementing the regulations and shall consider the following:

''(A) The cost and availability of technology available to a governmental entity to redact social security numbers from public records first provided in electronic form after the effective date of this section.

''(B) The cost or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments of complying with section 1028A with respect to such records.

''(C) The benefit to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028A should apply to such records.

Nothing in the regulation shall permit a public entity to post a category of public records on the Internet or in electronic form after the effective date of this section if such category had not been placed on the Internet or in electronic form prior to such effective date.

''(d) HARVESTED SOCIAL SECURITY NUMBERS.—Section 1028A shall apply to any public record of a government entity which contains social security numbers extracted from other public records for the purpose of displaying or selling such numbers to the general public.

''(e) ATTORNEY GENERAL RULEMAKING ON PAPER RECORDS.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Attorney General shall determine the feasibility and advisability of applying section 1028A to the records listed in paragraph (2) when they appear on paper or on another nonelectronic medium. If the Attorney General deems it appropriate, the Attorney General may issue regulations applying section 1028A to such records.

''(2) LIST OF PAPER AND OTHER NONELECTRONIC RECORDS.—The records listed in this paragraph are as follows:

''(A) Professional or occupational licenses.

''(B) Marriage licenses.

''(C) Birth certificates.

''(D) Death certificates.

''(E) Other short public documents that display a social security number in a routine and consistent manner on the face of the document.

''(3) CRITERIA FOR ATTORNEY GENERAL REVIEW.—In determining whether section 1028A should apply to the records listed in paragraph (2), the Attorney General shall consider the following:

''(A) The cost or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments of complying with section 1028A.

''(B) The benefit to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028A should apply to such records.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code (as amended by section 202(a)(2)), is amended by inserting after the item relating to section 1028A the following:

''1028B. Display, sale, or purchase of public records containing social security numbers.''.

(b) STUDY AND REPORT ON SOCIAL SECURITY NUMBERS IN PUBLIC RECORDS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study and prepare a report on social security numbers in public records. In developing the report, the Comptroller General shall consult with the Administrative Office of the United States Courts, State and local governments that store, maintain, or disseminate public records, and other stakeholders, including members of the private sector who routinely use public records that contain social security numbers.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a detailed description of the activities and results of the study and recommendations for such legislative action as the Comptroller General considers appropriate. The report, at a minimum, shall include—

(A) a review of the uses of social security numbers in non-federal public records;

(B) a review of the manner in which public records are stored (with separate reviews for both paper records and electronic records);

(C) a review of the advantages or utility of public records that contain social security numbers, including the utility for law enforcement, and for the promotion of homeland security;

(D) a review of the disadvantages or drawbacks of public records that contain social security numbers, including criminal activity, compromised personal privacy, or threats to homeland security;

(E) the costs and benefits for State and local governments of removing social security numbers from public records, including a review of current technologies and procedures for removing social security numbers from public records; and

(F) an assessment of the benefits and costs to businesses, their customers, and the general public of prohibiting the display of social security numbers on public records (with separate assessments for both paper records and electronic records).

(c) EFFECTIVE DATE.—The prohibition with respect to electronic versions of new classes of public records under section 1028B(b) of title 18, United States Code (as added by subsection (a)(1)) shall not take effect until the

date that is 60 days after the date of enactment of this Act.

SEC. 204. RULEMAKING AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 1028A(e)(5) of title 18, United States Code (as added by section 202(a)(1)).

(b) DISPLAY, SALE, OR PURCHASE RULEMAKING WITH RESPECT TO INTERACTIONS BETWEEN BUSINESSES, GOVERNMENTS, OR BUSINESS AND GOVERNMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Social Security, the Chairman of the Federal Trade Commission, and such other heads of Federal agencies as the Attorney General determines appropriate, shall conduct such rulemaking procedures in accordance with subchapter II of chapter 5 of title 5, United States Code, as are necessary to promulgate regulations to implement and clarify the uses occurring as a result of an interaction between businesses, governments, or business and government (regardless of which entity initiates the interaction) permitted under section 1028A(e)(5) of title 18, United States Code (as added by section 202(a)(1)).

(2) FACTORS TO BE CONSIDERED.—In promulgating the regulations required under paragraph (1), the Attorney General shall, at a minimum, consider the following:

(A) The benefit to a particular business, to customers of the business, and to the general public of the display, sale, or purchase of an individual's social security number.

(B) The costs that businesses, customers of businesses, and the general public may incur as a result of prohibitions on the display, sale, or purchase of social security numbers.

(C) The risk that a particular business practice will promote the use of a social security number to commit fraud, deception, or crime.

(D) The presence of adequate safeguards and procedures to prevent—

(i) misuse of social security numbers by employees within a business; and

(ii) misappropriation of social security numbers by the general public, while permitting internal business uses of such numbers.

(E) The presence of procedures to prevent identity thieves, stalkers, and other individuals with ill intent from posing as legitimate businesses to obtain social security numbers.

SEC. 205. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT DOCUMENTS.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:

''(x) No Federal, State, or local agency may display the social security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF APPEARANCE OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATION.—

(1) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(A) by inserting ''(I)'' after ''(vi)''; and

(B) by adding at the end the following:

''(II)(aa) An agency of a State (or political subdivision thereof), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not display the social security account numbers issued by the Commissioner of Social Security, or any derivative of such numbers, on the face of any driver's license or motor vehicle registration or any other document issued by such State (or political subdivision thereof) to an individual for purposes of identification of such individual.

''(bb) Nothing in this subclause shall be construed as precluding an agency of a State (or political subdivision thereof), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, from using a social security account number for an internal use or to link with the database of an agency of another State that is responsible for the administration of any driver's license or motor vehicle registration law.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to licenses, registrations, and other documents issued or reissued after the date that is 1 year after the date of enactment of this Act.

(c) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

SEC. 206. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

''SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

''(a) IN GENERAL.—A commercial entity may not require an individual to provide the individual's social security number when purchasing a commercial good or service or deny an individual the good or service for refusing to provide that number except—

''(1) for any purpose relating to—

''(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act;

''(B) a background check of the individual conducted by a landlord, lessor, employer, voluntary service agency, or other entity as determined by the Attorney General;

''(C) law enforcement; or

''(D) a Federal, State, or local law requirement; or

''(2) if the social security number is necessary to verify the identity of the consumer to effect, administer, or enforce the specific transaction requested or authorized by the consumer, or to prevent fraud.

''(b) APPLICATION OF CIVIL MONEY PENALTIES.—A violation of this section shall be deemed to be a violation of section 1129(a)(3)(F).

''(c) APPLICATION OF CRIMINAL PENALTIES.—A violation of this section shall be deemed to be a violation of section 208(a)(8).

''(d) LIMITATION ON CLASS ACTIONS.—No class action alleging a violation of this section shall be maintained under this section by an individual or any private party in Federal or State court.

''(e) STATE ATTORNEY GENERAL ENFORCEMENT.—

''(1) IN GENERAL.—

''(A) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under this section, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

''(i) enjoin that practice;

''(ii) enforce compliance with such section;

''(iii) obtain damages, restitution, or other compensation on behalf of residents of the State; or

''(iv) obtain such other relief as the court may consider appropriate.

''(B) NOTICE.—

''(i) IN GENERAL.—Before filing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General—

''(I) written notice of the action; and

''(II) a copy of the complaint for the action.

''(ii) EXEMPTION.—

''(I) IN GENERAL.—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

''(II) NOTIFICATION.—With respect to an action described in subclause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

''(2) INTERVENTION.—

''(A) IN GENERAL.—On receiving notice under paragraph (1)(B), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

''(B) EFFECT OF INTERVENTION.—If the Attorney General intervenes in the action under paragraph (1), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

''(A) conduct investigations;

''(B) administer oaths or affirmations; or

''(C) compel the attendance of witnesses or the production of documentary and other evidence.

''(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under this section, no State may, during the pendency of that action, institute an action under paragraph (1) against any defendant named in the complaint in that action for violation of that practice.

''(5) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) may be found.

''(f) SUNSET.—This section shall not apply on or after the date that is 6 years after the effective date of this section.''.

(b) EVALUATION AND REPORT.—Not later than the date that is 6 years and 6 months after the date of enactment of this Act, the Attorney General, in consultation with the chairman of the Federal Trade Commission, shall issue a report evaluating the effectiveness and efficiency of section 1150A of the Social Security Act (as added by subsection (a)) and shall make recommendations to Congress as to any legislative action determined to be necessary or advisable with respect to such section, including a recommendation regarding whether to reauthorize such section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests to provide a social security number occurring after the date that is 1 year after the date of enactment of this Act.

SEC. 207. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—The first sentence of section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking ''who'' and inserting ''who—'';

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(B) makes such a statement or representation for such use with knowing disregard for the truth; or

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to'';

(C) by inserting ''or each receipt of such benefits while withholding disclosure of such fact'' after ''each such statement or representation'';

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation''; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation''.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—The first sentence of section 1129A(a) of the Social Security Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(2) makes such a statement or representation for such use with knowing disregard for the truth; or

''(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to''.

(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8(a)), as amended by subsection (a)(1), is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesignating the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following:

''(3) Any person (including an organization, agency, or other entity) who—

''(A) uses a social security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

''(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;

''(C) knowingly alters a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

''(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;

''(E) counterfeits a social security card, or possesses a counterfeit social security card with intent to display, sell, or purchase it;

''(F) discloses, uses, compels the disclosure of, or knowingly displays, sells, or purchases the social security account number of any person in violation of the laws of the United States;

''(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

''(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number which purports to be a social security account number; or

''(I) being an officer or employee of a Federal, State, or local agency in possession of any individual's social security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (vi)(II) or (x) of section 205(c)(2)(C),

shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.''.

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking ''In the case of amounts recovered arising out of a determination relating to title VIII or XVI,'' and inserting ''In the case of any other amounts recovered under this section,''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ''charging fraud or false statements''.

(2) Section 1129(c)(1) of the Social Security Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking ''and representations'' and inserting '', representations, or actions''.

(3) Section 1129(e)(1)(A) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking ''statement or representation referred to in subsection (a) was made'' and inserting ''violation occurred''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations of sections 1129 and 1129A of the Social Security Act (42 U.S.C. 1320–8 and 1320a–8a), as amended by this section, committed after the date of enactment of this Act.

(2) VIOLATIONS BY GOVERNMENT AGENTS IN POSSESSION OF SOCIAL SECURITY NUMBERS.—Section 1129(a)(3)(I) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)(I)), as added by subsection (b), shall apply with respect to violations of that section occurring on or after the effective date described in section 202(c).

SEC. 208. CRIMINAL PENALTIES FOR THE MISUSE OF A SOCIAL SECURITY NUMBER.

(a) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's social security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

(b) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following:

''(9) except as provided in subsections (e) and (f) of section 1028A of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in section 1028A(a) of title 18, United States Code) any individual's social security account number without having met the prerequisites for consent under section 1028A(d) of title 18, United States Code; or

''(10) obtains any individual's social security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;''.

SEC. 209. CIVIL ACTIONS AND CIVIL PENALTIES.

(a) CIVIL ACTION IN STATE COURTS.—

(1) IN GENERAL.—Any individual aggrieved by an act of any person in violation of this title or any amendments made by this title may, if otherwise permitted by the laws or rules of the court of a State, bring in an appropriate court of that State—

(A) an action to enjoin such violation;

(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater; or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of the regulations prescribed under this title. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

(2) STATUTE OF LIMITATIONS.—An action may be commenced under this subsection not later than the earlier of—

(A) 5 years after the date on which the alleged violation occurred; or

(B) 3 years after the date on which the alleged violation was or should have been reasonably discovered by the aggrieved individual.

(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedies available to the individual.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who the Attorney General determines has violated any section of this title or of any amendments made by this title shall be subject, in addition to any other penalties that may be prescribed by law—

(A) to a civil penalty of not more than $5,000 for each such violation; and

(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the social security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the first sentence of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty action under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a–7a) to the Secretary shall be deemed to be a reference to the Attorney General.

SEC. 210. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this title or the amendments made by this title, the Federal Government shall have injunctive authority with respect to any violation by a public entity of any provision of this title or of any amendments made by this title.

TITLE III—LIMITATIONS ON SALE AND SHARING OF NONPUBLIC PERSONAL FINANCIAL INFORMATION

SEC. 301. DEFINITION OF SALE.

Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended by adding at the end the following:

''(12) SALE.—The terms 'sale', 'sell', and 'sold', with respect to nonpublic personal information, mean the exchange of such information for any thing of value, directly or indirectly, including the licensing, bartering, or renting of such information.''.

SEC. 302. RULES APPLICABLE TO SALE OF NONPUBLIC PERSONAL INFORMATION.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended—

(1) in the section heading, by inserting ''**SALES, AND OTHER SHARING**'' after ''**DISCLOSURES**'';

(2) in subsection (a), by striking ''disclose to'' and inserting ''sell or otherwise disclose to an affiliate or'';

(3) in subsection (b)—

(A) in the subsection heading, by inserting ''FOR DISCLOSURES TO AFFILIATES'' before the period;

(B) by striking ''a nonaffiliated third party'' each place that term appears and inserting ''an affiliate'';

(C) by striking ''such third party'' each place that term appears and inserting ''such affiliate'';

(D) by striking ''may not disclose'' and inserting ''may not sell or otherwise disclose''; and

(E) by striking paragraph (2) and inserting the following:

''(2) EXCEPTION.—This subsection shall not prevent a financial institution from providing nonpublic personal information to an affiliated third party to perform services for or functions on behalf of the financial institution, including marketing of the financial institution's own products or services, if the financial institution fully discloses the provision of such information and requires the affiliate to maintain the confidentiality of such information.'';

(4) in subsection (d), by striking ''disclose'' and inserting ''sell or otherwise disclose'';

(5) by striking subsection (e);

(6) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(7) by inserting after subsection (b) the following:

''(c) OPT IN FOR DISCLOSURES TO NONAFFILIATED THIRD PARTIES.—

''(1) AFFIRMATIVE CONSENT REQUIRED.—A financial institution may not sell or otherwise disclose nonpublic personal information to any nonaffiliated third party, unless the consumer to whom the information pertains—

''(A) has affirmatively consented to the sale or disclosure of such information; and

''(B) has not withdrawn the consent.

''(2) EXCEPTION.—This subsection shall not prevent a financial institution from providing nonpublic personal information to a nonaffiliated third party to perform services for or functions on behalf of the financial institution, including marketing of the financial institution's own products or services (subject to subsection (d) with respect to joint agreements between 2 or more financial institutions), if the financial institution fully discloses the provision of such information and enters into a contractual agreement with the nonaffiliated third party that requires that third party to maintain the confidentiality of such information.

''(d) OPT OUT FOR JOINT AGREEMENTS.—A financial institution may not sell or otherwise disclose nonpublic personal information to a nonaffiliated third party for the purpose of offering financial products or services pursuant to a joint agreement between 2 or more financial institutions, unless—

''(1) the financial institution clearly and conspicuously discloses to the consumer to whom the information pertains, in writing or in electronic form or other form permitted by the regulations prescribed under section 504, that such information may be disclosed to such nonaffiliated third party;

''(2) the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such nonaffiliated third party;

''(3) the consumer is given an explanation of how the consumer can exercise that nondisclosure option; and

''(4) the financial institution receiving the nonpublic personal information signs a written agreement obliging it—

''(A) to maintain the confidentiality of the information; and

''(B) to refrain from using, selling, or otherwise disclosing the information other than to carry out the joint offering or servicing of the financial product or financial service that is the subject of the written agreement.''.

SEC. 303. EXCEPTIONS TO DISCLOSURE PROHIBITION.

(a) IN GENERAL.—Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802), as amended by this title, is amended by adding at the end the following:

''(g) GENERAL EXCEPTIONS.—Notwithstanding any other provision of this section, this section does not prohibit—

''(1) the sale or other disclosure of nonpublic personal information to an affiliate or a nonaffiliated third party—

''(A) as necessary to effect, administer, or enforce a transaction requested or authorized by the consumer to whom the information pertains, or in connection with—

''(i) servicing or processing a financial product or service requested or authorized by the consumer;

''(ii) maintaining or servicing the account of the consumer with the financial institution, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

''(iii) a proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer;

''(B) with the consent or at the direction of the consumer, in accordance with applicable rules prescribed under this subtitle;

''(C) to the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978; or

''(D) to law enforcement agencies (including a Federal functional regulator, the Secretary of the Treasury, with respect to subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), a State insurance authority, or the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety;

''(2) the disclosure, other than the sale, of nonpublic personal information to identify or locate missing and abducted children, witnesses, criminals, and fugitives, parties to lawsuits, parents, delinquents in child support payments, organ and bone marrow donors, pension fund beneficiaries, and missing heirs; or

''(3) the disclosure, other than the sale, of nonpublic personal information—

''(A) to protect the confidentiality or security of the records of the financial institution pertaining to the consumer, the service or product, or the transaction therein;

''(B) to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

''(C) for required institutional risk control, or for resolving customer disputes or inquiries;

''(D) to persons holding a legal or beneficial interest relating to the consumer;

''(E) to persons acting in a fiduciary or representative capacity on behalf of the consumer;

''(F) to provide information to insurance rate advisory organizations, guaranty funds

or agencies, applicable rating agencies of the financial institution, persons assessing the compliance of the institution with industry standards, or the attorneys, accountants, or auditors of the institution;

''(G) to a consumer reporting agency, in accordance with the Fair Credit Reporting Act or from a consumer report reported by a consumer reporting agency, as those terms are defined in that Act;

''(H) in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit;

''(I) to comply with Federal, State, or local laws, rules, or other applicable legal requirements, or with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities; or

''(J) to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes, as authorized by law.

''(h) DENIAL OF SERVICE PROHIBITED.—A financial institution may not deny any consumer a financial product or a financial service as a result of the refusal by the consumer to grant consent to disclosure under this section or the exercise by the consumer of a nondisclosure option under this section, except that nothing in this subsection may be construed to prohibit a financial institution from offering incentives to elicit consumer consent to the use of his or her nonpublic personal information.''.

(b) REPEAL OF REGULATORY EXEMPTION AUTHORITY.—Section 504 of the Gramm-Leach-Bliley Act (15 U.S.C. 6804) is amended—

(1) by striking subsection (b);

(2) by striking ''(a) REGULATORY AUTHORITY.—'';

(3) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively, and moving the margins 2 ems to the left; and

(4) by striking ''paragraph (1)'' and inserting ''subsection (a)''.

SEC. 304. CONFORMING AMENDMENTS.

Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended—

(1) in section 503(b)(1) (15 U.S.C. 6803(b)(1))—

(A) by inserting ''affiliates and'' before ''nonaffiliated''; and

(B) in subparagraph (A), by striking ''502(e)'' and inserting ''502(g)''; and

(2) in section 509(3)(D) (15 U.S.C. 6809(3)(D)), by striking ''502(e)(1)(C)'' and inserting ''502(g)(1)(A)(iii)''.

SEC. 305. REGULATORY AUTHORITY.

Not later than 6 months after the date of enactment of this Act, the agencies referred to in section 504(a)(1) of the Gramm-Leach-Bliley Act (15 U.S.C. 6804(a)(1)) shall promulgate final regulations in accordance with that section 504 to carry out the amendments made by this Act.

SEC. 306. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 6 months after the date of enactment of this Act.

TITLE IV—LIMITATIONS ON THE PROVISION OF PROTECTED HEALTH INFORMATION

SEC. 401. DEFINITIONS.

In this title:

(1) BUSINESS ASSOCIATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''business associate'' means, with respect to a covered entity, a person who—

(i) on behalf of such covered entity or of an organized health care arrangement in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of—

(I) a function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or

(II) any other function or activity regulated under subchapter C of title 45, Code of Federal Regulations; or

(ii) provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation (as defined in section 164.501 of title 45, Code of Federal Regulations), management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized health care arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.

(B) LIMITATIONS.—

(i) IN GENERAL.—A covered entity participating in an organized health care arrangement that performs a function or activity as described by subparagraph (A)(i) for or on behalf of such organized health care arrangement, or that provides a service as described in subparagraph (A)(ii) to or for such organized health care arrangement, does not, simply through the performance of such function or activity or the provision of such service, become a business associate of other covered entities participating in such organized health care arrangement.

(ii) LIMITATION.—A covered entity may be a business associate of another covered entity.

(2) COVERED ENTITY.—The term ''covered entity'' means—

(A) a health plan;

(B) a health care clearinghouse; and

(C) a health care provider who transmits any health information in electronic form in connection with a transaction covered by parts 160 through 164 of title 45, Code of Federal Regulations.

(3) DISCLOSURE.—The term ''disclosure'' means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

(4) EMPLOYER.—The term ''employer'' has the meaning given that term in section 3401(d) of the Internal Revenue Code of 1986.

(5) GROUP HEALTH PLAN.—The term ''group health plan'' means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1002(1)), including insured and self-insured plans, to the extent that the plan provides medical care (as defined in section 2791(a)(2) of the Public Health Service Act, 42 U.S.C. 300gg–91(a)(2)), including items and services paid for as medical care, to employees or their dependents directly or through insurance, reimbursement, or otherwise, that—

(A) has 50 or more participants (as defined in section 3(7) of Employee Retirement Income and Security Act of 1974, 29 U.S.C. 1002(7)); or

(B) is administered by an entity other than the employer that established and maintains the plan.

(6) HEALTH CARE.—The term ''health care'' includes, but is not limited to, the following:

(A) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body.

(B) The sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

(7) HEALTH CARE CLEARINGHOUSE.—The term ''health care clearinghouse'' means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and value-added networks and switches, that—

(A) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or

(B) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

(8) HEALTH CARE PROVIDER.—The term ''health care provider'' has the meaning given the terms ''provider of services'' and ''provider of medical or health services'' in subsections (u) and (s) of section 1861 of the Social Security Act (42 U.S.C. 1395x), respectively, and includes any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

(9) HEALTH INFORMATION.—The term ''health information'' means any information, whether oral or recorded in any form or medium, that—

(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

(B) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

(10) HEALTH INSURANCE ISSUER.—The term ''health insurance issuer'' means a health insurance issuer (as defined in section 2791(b)(2) of the Public Health Service Act, 42 U.S.C. 300gg–91(b)(2)) and used in the definition of health plan in this section and includes an insurance company, insurance service, or insurance organization (including an HMO) that is licensed to engage in the business of insurance in a State and is subject to State law that regulates insurance. Such term does not include a group health plan.

(11) HEALTH MAINTENANCE ORGANIZATION.—The term ''health maintenance organization'' (HMO) (as defined in section 2791(b)(3) of the Public Health Service Act, 42 U.S.C. 300gg–91 (b)(3)) and used in the definition of health plan in this section, means a federally qualified HMO, an organization recognized as an HMO under State law, or a similar organization regulated for solvency under State law in the same manner and to the same extent as such an HMO.

(12) HEALTH OVERSIGHT AGENCY.—The term ''health oversight agency'' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil

rights laws for which health information is relevant.

(13) HEALTH PLAN.—The term ''health plan'' means an individual or group plan that provides, or pays the cost of, medical care, as defined in section 2791(a)(2) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(2))—

(A) including, singly or in combination—

(i) a group health plan;

(ii) a health insurance issuer;

(iii) an HMO;

(iv) part A or B of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(v) the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(vi) an issuer of a medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. 1395ss(g)(1));

(vii) an issuer of a long-term care policy, excluding a nursing home fixed-indemnity policy;

(viii) an employee welfare benefit plan or any other arrangement that is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers;

(ix) the health care program for active military personnel under title 10, United States Code;

(x) the veterans health care program under chapter 17 of title 38, United States Code;

(xi) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) (as defined in section 1072(4) of title 10, United States Code);

(xii) the Indian Health Service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);

(xiii) the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code;

(xiv) an approved State child health plan under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), providing benefits for child health assistance that meet the requirements of section 2103 of such Act (42 U.S.C. 1397cc);

(xv) the Medicare+Choice program under part C of title XVIII of the Social Security Act (42 U.S.C. 1395w–21 et seq.);

(xvi) a high risk pool that is a mechanism established under State law to provide health insurance coverage or comparable coverage to eligible individuals; and

(xvii) any other individual or group plan, or combination of individual or group plans, that provides or pays for the cost of medical care (as defined in section 2791(a)(2) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(2)); and

(B) excluding—

(i) any policy, plan, or program to the extent that it provides, or pays for the cost of, excepted benefits that are listed in section 2791(c)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(c)(1)); and

(ii) a government-funded program (other than 1 listed in clause (i) through (xvi) of subparagraph (A)), whose principal purpose is other than providing, or paying the cost of, health care, or whose principal activity is the direct provision of health care to persons, or the making of grants to fund the direct provision of health care to persons.

(14) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term ''individually identifiable health information'' means information that is a subset of health information, including demographic information collected from an individual, that—

(A) is created or received by a covered entity or employer; and

(B)(i) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

(ii)(I) identifies an individual; or

(II) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

(15) LAW ENFORCEMENT OFFICIAL.—The term ''law enforcement official'' means an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to—

(A) investigate or conduct an official inquiry into a potential violation of law; or

(B) prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

(16) LIFE INSURER.—The term ''life insurer'' means a life insurance company (as defined in section 816 of the Internal Revenue Code of 1986), including the employees and agents of such company.

(17) MARKETING.—The term ''marketing'' means to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

(18) NONCOVERED ENTITY.—The term ''noncovered entity'' means any person or public or private entity that is not a covered entity, including but not limited to a business associate of a covered entity, a covered entity if such covered entity is acting as a business associate, a health researcher, school or university, life insurer, employer, public health authority, health oversight agency, or law enforcement official, or any person acting as an agent of such entities or persons.

(19) ORGANIZED HEALTH CARE ARRANGEMENT.—The term ''organized health care arrangement'' means—

(A) a clinically integrated care setting in which individuals typically receive health care from more than 1 health care provider;

(B) an organized system of health care in which more than 1 covered entity participates, and in which the participating covered entities—

(i) hold themselves out to the public as participating in a joint arrangement; and

(ii) participate in joint activities including at least—

(I) utilization review, in which health care decisions by participating covered entities are reviewed by other participating covered entities or by a third party on their behalf;

(II) quality assessment and improvement activities, in which treatment provided by participating covered entities is assessed by other participating covered entities or by a third party on their behalf; or

(III) payment activities, if the financial risk for delivering health care is shared, in part or in whole, by participating covered entities through the joint arrangement and if protected health information created or received by a covered entity is reviewed by other participating covered entities or by a third party on their behalf for the purpose of administering the sharing of financial risk;

(C) a group health plan and a health insurance issuer or HMO with respect to such group health plan, but only with respect to protected health information created or received by such health insurance issuer or HMO that relates to individuals who are or who have been participants or beneficiaries in such group health plan;

(D) a group health plan and 1 or more other group health plans each of which are maintained by the same plan sponsor; or

(E) the group health plans described in subparagraph (D) and health insurance issuers or HMOs with respect to such group health plans, but only with respect to protected health information created or received by such health insurance issuers or HMOs that relates to individuals who are or have been participants or beneficiaries in any of such group health plans.

(20) PROTECTED HEALTH INFORMATION.—

(A) IN GENERAL.—The term ''protected health information'' means individually identifiable health information that, except as provided in subparagraph (B), is—

(i) transmitted by electronic media;

(ii) maintained in any medium described in the definition of electronic media in section 162.103 of title 45, Code of Federal Regulations; or

(iii) transmitted or maintained in any other form or medium.

(B) EXCLUSIONS.—Such term does not include individually identifiable health information in—

(i) education records covered by the Family Educational Rights and Privacy Act of 1974 (section 444 of the General Education Provisions Act (20 U.S.C. 1232g));

(ii) records described in subsection (a)(4)(B)(iv) of that Act; or

(iii) employment records held by a covered entity in its role as an employer.

(21) PUBLIC HEALTH AUTHORITY.—The term ''public health authority'' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

(22) SCHOOL OR UNIVERSITY.—The term ''school or university'' means an institution or place for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges united under 1 corporate organization or government.

(23) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(24) SALE; SELL; SOLD.—The terms ''sale'', ''sell'', and ''sold'', with respect to protected health information, mean the exchange of such information for anything of value, directly or indirectly, including the licensing, bartering, or renting of such information.

(25) USE.—The term ''use'' means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

(26) WRITING.—The term ''writing'' means writing in either a paper-based or computer-based form, including electronic and digital signatures.

SEC. 402. PROHIBITION AGAINST SELLING PROTECTED HEALTH INFORMATION.

(a) VALID AUTHORIZATION REQUIRED.—

(1) IN GENERAL.—A noncovered entity shall not sell the protected health information of an individual or use such information for marketing purposes without an authorization that is valid under section 403. When a noncovered entity obtains or receives authorization to sell such information, such sale must be consistent with such authorization.

(2) NO DUPLICATE AUTHORIZATION REQUIRED.—Nothing in paragraph (1) shall be construed as requiring a noncovered entity that receives from a covered entity an authorization that is valid under section 403 to obtain a separate authorization from an individual before the sale or use of the individual's protected health information so long as the sale or use of the information is consistent with the terms of the authorization.

(b) SCOPE.—A sale of protected health information as described under subsection (a) shall be limited to the minimum amount of information necessary to accomplish the purpose for which the sale is made.

(c) PURPOSE.—A recipient of information sold pursuant to this title may use or disclose such information solely to carry out the purpose for which the information was sold.

(d) NOT REQUIRED.—Nothing in this title permitting the sale of protected health information shall be construed to require such sale.

(e) IDENTIFICATION OF INFORMATION AS PROTECTED HEALTH INFORMATION.—Information sold pursuant to this title shall be clearly identified as protected health information.

(f) NO WAIVER.—Except as provided in this title, an individual's authorization to sell protected health information shall not be construed as a waiver of any rights that the individual has under other Federal or State laws, the rules of evidence, or common law.

SEC. 403. AUTHORIZATION FOR SALE OR MARKETING OF PROTECTED HEALTH INFORMATION BY NONCOVERED ENTITIES.

(a) VALID AUTHORIZATION.—A valid authorization is a document that complies with all requirements of this section. Such authorization may include additional information not required under this section, provided that such information is not inconsistent with the requirements of this section.

(b) DEFECTIVE AUTHORIZATION.—An authorization is not valid, if the document submitted has any of the following defects:

(1) The expiration date has passed or the expiration event is known by the noncovered entity to have occurred.

(2) The authorization has not been filled out completely, with respect to an element described in subsections (e) and (f).

(3) The authorization is known by the noncovered entity to have been revoked.

(4) The authorization lacks an element required by subsections (e) and (f).

(5) Any material information in the authorization is known by the noncovered entity to be false.

(c) REVOCATION OF AUTHORIZATION.—An individual may revoke an authorization provided under this section at any time provided that the revocation is in writing, except to the extent that the noncovered entity has taken action in reliance thereon.

(d) DOCUMENTATION.—

(1) IN GENERAL.—A noncovered entity must document and retain any signed authorization under this section as required under paragraph (2).

(2) STANDARD.—A noncovered entity shall, if a communication is required by this title to be in writing, maintain such writing, or an electronic copy, as documentation.

(3) RETENTION PERIOD.—A noncovered entity shall retain the documentation required by this section for 6 years from the date of its creation or the date when it last was in effect, whichever is later.

(e) CONTENT OF AUTHORIZATION.—

(1) CONTENT.—An authorization described in subsection (a) shall—

(A) contain a description of the information to be sold that identifies such information in a specific and meaningful manner;

(B) contain the name or other specific identification of the person, or class of persons, authorized to sell the information;

(C) contain the name or other specific identification of the person, or class of persons, to whom the information is to be sold;

(D) include an expiration date or an expiration event relating to the selling of such information that signifies that the authorization is valid until such date or event;

(E) include a statement that the individual has a right to revoke the authorization in writing and the exceptions to the right to revoke, and a description of the procedure involved in such revocation;

(F) be in writing and include the signature of the individual and the date, or if the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual; and

(G) include a statement explaining the purpose for which such information is sold.

(2) PLAIN LANGUAGE.—The authorization shall be written in plain language.

(f) NOTICE.—

(1) IN GENERAL.—The authorization shall include a statement that the individual may—

(A) inspect or copy the protected health information to be sold; and

(B) refuse to sign the authorization.

(2) COPY TO THE INDIVIDUAL.—A noncovered entity shall provide the individual with a copy of the signed authorization.

(g) MODEL AUTHORIZATIONS.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate model written authorizations of the type described in this section and model statements of the limitations on such authorizations. Any authorization obtained on a model authorization form developed by the Secretary pursuant to the preceding sentence shall be deemed to satisfy the requirements of this section.

(h) NONCOERCION.—A covered entity or noncovered entity shall not condition the purchase of a product or the provision of a service to an individual based on whether such individual provides an authorization to such entity as described in this section.

SEC. 404. PROHIBITION AGAINST RETALIATION.

A noncovered entity that collects protected health information, may not adversely affect another person, directly or indirectly, because such person has exercised a right under this title, disclosed information relating to a possible violation of this title, or associated with, or assisted, a person in the exercise of a right under this title.

SEC. 405. RULE OF CONSTRUCTION.

The requirements of this title shall not be construed to impose any additional requirements or in any way alter the requirements imposed upon covered entities under parts 160 through 164 of title 45, Code of Federal Regulations.

SEC. 406. REGULATIONS.

(a) IN GENERAL.—The Secretary shall promulgate regulations implementing the provisions of this title.

(b) TIMEFRAME.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish proposed regulations in the Federal Register. With regard to such proposed regulations, the Secretary shall provide an opportunity for submission of comments by interested persons during a period of not less than 90 days. Not later than 2 years after the date of enactment of this Act, the Secretary shall publish final regulations in the Federal Register.

SEC. 407. ENFORCEMENT.

(a) IN GENERAL.—A covered entity or noncovered entity that knowingly violates section 402 shall be subject to a civil money penalty under this section.

(b) AMOUNT.—The civil money penalty described in subsection (a) shall not exceed $100,000. In determining the amount of any penalty to be assessed, the Secretary shall take into account the previous record of compliance of the entity being assessed with the applicable provisions of this title and the gravity of the violation.

(c) ADMINISTRATIVE REVIEW.—

(1) OPPORTUNITY FOR HEARING.—The entity assessed shall be afforded an opportunity for a hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(2) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (d).

(d) JUDICIAL REVIEW.—

(1) FILING OF ACTION FOR REVIEW.—Any entity against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which such entity is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary.

(2) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed.

(3) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(4) APPEAL.—Any final decision, order, or judgment of the district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(e) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(1) FAILURE TO PAY ASSESSMENT.—If any entity fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(2) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(f) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this section shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

TITLE V—DRIVER'S LICENSE PRIVACY

SEC. 501. DRIVER'S LICENSE PRIVACY.

Section 2725 of title 18, United States Code, is amended by striking paragraphs (2) through (4) and adding the following:

''(2) 'person' means an individual, organization, or entity, but does not include a State or agency thereof;

''(3) 'personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, medical or disability information, any physical copy of a driver's license, birth date, information on physical characteristics, including height, weight, sex or eye color, or any biometric identifiers on

a license, including a finger print, but not information on vehicular accidents, driving violations, and driver's status;

''(4) 'highly restricted personal information' means an individual's photograph or image, social security number, medical or disability information, any physical copy of a driver's license, driver identification number, birth date, information on physical characteristics, including height, weight, sex, or eye color, or any biometric identifiers on a license, including a finger print; and''.

TITLE VI—MISCELLANEOUS

SEC. 601. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under title I, II, or IV of this Act or under any amendment made by such a title, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with such titles or such amendments;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Attorney General intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under title I, II, IV, or V of this Act or under any amendment made by such a title, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that practice.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 602. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this Act or under an amendment made by this Act, the Federal Government shall have injunctive authority with respect to any violation of any provision of title I, II, or IV of this Act or of any amendment made by such a title, without regard to whether a public or private entity violates such provision.

By Mrs. FEINSTEIN (for herself and Mr. KYL):

S. 746. A bill to prevent and respond to terrorism and crime at or through ports; to the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Anti-Terrorism and Port Security Act of 2003, comprehensive legislation aimed at preventing and punishing a terrorist attack at or through one of our nation's 361 seaports. I would like to thank Senator KYL for joining me in sponsoring this bill.

Currently, our seaports are the gaping hole in our nation's defense against terrorism. According to the U.S. Bureau of Transportation Statistics, about 13 million containers, twenty-foot equivalent units, came into United States ports in 2002.

However, the U.S. government inspected only about two or three percent of these containers—they rest were simply waved through. In addition, in almost every case, these inspections occurred after the containers arrive in the United States.

The problem is that a single container could contain 60,000 pounds of explosives—10 to 15 times the amount in the Ryder truck used to blow up the Murrah Federal Building in Oklahoma City—and a single container ship can carry as many as 8,000 containers at one time.

Containers could easily be exploited to detonate a bomb that would destroy a bridge, seaport, or other critical infrastructure, causing mass destruction and killing thousands.

Worse, a suitcase-sized nuclear device or radiological ''dirty bomb'' could also be installed in a container and shipped to the United States. The odds are that the container would never be inspected.

And, even if the container was inspected, it would be too late. The weapon would already be in the United States—most likely near a major population center.

In addition, any attack on or through a seaport could have devastating economic consequences.

Excluding trade with Mexico and Canada, America's ports handle 95 percent of U.S. trade. Every year U.S. ports handle over 800 million tons of cargo valued at approximately $600 billion.

The West Coast labor disruption last year cost the U.S. economy somewhere $1–2 billion a day—a total of $10–20 billion. A terrorist attack would have an ever graver impact.

The U.S. would likely shut down all major U.S. ports, bringing thousands of factories to a standstill and leaving retailers with bare shelves within days. And this shut down will have a ripple effect around the globe, raising the cost exponentially.

In its December 2002 report, the Hart-Rudman Terrorism Task Force discussed the implications of a possible terrorist attack at a seaport. Here is what they said:

> If an explosive device were loaded in a container and set off in a port, it would almost automatically raise concern about the integrity of the 21,000 containers that arrive in U.S. ports each day and the many thousands more that arrive by truck and rail across U.S. land borders. A three-to-four-week closure of U.S. ports would bring the global container industry to its knees. Megaports such as Rotterdam and Singapore would have to close their gates to prevent boxes from piling up on their limited pier space. Trucks, trains, and barges would be stranded outside the terminals with no way to unload their boxes. Boxes bound for the United States would have to be unloaded from their outbound ships. Service contracts would need to be renegotiated. As the system became gridlocked, so would much of global commerce.

I am particularly concerned about such an attack because such an enormous proportion of U.S. foreign trade passes through my home state of California.

Last year, 6.2 million imported containers—48 percent—passed through California, 5.7 million just through two ports alone: the Port of Los Angeles and the Port of Long Beach.

That means that, if terrorists succeeded in putting a weapon of mass destruction into a container undetected, there is about a one in two chance that this weapon would arrive and/or be detonated in Southern California.

And the problem is not just with containers.

Nearly one-quarter of all of California's imported crude oil is offloaded in one area. A suicide attack on a tanker at an offloading facility in this area could leave Southern California without refined fuels within a few days.

There is no doubt in my mind that terrorists are seeking to exploit vulnerabilities at our seaports right now.

Indeed, the Al Qaeda training manual specifically mentions seaports as a point of vulnerability in our security.

In addition, we know that Al Qaeda has already tried to attack American interests at and through seaports in the past. Let me mention some examples.

In October 2001, Italian authorities found an Egyptian man suspected of

having ties to Al Qaeda in a container bound for Canada. He had false identifications, maps of airports, a computer, a satellite phone, cameras, and plenty of cash on hand.

In October 2000, Al Qaeda operatives successfully carried out a deadly bombing attack against the U.S.S. *Cole* in the port of Yemen.

In 1998, Al Qaeda bombed the American Embassies in Kenya and Tanzania. Evidence suggests that the explosives the terrorists used were shipped to them by sea. And the investigation of the embassy bombings concluded that Bin Laden has close financial ties to various shipping companies.

We cannot afford to be complacent. Terrorists can be very patient. We cannot forget the successful attack on the World Trade Center on September 11 took place eight years after a relatively unsuccessful attack on the same target.

I introduced legislation in the last Congress to offer a comprehensive solution to the problem of seaport vulnerability. I am pleased that some of its provisions we adopted in some form by recent regulatory changes as well as the Maritime transportation Security Act of 2002 and Trade Act of 2002.

For example, one provision in my bill required shippers to provide manifest information to Customs at least 24 hours before departure from a foreign port. Soon after the bill was introduced, Customs published a draft regulation with the same requirement.

This requirement is now being enforced. However, Customs is still not getting all relevant information from every important party involved in the shipping process.

In addition, I am pleased that, especially in the last six months, Customs has aggressively promoted its Container Security Initiative (CSI). One of the core elements of this initiative involves placing U.S. Customs inspectors at major foreign seaports to pre-screen cargo containers before they were shipped to America.

Most of the biggest ports in the world are now participating in CSI. However, Customs has posted relatively few inspectors overseas and I believe that CSI can and should be expanded further.

The Maritime Transportation Safety Act of 2002 and Trade Act of 2002 also included a number of security measures.

However, in my view, many of these measures do not go nearly far enough, particularly in the areas of criminal penalties, pushing back the border, minimum port and security standards, employee identification cards, research and development, and so on. And even the strongest provisions in these bills are, in some cases, years away from implementation.

The bottom line is that, while we have made some modest improvements in seaport security in the last year, much more remains to be done. And, crucially, much remains to be done right now.

In fact, I believe that our seaports remain almost as vulnerable today as they were before September 11. That is why I am introducing the Anti-Terrorism and Port Security Act of 2003.

This legislation builds on improvements made to our laws in the last year but goes much further than those changes to ensure the security of our seaports.

The Anti-Terrorism and Port Security Act of 2003 does three main things:

First, the bill ensure that our criminal laws apply to deter and punish terrorists who choose to strike against our seaports. The bill closes a number of loopholes in our criminal laws to ensure that terrorists are held accountable for any attacks. Let me provide a couple of examples.

If a person blows up an airplane, he commits a crime. However, if he blows up a oil tanker, he does not commit a crime—unless he is doing it to injure the person.

If a person distributes explosives to a non-U.S. national, he commits a crime. But if the same person sows mines in the San Francisco harbor, he does not commit a crime.

Specifically, the bill would: Make it a crime for terrorists to attack a port or a cruise ship or deploy a weapon of mass destruction at or through a seaport. Make it a crime to put devices in U.S. waters that can destroy a ship or cargo or interfere with safe navigation or maritime commerce. Update our federal criminal piracy and privateering laws and increase penalties. Make it a crime to use a dangerous weapon or explosive to try to kill someone on board a passenger vessel. Make it a crime to fail to heave to (that is, to slow or stop) a vessel at the direction of a Coast Guard or other authorized federal law enforcement official seeking to board that vessel or to interfere with boarding by such an officer. Make it a crime to destroy an aid to maritime navigation, such as a buoy or shoal/breakwater light, maintained by the Coast Guard if this would endanger the safe navigation of a vessel. Make it a crime for terrorists or criminals to try to attack U.S. citizens or U.S. marine live by putting poisons in the water off shore. Require the Attorney General to issue regulations making it easier to determine the extent of crime and terrorism at seaports and improve communication between different law enforcement agencies involved at ports.

Second, the bill would help improve physical security at seaports by beefing up standards and ensuring greater coordination. Specific provisions would: Designate the Captain-of-the-Port as the primary authority for seaport security at each port. This would enable all parties involved in business at a port to understand who has final say on all security matters. Require minimum federal security standards for ports. These standards include restrictions on private vehicle access, a prohibition on unauthorized guns and explosives, and unauthorized physical access to terminal areas. They would also mandate that terminal areas at ports have a secure perimeter, monitored or locked access points, sufficient lighting, and son on. Mandate that all Customs inspectors have personal radiation detection pagers. Require all port employees and contractors to have biometric smart identification cards. Require Captains-of-the-Port to keep sensitive information on the port secure and protected. Such information would include, but not be limited to maps, blueprints, and information on the Internet.

Third, the bill would ensure that we devote our limited cargo inspection resources in the most efficient and effective manner. The bill would improve our shipment profiling system by requiring additional information from more relevant parties to the shipping process, and it would substantially improve container security. Specifically, it would establish a comprehensive risk profiling plan for the Customs Service to focus their limited inspection capabilities on high-risk cargo and containers. Under this plan, all relevant parties in the shipment process would provide electronically relevant and timely information to enable Customs to determine which shipments to inspect. Impose steep monetary sanctions for failure to comply with information filing requirements, including filing incorrect information (the current penalty is only up to a few thousand dollars). The Seaport Commission found that about ½ of the information on ship manifests was inaccurate. Push U.S. security scrutiny beyond our nation's borders and improve our ability to monitor and inspect cargo and containers before they arrive near America's shores. If a weapon of mass destruction arrives in a U.S. port, it is too late. Require the use of high security seals on all containers coming into the U.S. Require that each container to be transported through U.S. ports receive a universal transaction number that could be used to track container movement from origin to destination. Require all empty containers destined for U.S. ports to be secured. Authorize pilot programs to develop high-tech seals and sensors, including those that would provide real-time evidence of container tampering to a monitor at a terminal. Require ports to provide space to Customs so that the agency is able to use non-intrusive inspection technology. In many cases, Customs has to keep this technology outside the port and bring it in every day, which prevents some of the best inspection technology (which is not portable) from being used. Require the Department of Homeland Security to take the relative number of imported containers received at each port into account in exercising its discretion in determining the allocation of funds appropriated for seaport security grants.

I believe that the Anti-Terrorism and Port Security Act of 2003 would make a

significant contribution to protecting America from terrorist attacks at or through our seaports. I urge my colleagues to support the legislation.;

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 746

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 ''Anti-Terrorism and Port Security Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—DETERRING AND PUNISHING TERRORISM AND CRIME AT UNITED STATES PORTS
Sec. 101. Destruction or interference with vessels or maritime facilities.
Sec. 102. Criminal sanctions for placement of destructive devices or substances in United States jurisdictional waters.
Sec. 103. Piracy and privateering.
Sec. 104. Use of a dangerous weapon or explosive on a passenger vessel.
Sec. 105. Sanctions for failure to heave to and for obstruction of boarding and providing false information.
Sec. 106. Criminal sanctions for violence against maritime navigation.
Sec. 107. Criminal sanctions for malicious dumping.
Sec. 108. Attorney general to coordinate port-related crime data collection.
TITLE II—PROTECTING UNITED STATES PORTS AGAINST TERRORISM AND CRIME
Subtitle A—General Provision
Sec. 201. Definitions.
Subtitle B—Security Authority
Sec. 211. Designated security authority.
Subtitle C—Securing the Supply Chain
Sec. 221. Manifest requirements.
Sec. 222. Penalties for inaccurate manifest.
Sec. 223. Shipment profiling plan.
Sec. 224. Inspection of merchandise at foreign facilities.
Subtitle D—Security of Seaports and Containers
Sec. 231. Seaport security requirements.
Sec. 232. Seaport security cards.
Sec. 233. Securing sensitive information.
Sec. 234. Container security.
Sec. 235. Office and inspection facilities.
Sec. 236. Security grants to seaports.
TITLE III—AUTHORIZATION
Sec. 301. Authorization of appropriations.

TITLE I—DETERRING AND PUNISHING TERRORISM AND CRIME AT UNITED STATES PORTS

SEC. 101. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 65 the following:

''CHAPTER 66—MARITIME VESSELS

''Sec.
''1371. Jurisdiction and scope.
''1372. Destruction of vessel or maritime facility.
''1373. Imparting or conveying false information.

''§ 1371 Jurisdiction and scope

''(a) IN GENERAL.—There is jurisdiction under section 3231 over an offense under this chapter if—

''(1) the prohibited activity takes place within the United States, or in waters or submerged lands thereunder subject to the jurisdiction of the United States; or

''(2) the prohibited activity takes place outside the United States, and—

''(A) an offender or a victim of the prohibited activity is a citizen of the United States;

''(B) a citizen of the United States was on board a vessel to which this chapter applies; or

''(C) the prohibited activity involves a vessel of the United States.

''(b) APPLICABILITY.—Nothing in this chapter shall apply to otherwise lawful activities carried out by, or at the direction of, the United States Government.

''§ 1372. Destruction of vessel or maritime facility

''(a) OFFENSES.—It shall be unlawful for any person—

''(1) to willfully—

''(A) set fire to, damage, destroy, disable, or wreck any vessel; or

''(B) place or cause to be placed a destructive device or destructive substance in, upon, or in proximity to, or otherwise make or cause to be made an unworkable or unusable or hazardous to work or use, any vessel (as defined in section 3 of title 1), or any part or other materials used or intended to be used in connection with the operation of a vessel; or

''(C) set fire to, damage, destroy, disable, or displace a destructive device or destructive substance in, upon, or in proximity to, any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interfere by force or violence with the operation of such maritime facility, if such action is likely to endanger the safety of any vessel in navigation;

''(D) set fire to, damage, destroy, disable, or place a destructive device or destructive substance in, upon, or in proximity to any appliance, structure, property, machine, apparatus, or any facility or other material used or intended to be used in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried on, or intended to be carried on, any vessel;

''(E) perform an act of violence against or incapacitate an individual on a vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

''(F) perform an act of violence against a person that causes or is likely to cause serious bodily injury in, upon, or in proximity to any appliance, structure, property, machine, apparatus, or any facility or other material used or intended to be used in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel; or

''(G) communicate information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

''(2) to attempt or conspire to do anything prohibited under paragraph (1).

''(b) PENALTY.—Any person who—

''(1) violates subparagraph (A) or (B) of subsection (a)(1) shall be fined in accordance with this title or imprisoned for a maximum life imprisonment term, or both, and if death results, shall be subject to the death penalty; and

''(2) violates subsection (a)(2) or subparagraph (C), (D), (E), (F), or (G) of subsection (a)(1) shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''(c) ADDITIONAL PENALTIES.—Any person who is fined or imprisoned in accordance with subsection (b) for an offense that involved a vessel that, at the time the violation occurred, carried high-level radioactive waste or spent nuclear fuel shall be fined in accordance with this title or imprisoned for not less than 30 years, or for life.

''(d) THREATENED OFFENSE.—Any person who willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry out the threat, shall be—

''(1) fined in accordance with this title or imprisoned not more than 5 years, or both; and

''(2) liable for all costs incurred as a result of such threat.

''(e) DEFINITIONS.—For purposes of this section—

''(1) the term 'destructive device' has the meaning as such term in section 921(a)(4);

''(2) the term 'destructive substance' has the meaning as such term in section 31;

''(3) the term 'high-level radioactive waste' has the meaning as such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

''(4) the term 'serious bodily injury' has the meaning as such term in section 1365(g); and

''(5) the term 'spent nuclear fuel' has the meaning as such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).

''§ 1373. Imparting or conveying false information

''(a) IN GENERAL.—Any person who imparts or conveys, or causes to be imparted or conveyed, false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act that is an offense under this chapter or chapters 2, 97, or 111, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

''(b) INCREASED PENALTY.—Any person who willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys, or causes to be imparted or conveyed, false information, knowing the information to be false, concerning an attempt or alleged attempt being made by or to be made, to do any act that is an offense under this chapter or chapters 2, 97, or 111, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, is amended by inserting after the item relating to chapter 65 the following:

''66. Maritime Vessels ..... 1371''.

SEC. 102. CRIMINAL SANCTIONS FOR PLACEMENT OF DESTRUCTIVE DEVICES OR SUBSTANCES IN UNITED STATES JURISDICTIONAL WATERS.

(a) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by inserting after section 2280 the following:

''§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships

''(a) IN GENERAL.—Any person who knowingly places or causes to be placed in waters subject to the jurisdiction of the United States, by any means, a device or substance that is likely to destroy or cause damage to a ship or its cargo, or cause interference with the safe navigation of vessels or interference with maritime commerce, such as by

damaging or destroying marine terminals, facilities, and any other maritime structure or entity used in maritime commerce, with the intent of causing such destruction or damage—

''(1) shall be fined in accordance with this title and imprisoned for any term of years or for life; and

''(2) if the death of any person results from conduct prohibited under this section, may be punished by death.

''(b) APPLICABILITY.—Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by inserting after the item relating to section 2280 the following:

''2280A. Devices or substances in waters of the United States likely to destroy or damage ships.''.

SEC. 103. PIRACY AND PRIVATEERING.

Chapter 81 of title 18, United States Code, is amended to read as follows:

''CHAPTER 81—PIRACY AND PRIVATEERING

''Sec.
''1651. Piracy.
''1652. Crimes against United States persons or property on board a ship or maritime structure.
''1653. Crimes against persons on board a ship or maritime structure within the territorial jurisdiction of the United States.
''1654. Crimes by United States citizens or resident aliens.
''1655. Privateering.
''1656. Theft or conversion of vessel, maritime structure, cargo, or effects.
''1657. Intentional wrecking or plunder of a vessel, maritime structure, cargo, or effects.
''1658. Knowing receipt of an illegally acquired vessel, maritime structure, cargo, or effects.
''1659. Attempts.
''1660. Accessories.
''1661. Inapplicability to United States Government activities.

''§ 1651. Piracy

''Any person who commits the crime of piracy and is afterwards brought into, or found in, the United States shall be imprisoned for life.

''§ 1652. Crimes against United States persons or property on board a ship or maritime structure

''Any person who commits any illegal act of violence, detention, or depredation against the United States, including any vessel of the United States, citizen of the United States, any commercial structure owned in whole or in part by a United States citizen or resident alien, or any United States citizen or resident alien, or the property of that citizen or resident alien, on board a ship or maritime structure and is afterwards brought into or found in the United States, shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''§ 1653. Crimes against persons on board a ship or maritime structure within the territorial jurisdiction of the United States

''Any person who commits any illegal act of violence, detention, or depredation against an individual on board a ship or maritime structure, or the property of that individual, in waters or submerged lands thereunder, subject to the jurisdiction of the United States, shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''§ 1654. Crimes by United States citizens or resident aliens

''Any person, being a United States citizen or resident alien, or purporting to act under the authority of the United States, who commits any illegal act of violence, detention, or depredation against an individual on board a ship or maritime structure, or the property of that individual, shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''§ 1655. Privateering

''(a) OFFENSE.—It shall be unlawful for any person to furnish, fit out, arm, or serve in a privateer or private vessel used to commit any illegal act of violence, detention, or depredation against an individual, or the property of that individual, or any vessel or maritime structure without the express authority of the United States Government when—

''(1) the perpetrator of the act is a United States citizen or resident alien, or purports to act under authority of the United States;

''(2) the individual against whom the act is committed is a United States citizen or resident alien or the property, vessel, or maritime structure involved is owned, in whole or in part, by a United States citizen or resident alien; or

''(3) some element of the illegal act of violence, detention, or depredation is committed in waters subject to the jurisdiction of the United States.

''(b) PENALTY.—Any person who violates subsection (a) shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''§ 1656. Theft or conversion of vessel, maritime structure, cargo, or effects

''(a) OFFENSE.—It shall be unlawful for any person who is a captain, officer, crewman, or passenger of a vessel or maritime structure to assist in the theft or conversion of such vessel or maritime structure, or its cargo or effects when—

''(1) the perpetrator is a United States citizen or resident alien, or purports to act under the authority of the United States;

''(2) the vessel, maritime structure, cargo, or effects is owned in whole or in part by a United States citizen or resident alien; or

''(3) some element of the theft or conversion is committed in waters subject to the jurisdiction of the United States.

''(b) PENALTY.—Any person who violates subsection (a) shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''§ 1657. Intentional wrecking or plunder of a vessel, maritime structure, cargo, or effects

''(a) OFFENSE.—It shall be unlawful for any person to—

''(1) intentionally cause the wrecking of a vessel or maritime structure by act or omission, either directly such as by intentional grounding, or indirectly by modification or destruction of any navigational marker or safety device;

''(2) intentionally plunder, steal, or destroy a vessel, maritime structure, cargo, or effects when such vessel or maritime structure is in distress, wrecked, lost, stranded, or cast away; or

''(3) intentionally obstruct or interfere with the rescue of a person on board a vessel or maritime structure in distress, wrecked, lost, stranded, or cast away, or the legal salvage of such a vessel, maritime structure, cargo, or effects, when—

''(A) the perpetrator is a United States citizen or resident alien, or purports to act under authority of the United States;

''(B) the vessel, maritime structure, cargo, or effects is owned in whole or in part by a United States citizen or resident alien; or

''(C) some element of the theft or conversion is committed in waters subject to the jurisdiction of the United States.

''(b) PENALTY.—Any person who violates subsection (a) shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''§ 1658. Knowing receipt of an illegally acquired vessel, maritime structure, cargo, or effects

''Any person who knowingly receives or acquires a vessel, maritime structure, cargo, or effects converted or obtained by action falling under any section of this chapter shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''§ 1659. Attempts

Any person who attempts any act which, if committed, would constitute an offense under this chapter shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''§ 1660. Accessories

''(a) COMMISSION OF AN OFFENSE.—Any person who knowingly assists any person in the commission of an act that constitutes an offense under this chapter shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''(b) AVOIDANCE OF CONSEQUENCES.—Any person who knowingly assists any person in avoiding the consequences of an act that constitutes an offense under this chapter shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''§ 1661. Inapplicability to United States Government activities

''Nothing in this chapter shall apply to otherwise lawful activities—

''(1) carried out by, or at the direction of, the United States Government; or

''(2) undertaken under a letter or marque and reprisal issued by the United States Government.''.

SEC. 104. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

(a) IN GENERAL.—Chapter 39 of title 18, United States Code, is amended by inserting after section 831 the following:

''§ 832. Use of a dangerous weapon or explosive on a passenger vessel

''(a) OFFENSE.—It shall be unlawful for any person to willfully—

''(1) commit an act, including the use of a dangerous weapon, explosive, or incendiary device, with the intent to cause death or serious bodily injury to a crew member or passenger of a passenger vessel or any other person while on board a passenger vessel; or

''(2) attempt, threaten, or conspire to do any act referred to in paragraph (1).

''(b) PENALTY.—An person who violates subsection (a) shall be fined in accordance with this title or imprisoned not more than 20 years, or both.

''(c) AGGRAVATED OFFENSE.—Any person who commits an offense described in subsection (a) in a circumstance in which—

''(1) the vessel was carrying a passenger at the time of the offense; or

''(2) the offense has resulted in the death of any person;

shall be guilty of an aggravated offense and shall be fined in accordance with this title or imprisoned for any term of years or for life.

''(d) APPLICABILITY.—This section shall apply to vessels that are subject to the jurisdiction of the United States, and vessels carrying passengers who are United States citizens or resident aliens, wherever located.

''(e) DEFINITIONS.—For purposes of this section—

''(1) the term 'dangerous weapon' has the meaning given such term in section 930(g);

''(2) the term 'explosive or incendiary device' has the meaning given such term in section 232(5);

''(3) the term 'passenger' has the same meaning given such term in section 2101(21) of title 46;

''(4) the term 'passenger vessel' has the same meaning given such term in section 2101(22) of title 46; and

''(5) the term 'serious bodily injury' has the meaning given such term in section 1365(g).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 39 of title 18, United States Code, is amended by inserting after the item relating to section 831 the following:

''832. Use of a dangerous weapon or explosive on a passenger vessel.''.

SEC. 105. SANCTIONS FOR FAILURE TO HEAVE TO AND FOR OBSTRUCTION OF BOARDING AND PROVIDING FALSE INFORMATION.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

''§ 2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information

''(a) FAILURE TO HEAVE TO.—It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order to heave to on being ordered to do so by an authorized Federal law enforcement officer.

''(b) OBSTRUCTION OF BOARDING AND PROVIDING FALSE INFORMATION.—It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States to—

''(1) forcibly assault, resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

''(2) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew that the person knows is false.

''(c) LIMITATIONS.—This section shall not limit the authority of—

''(1) an officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) or any other provision of law enforced or administered by the Secretary of the Treasury or the Under Secretary for Border and Transportation Security of the Department of Homeland Security; or

''(2) a Federal law enforcement officer under any law of the United States to order a vessel to stop or heave to.

''(d) CONSENT OR OBJECTION TO ENFORCEMENT.—A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means, which consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

''(e) PENALTY.—Any person who intentionally violates this section shall be fined in accordance with this title and imprisoned not more than 1 year.

''(f) DEFINITIONS.—For purposes of this section—

''(1) the terms 'vessel of the United States' and 'vessel subject to the jurisdiction of the United States' have the same meanings as such terms in section 3 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903);

''(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding; and

''(3) the term 'Federal law enforcement officer' has the same meaning as such term in section 115.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109 of title 18, United States Code, is amended by adding at the end the following:

''2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information.''.

SEC. 106. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION.

Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (F), (G), and (H) as (G), (H), and (I), respectively;

(B) by inserting after subparagraph (E) the following:

''(F) destroys, damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954, (33 U.S.C. 984) or the Coast Guard pursuant to section 81 of title 14, or lawfully maintained by the Coast Guard pursuant to section 83 of title 14, if such act endangers or is likely to endanger the safe navigation of a ship;''; and

(C) in subparagraph (I), as so redesignated, by striking ''through (G)'' and inserting ''through (H)''; and

(2) in paragraph (2), by striking ''(C) or (E)'' and inserting ''(C), (E), or (F)''.

SEC. 107. CRIMINAL SANCTIONS FOR MALICIOUS DUMPING.

(a) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''§ 2282. Knowing discharge or release

''(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare—

''(1) shall be fined in accordance with this title and imprisoned for any term of years or for life; and

''(2) if the death of any person results from conduct prohibited under this section, may be punished by death.

''(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined in accordance with this title or imprisoned not more than 30 years, or both.

''(c) DEFINITIONS.—For purposes of this section—

''(1) the term 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

''(2) the term 'hazardous material' has the same meaning given such term in section 2101(14) of title 46;

''(3) the term 'marine environment' has the same meaning given such term in section 2101(15) of title 46;

''(4) the term 'navigable waters' has the same meaning given such term in section 502(7) of the Federal Water Pollution Control Act (33 U.S.C. 1362(7)), and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988; and

''(5) the term 'noxious liquid substance' has the same meaning given such term in the MARPOL Protocol as defined in section 2(a)(3) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''2282. Knowing discharge or release.''.

SEC. 108. ATTORNEY GENERAL TO COORDINATE PORT-RELATED CRIME DATA COLLECTION.

(a) REGULATIONS.—The Attorney General shall issue regulations to—

(1) require the reporting by a carrier that is the victim of a cargo theft offense to the Attorney General of information on the cargo theft offense (including offenses occurring outside ports of entry and ports of shipment origination) that identifies the port of entry, the port where the shipment originated, where the theft occurred, and any other information specified by the Attorney General;

(2) create a database to contain the reports described in paragraph (1) and integrate those reports, to the extent feasible, with other noncriminal justice and intelligence data, such as insurer bill of lading, cargo contents and value, point of origin, and lien holder filings; and

(3) prescribe procedures for access to the database created in accordance with paragraph (2) by appropriate Federal, State, and local governmental agencies and private companies or organizations, while limiting access to privacy of the information in accordance with other applicable Federal laws.

(b) MODIFICATION OF DATABASES.—

(1) IN GENERAL.—United States Government agencies with significant regulatory or law enforcement responsibilities at United States ports shall, to the extent feasible, modify their information databases to ensure the collection and retrievability of data relating to crime, terrorism, and related activities at, or affecting, United States ports.

(2) DESIGNATION OF AGENCIES.—The Attorney General, after consultation with the Secretary of Homeland Security, shall designate the agencies referred to in paragraph (1).

(c) OUTREACH PROGRAM.—The Attorney General, in consultation with the Secretary of Homeland Security, the National Maritime Security Advisory Committee established under section 70112 of title 46, United States Code, and the appropriate Federal and State agencies, shall establish an outreach program—

(1) to work with State and local law enforcement officials to harmonize the reporting of data on cargo theft among States and localities with the United States Government's reports; and

(2) to work with local port security committees to disseminate cargo theft information to appropriate law enforcement officials.

(d) ANNUAL REPORT.—The Attorney General shall report annually to the Committee on the Judiciary of the Senate and the House of Representatives on the implementation of this section.

(e) INTERSTATE OR FOREIGN SHIPMENTS BY CARRIER; STATE PROSECUTIONS.—

(1) STATE PROSECUTIONS.—Section 659 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph—

(i) by striking ''Whoever embezzles'' and inserting the following:

''(a) OFFENSE; PENALTY.—Whoever—

''(1) embezzles'';

(ii) by striking ''from any pipeline system'' and all that follows through ''with intent to convert to his own use''; and

(iii) by striking ''or'' at the end;

(B) in the second undesignated paragraph—

(i) by striking ''Whoever buys'' and inserting the following:

''(2) buys''; and

(ii) by striking ''or'' at the end;

(C) in the third undesignated paragraph—

(i) by striking ''Whoever embezzles'' and inserting the following''

''(3) embezzles''; and

(ii) by striking ''with intent to convert to his own use'';

(D) in the fourth undesignated paragraph, by striking ''Whoever embezzles'' and inserting the following:

''(4) embezzles'';

(E) in the fifth undesignated paragraph, by striking ''Shall in each case'' and inserting the following:

''shall in each case'';

(F) in the sixth undesignated paragraph, by striking ''The'' and inserting the following:

''(b) LOCATION OF OFFENSE.—The'';

(G) in the seventh undesignated paragraph, by striking ''The'' and inserting the following''

''(c) SEPARATE OFFENSE.—The'';

(H) in the eighth undesignated paragraph, by striking ''To'' and inserting the following:

''(d) PRIMA FACIE EVIDENCE.—To'';

(I) in the ninth undesignated paragraph, by striking ''A'' and inserting the following:

''(e) PROSECUTION.—A''; and

(J) by adding at the end the following:

''(f) CIVIL PENALTY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, and in addition to any penalties that may be available under any other provision of law, a person who is found by the Secretary of Homeland Security, after notice and an opportunity for a hearing, to have violated this section or a regulation issued under this section shall be liable to the United States for a civil penalty not to exceed $25,000 for each violation.

''(2) SEPARATE VIOLATIONS.—Each day of a continuing violation shall constitute a separate violation.

''(3) AMOUNT OF PENALTY.—

''(A) IN GENERAL.—The amount of a civil penalty for a violation of this section or a regulation issued under this section shall be assessed by the Attorney General, or the designee of the Attorney General, by written notice.

''(B) CONSIDERATIONS.—In determining the amount of a civil penalty under this paragraph, the Attorney General shall take into account—

''(i) the nature, circumstances, extent, and gravity of the prohibited act committed; and

''(ii) with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

''(4) MODIFICATION OF PENALTY.—The Secretary of Homeland Security may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or which has been imposed under this section.

''(5) FAILURE TO PAY.—If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary of Homeland Security may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

''(g) DEFINITION.—For purposes of this section, the term 'goods or chattels' means to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment) regardless of any temporary stop while awaiting transshipment or otherwise.''.

(2) FEDERAL SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 of title 18, United States Code, as amended by this subsection.

(3) ANNUAL REPORT.—The Attorney General shall annually submit to Congress a report that shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code.

TITLE II—PROTECTING UNITED STATES PORTS AGAINST TERRORISM AND CRIME

Subtitle A—General Provision

SEC. 201. DEFINITIONS.

In this title:

(1) AIRCRAFT.—The term ''aircraft'' has the meaning given that term in section 40102 of title 49, United States Code.

(2) CAPTAIN-OF-THE-PORT.—The term ''Captain-of-the-Port'', with respect to a United States seaport, means the individual designated by the Commandant of the Coast Guard as the Captain-of-the-Port at that seaport.

(3) COMMON CARRIER.—The term ''common carrier'' means any person that holds itself out to the general public as a provider for hire of a transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.

(4) CONTAINER.—The term ''container'' means a container that is used or designed for use for the international transportation of merchandise by vessel, vehicle, or aircraft.

(5) DIRECTORATE.—The term ''Directorate'' means the Border and Transportation Security Directorate of the Department of Homeland Security.

(6) MANUFACTURER.—The term ''manufacturer'' means a person who fabricates or assembles merchandise for sale in commerce.

(7) MERCHANDISE.—The term ''merchandise'' has the meaning given that term in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

(8) OCEAN TRANSPORTATION INTERMEDIARY.—The term ''ocean transportation intermediary'' has the meaning given that term in section 515.2 of title 46, Code of Federal Regulations (as in effect on January 1, 2003).

(9) SHIPMENT.—The term ''shipment'' means cargo traveling in international commerce under a bill of lading.

(10) SHIPPER.—The term ''shipper'' means—

(A) a cargo owner;

(B) the person for whose account ocean transportation is provided;

(C) the person to whom delivery of merchandise is to be made; or

(D) a common carrier that accepts responsibility for payment of all charges applicable under a tariff or service contract.

(11) UNITED STATES SEAPORT.—The term ''United States seaport'' means a place in the United States on a waterway with shoreside facilities for the intermodal transfer of cargo containers that are used in international trade.

(12) VEHICLE.—The term ''vehicle'' has the meaning given that term in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

(13) VESSEL.—The term ''vessel'' has the meaning given that term in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

Subtitle B—Security Authority

SEC. 211. DESIGNATED SECURITY AUTHORITY.

The Captain-of-the-Port of each United States seaport shall be the primary authority responsible for security at the United States seaport and shall—

(1) coordinate security at such seaport; and

(2) be the point of contact on seaport security issues for civilian and commercial port entities at such seaport.

Subtitle C—Securing the Supply Chain

SEC. 221. MANIFEST REQUIREMENTS.

Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(1) by striking ''Any manifest'' and inserting the following:

''(1) IN GENERAL.—Any manifest''; and

(2) by adding at the end the following new paragraph:

''(2) REQUIRED INFORMATION.—

''(A) REQUIREMENT.—In addition to any other requirement under this section, the pilot, master, operator, or owner (or the authorized agent of such operator or owner) of every vessel required to make entry or obtain clearance under the laws of the United States shall transmit electronically the cargo manifest information described in subparagraph (B) in such manner and form as the Secretary shall prescribe. The Secretary shall ensure the electronic information is maintained securely, and is available only to individuals with Federal Government security responsibilities.

''(B) CONTENT.—The cargo manifest required by subparagraph (A) shall consist of the following information:

''(i) The port of arrival and departure.

''(ii) The carrier code assigned to the shipper.

''(iii) The flight, voyage, or trip number.

''(iv) The dates of scheduled arrival and departure.

''(v) A request for a permit to proceed to the destination, if such permit is required.

''(vi) The numbers and quantities from the carrier's master airway bill, bills of lading, or ocean bills of lading.

''(vii) The first port of lading of the cargo and the city in which the carrier took receipt of the cargo.

''(viii) A description and weight of the cargo (including the Harmonized Tariff Schedule of the United States number under which the cargo is classified) or, for a sealed container, the shipper's declared description and weight of the cargo.

''(ix) The shipper's name and address, or an identification number, from all airway bills and bills of lading.

''(x) The consignee's name and address, or an identification number, from all airway bills and bills of lading.

''(xi) Notice of any discrepancy between actual boarded quantities and airway bill or bill of lading quantities, except that a carrier is not required by this clause to verify boarded quantities of cargo in sealed containers.

''(xii) Transfer or transit information for the cargo while it has been under the control of the carrier.

''(xiii) The location of the warehouse or other facility where the cargo was stored while under the control of the carrier.

''(xiv) The name and address, or identification number of the carrier's customer including the forwarder, nonvessel operating common carrier, and consolidator.

''(xv) The conveyance name, national flag, and tail number, vessel number, or train number.

''(xvi) The country of origin and ultimate destination.

''(xvii) The carrier's reference number, including the booking or bill number.

''(xviii) The shipper's commercial invoice number and purchase order number.

''(xix) Information regarding any hazardous material contained in the cargo.

''(xx) License information including the license code, license number, or exemption code.

''(xxi) The container number for containerized shipments.

''(xxii) Certification of the empty condition of any empty containers.

''(xxiii) Any additional information that the Secretary, in consultation with the Secretary of Homeland Security, by regulation determines is reasonably necessary to ensure

aviation, maritime, and surface transportation safety pursuant to the laws enforced and administered by the Secretary or the Under Secretary for Border and Transportation Security of the Department of Homeland Security.''.

SEC. 222. PENALTIES FOR INACCURATE MANIFEST.

(a) FALSITY OR LACK OF MANIFEST.—Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) in subsection (a)(1)—

(A) by striking ''$1,000'' each place it appears and inserting ''$50,000''; and

(B) by striking ''$10,000'' and inserting ''$50,000''; and

(2) by adding at the end the following new subsection:

''(c) CRIMINAL PENALTIES.—Any person who ships or prepares for shipment any merchandise bound for the United States who intentionally provides inaccurate or false information, whether inside or outside the United States, with respect to such merchandise for the purpose of introducing such merchandise into the United States in violation of the laws of the United States, shall be liable, upon conviction of a violation of this subsection, for a fine of not more than $50,000 or imprisonment for 1 year, or both; except that if the importation of such merchandise into the United States is prohibited, such person shall be liable for an additional fine of not more than $50,000 or imprisonment for not more than 5 years, or both.''.

(b) PENALTIES FOR VIOLATIONS OF THE ARRIVAL, REPORTING, ENTRY, AND CLEARANCE REQUIREMENTS.—Subsections (b) and (c) of section 436 of Tariff Act of 1930 (19 U.S.C. 1436) are amended to read as follows:

''(b) CIVIL PENALTY.—Any master, person in charge of a vessel, vehicle, or aircraft pilot who commits any violation listed in subsection (a) shall be liable for a civil penalty of $25,000 for the first violation, and $50,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

''(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any master, person in charge of a vessel, vehicle, or aircraft pilot who intentionally commits or causes another to commit any violation listed in subsection (a) shall be liable, upon conviction, for a fine of not more than $50,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual shall be liable for an additional fine of not more than $50,000 or imprisonment for not more than 5 years, or both.''.

SEC. 223. SHIPMENT PROFILING PLAN.

(a) IN GENERAL.—The Secretary of Homeland Security shall develop a shipment profiling plan to track containers and shipments of merchandise to be imported into the United States. The tracking system shall be designed to identify any shipment that is a threat to the security of the United States before such shipment enters the United States.

(b) INFORMATION REQUIREMENTS.—

(1) CONTENT.—The shipment profiling plan required by subsection (a) shall at a minimum—

(A) require common carriers, shippers, and ocean transportation intermediaries to provide appropriate information regarding each shipment of merchandise, including the information required under section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) to the Secretary of Homeland Security; and

(B) require shippers to use a standard international bill of lading for each shipment that includes—

(i) the weight of the cargo;

(ii) the value of the cargo;

(iii) the vessel name;

(iv) the voyage number;

(v) a description of each container;

(vi) a description of the nature, type, and contents of the shipment;

(vii) the code number from the Harmonized Tariff Schedule;

(viii) the port of destination;

(ix) the final destination of the cargo;

(x) the means of conveyance of the cargo;

(xi) the origin of the cargo;

(xii) the name of the precarriage deliverer or agent;

(xiii) the port at which the cargo was loaded;

(xiv) the name of the formatting agent;

(xv) the bill of lading number;

(xvi) the name of the shipper;

(xvii) the name of the consignee;

(xviii) the universal transaction number or carrier code assigned to the shipper by the Secretary;

(xix) the information contained in the continuous synopsis record for the vessel transporting the shipment; and

(xx) any additional information that the Secretary by regulation determines is reasonably necessary to ensure seaport safety.

(2) CONTINUOUS SYNOPSIS RECORD DEFINED.—In this subsection, the term ''continuous synopsis record'' means the continuous synopsis record required by regulation 5 of chapter XI-1 of the Annex to the International Convention of the Safety of Life at Sea, 1974.

(3) EFFECTIVE DATE.—The requirement imposed under clause (xix) of paragraph (1)(B) shall take effect on July 1, 2004.

(c) CREATION OF PROFILE.—The Secretary of Homeland Security shall combine the information described in subsection (b) with other law enforcement and national security information that the Secretary determines useful to assist in locating containers and shipments that could pose a threat to the security of the United States and to create a profile of every container and every shipment within the container that will enter the United States.

(d) CARGO SCREENING.—

(1) IN GENERAL.—Officers of the Directorate shall review the profile of a shipment that a shipper desires to transport into the United States to determine whether the shipment or the container in which it is carried should be subjected to additional inspection by the Directorate. In making such a determination, an officer shall consider, in addition to any other relevant factors—

(A) whether the shipper has regularly shipped cargo to the United States in the past; and

(B) the specificity of the description of the shipment's contents.

(2) NOTIFICATION.—The Secretary of Homeland Security shall transmit to the shipper and the person in charge of the vessel, aircraft, or vehicle on which a shipment is located a notification of whether the shipment is to be subjected to additional inspection as described in paragraph (1).

(e) CONSISTENCY WITH THE NATIONAL CUSTOMS AUTOMATION PROGRAM.—The Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall ensure that the National Customs Automation Program established pursuant to section 411 of the Tariff Act of 1930 (19 U.S.C. 1411) is compatible with the shipment profile plan developed under this section.

SEC. 224. INSPECTION OF MERCHANDISE AT FOREIGN FACILITIES.

Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a plan to—

(1) station inspectors from the Directorate, other Federal agencies, or the private sector at the foreign facilities of manufacturers or common carriers to profile and inspect merchandise and the containers or other means by which such merchandise is transported as they are prepared for shipment on a vessel that will arrive at any port or place in the United States;

(2) develop procedures to ensure the security of merchandise inspected as described in paragraph (1) until it reaches the United States; and

(3) permit merchandise inspected as described in paragraph (1) to receive expedited inspection upon arrival in the United States.

Subtitle D—Security of Seaports and Containers

SEC. 231. SEAPORT SECURITY REQUIREMENTS.

(a) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall issue final regulations setting forth minimum security requirements, including security performance standards for United States seaports. The regulations shall—

(1) limit private vehicle access to the terminal area of a United States seaport to vehicles that are registered at such seaport and display a seaport registration pass;

(2) prohibit individuals, other than law enforcement officers, from carrying firearms or explosives inside a United States seaport without written authorization from the Captain-of-the-Port;

(3) prohibit individuals from physically accessing the terminal area of a United States seaport without a seaport specific access pass;

(4) require that officers of the Directorate, and other appropriate law enforcement officers, at United States seaports be provided with, and utilize, personal radiation detection pagers to increase the ability of such officers to accurately detect radioactive materials that could be used to commit terrorist acts in the United States;

(5) require that the terminal area of each United States seaport be equipped with—

(A) a secure perimeter;

(B) monitored or locked access points; and

(C) sufficient lighting; and

(6) include any additional security requirement that the Secretary determines is reasonably necessary to ensure seaport security.

(b) LIMITATION.—Except as provided in subsection (c), any United States seaport that does not meet the minimum security requirements described in subsection (a) is prohibited from—

(1) handling, storing, stowing, loading, discharging, or transporting dangerous cargo; and

(2) transferring passengers to or from a passenger vessel that—

(A) weighs more than 100 gross tons;

(B) carries more than 12 passengers for hire; and

(C) has a planned voyage of more than 24 hours, part of which is on the high seas.

(c) EXCEPTION.—The Secretary of Homeland Security may waive 1 or more of the minimum requirements described in subsection (a) for a United States seaport if the Secretary determines that it is not appropriate for such seaport to implement the requirement.

SEC. 232. SEAPORT SECURITY CARDS.

Section 70105 of title 46, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—(1) Unless the requirements of paragraph (2) are met, the Secretary shall prescribe regulations to prohibit—

''(A) an individual from entering an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility that is approved by the Secretary under section 70103 of this title; and

''(B) an individual who is regularly employed at a United States seaport or who is employed by a common carrier that transports merchandise to or from a United States seaport from entering a United States seaport.

''(2) The prohibition imposed under paragraph (1) may not apply to—

''(A) an individual who—

''(i) holds a transportation security card issued under this section; and

''(ii) is authorized to be in area in accordance with the plan if the individual is attempting to enter an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility approved by the Secretary under section 70103 of this title; or

''(B) an individual who is accompanied by another individual who may access the secure area or United States seaport in accordance with this section.

''(3) A person may not admit an individual into a United States seaport or a secure area unless the individual is in compliance with this subsection.'';

(2) in paragraph (2) of subsection (b)—

(A) in subparagraph (E), by striking ''and'';

(B) by redesignating subparagraph (F) as subparagraph (G); and

(C) by inserting after subparagraph (E) the following new subparagraph:

''(F) an individual who is regularly employed at a United States seaport or who is employed by a common carrier that transports merchandise to or from a United States seaport; and'';

(3) in paragraph (1) of subsection (c)—

(A) in subparagraph (C), by striking ''or'';

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon and ''or''; and

(C) at the end, by inserting the following new subparagraph:

''(E) has not provided sufficient information to allow the Secretary to make the determinations described in subparagraph (A), (B), (C), or (D).'';

(4) by striking subsection (f); and

(5) by inserting after subsection (e) the following new subsections:

''(f) DATA ON CARDS.—A transportation security card issued under this section shall—

''(1) be tamper resistant; and

''(2) contain—

''(A) the number of the individual's commercial driver's license issued under chapter 313 of title 49, if any;

''(B) the State-issued vehicle registration number of any vehicle that the individual desires to bring into the United States seaport, if any;

''(C) the work permit number issued to the individual, if any;

''(D) a unique biometric identifier to identify the license holder; and

''(E) a safety rating assigned to the individual by the Secretary of Homeland Security.

''(g) DEFINITIONS.—In this section:

''(1) ALIEN.—The term 'alien' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

''(2) UNITED STATES SEAPORT.—The term 'United States seaport' means a place in the United States on a waterway with shoreside facilities for the intermodal transfer of cargo containers that are used in international trade.''.

SEC. 233. SECURING SENSITIVE INFORMATION.

(a) REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Captain-of-the-Port of each United States seaport shall secure and protect all sensitive information, including information that is currently available to the public, related to the seaport.

(b) SENSITIVE INFORMATION.—In this section, the term ''sensitive information'' means—

(1) maps of the seaport;

(2) blueprints of structures located within the seaport; and

(3) any other information related to the security of the seaport that the Captain-of-the-Port determines is appropriate to secure and protect.

SEC. 234. CONTAINER SECURITY.

(a) CONTAINER SEALS.—

(1) APPROVAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall approve minimum standards for high security container seals that—

(A) meet or exceed the American Society for Testing Materials Level D seals;

(B) permit each seal to have a unique identification number; and

(C) contain an electronic tag that can be read electronically at a seaport.

(2) REQUIREMENT FOR USE.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall deny entry of a vessel into the United States if the containers carried by the vessel are not sealed with a high security container seal approved under paragraph (1).

(b) IDENTIFICATION NUMBER.—

(1) REQUIREMENT.—A shipment that is shipped to or from the United States either directly or via a foreign port shall have a designated universal transaction number.

(2) TRACKING.—The person responsible for the security of a container shall record the universal transaction number assigned to the shipment under paragraph (1), as well as any seal identification number on the container, at every port of entry and point at which the container is transferred from one conveyance to another conveyance.

(c) PILOT PROGRAM.—

(1) GRANTS.—The Secretary of Homeland Security is authorized to award grants to eligible entities to develop an improved seal for cargo containers that—

(A) permit the immediate detection of tampering with the seal;

(B) permit the immediate detection of tampering with the walls, ceiling, or floor of a container that indicates a person is attempting to improperly access the container; and

(C) transmit information regarding tampering with the seal, walls, ceiling, or floor of the container in real time to the appropriate authorities at a remote location.

(2) APPLICATION.—Each eligible entity seeking a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(3) ELIGIBLE ENTITY.—In this subsection, the term ''eligible entity'' means any national laboratory, nonprofit private organization, institution of higher education, or other entity that the Secretary determines is eligible to receive a grant authorized by paragraph (1).

(d) EMPTY CONTAINERS.—

(1) CERTIFICATION.—The Secretary of Homeland Security shall prescribe in regulations requirements for certification of empty containers that are to be shipped to or from the United States either directly or via a foreign port. Such regulations shall require that an empty container—

(A) be inspected and certified as empty prior to being loaded onto a vessel for transportation to a United States seaport; and

(B) be sealed with a high security container seal approved under subsection (a)(1) to enhance the security of United States seaports.

SEC. 235. OFFICE AND INSPECTION FACILITIES.

(a) OPERATIONAL SPACE IN SEAPORTS.—Each entity that owns or operates a United States seaport that receives cargo from a foreign country, whether governmental, quasi-governmental, or private, shall provide to the Directorate permanent office and inspection space within the seaport that is sufficient for the Directorate officers at the seaport to carry out their responsibilities. Such office and inspection space—

(1) shall be provided at no cost to the Directorate; and

(2) may be located outside the terminal area of the seaport.

(b) INSPECTION TECHNOLOGY.—The Secretary of Homeland Security shall maintain permanent inspection facilities that utilize available inspection technology in the space provided at each seaport pursuant to subsection (a).

SEC. 236. SECURITY GRANTS TO SEAPORTS.

(a) CRITERIA FOR AWARDING GRANTS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall use the proportion of the containerized imports that are received at a United States seaport as a factor to be considered when determining whether to select that seaport for award of a competitive grant for security.

(b) DEFINITIONS.—In this section:

(1) CONTAINERIZED IMPORTS.—The term ''containerized imports'' means the number of twenty-foot equivalent units of containerized imports that enter the United States annually through a United States seaport as estimated by the Bureau of Transportation Statistics of the Department of Transportation.

(2) COMPETITIVE GRANT FOR SECURITY.—The term ''competitive grant for security'' means a grant of Federal financial assistance that the Secretary of Homeland Security is authorized to award to a United States seaport for the purpose of enhancing security at the seaport, including a grant of funds appropriated under the heading ''Maritime and Land Security'' in title I of division I of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7).

TITLE III—AUTHORIZATION

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Attorney General and the Secretary of Homeland Security such sums as are necessary to carry out this Act. Sums authorized to be appropriated under this section are authorized to remain available until expended.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 101—CALLING FOR THE PROSECUTION OF IRAQIS AND THEIR SUPPORTERS FOR WAR CRIMES, AND FOR OTHER PURPOSES

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 101

Resolved, That it is the sense of the Senate that—

(1) the governments of the United States, the United Kingdom, and other nations comprising the coalition conducting Operation Iraqi Freedom should prosecute by trial by tribunal each person in the Government of Iraq, each person in the armed forces of Iraq, and any other person, regardless of nationality, who orders, directs, solicits, procures, coordinates, participates in, or supports acts in violation of the international law of armed conflict (including the aspects of such law known as the Hague and Geneva Conventions) that are directed at members of the armed forces of the coalition nations or at the people of Iraq or any other nation;

(2) in the determination of appropriate persons to be charged and tried by such tribunal on the basis of command responsibility for any violation, consideration should be given to identifying responsible persons throughout the full range of the chain command, and not only persons within formal chains of command of the government and armed forces of Iraq, but also persons integral to any informal link by which a person in the government of Iraq or the armed forces of Iraq, or any other person, directs paramilitary, political, or guerrilla forces;

(3) in the determination of appropriate persons to be charged and tried by such tribunal, consideration should also be given to identifying persons who use political position or mass media in any of the violations; and

(4) in the determination of the violations of the international law of armed conflict to be tried by the tribunal, particular attention should be given to acts in the nature of those that, as of the date of this resolution, have already been committed by Iraqi directed forces, such as—

(A) the abuse of places protected from military attack under international law, such as the use of mosques and hospitals as military headquarters or for other military purposes;

(B) the ruse by which Iraqi combatants wear civilian clothing instead of, or over, uniforms to conceal their status as combatants and, while so clothed, attack coalition forces;

(C) the ruse by which Iraqi combatants feign surrender to coalition forces to gain advantage used by the Iraqi combatants to attack personnel of the coalition forces;

(D) the use of civilians or other persons protected under international law as human shields for Iraqi combatants on the battlefield;

(E) assault, murder, kidnapping, or torture of civilians or other persons protected under international law in order to terrorize those persons or others or to prevent them from gaining the protection of coalition forces;

(F) abuse, torture, assault, or murder of personnel of coalition forces entitled to treatment as prisoners of war or of civilians entitled to a protected status under international law; and

(G) recruitment or encouragement of non-Iraqi foreign nationals to engage in violations of the international law of armed conflict.

Mr. SPECTER. Mr. President, I was alarmed over the past weekend to note the suicide bombing which was perpetrated on Saturday where four United States soldiers in the 3rd Infantry Division were murdered by a suicide car bomb, with a bomber driving a taxi filled with explosives to a highway checkpoint in central Iraq. This is the first such attack on American troops in this war, a war in which Iraqi forces have been accused of dressing as civilians and employing so-called human shields.

In an interview which appeared on ABC Television on Sunday, March 30th, Deputy Prime Minister Tariq Aziz stated that this was to be the policy of Iraq. This statement was in response to a question by ABC News correspondent Richard Engel, a question related to the comment by the Vice President of Iraq the preceding day, Saturday, March 29th, and then again by a Defense Ministry spokesman on March 30th, that Iraq is ''welcoming the use of [such] suicide attacks.''

I am today introducing a resolution which condemns this practice as a war crime, to put the government of Iraq on notice that the United States, Great Britain, and coalition forces will be prosecuting these atrocities as war crimes. Human Rights Watch commented on this matter, condemned the act in a press release issued just today, saying: ''Feigning civilian or noncombatant status to deceive the enemy is a violation of the laws of war. . . .''

On March 29, that is last Saturday, at a U.S. military roadblock near Najaf, an Iraqi noncommissioned officer, reportedly posing as a taxi driver, detonated a car bomb that killed him and four U.S. soldiers. Iraqi Vice President Taha Yassin Ramadan said in a Baghdad news conference that such attacks would become ''routine military policy.'' The executive director of the Human Rights Watch, Mr. Kenneth Roth, said: ''When combatants disguise themselves as civilians or surrendering soldiers, that is a serious violation of the laws of war. Any such blurring of the line between combatant and noncombatant puts all Iraqis at greater risk.''

International law prohibits attacking, killing, injuring, capturing, or deceiving the enemy by resorting to what is called perfidy. A ''perfidious attack'' is one launched by combatants who have led opposing forces to believe that the attackers are really noncombatants. Acts of perfidy include pretending to be a civilian who cannot be attacked, or feigning surrender. Surrendering soldiers cannot be attacked, so it is perfidious to use that protected status to attack as the opposing forces let down their guard as they try to take the ''surrendering'' soldiers into custody.

Now, this technique, this tactic, has been sanctioned, as noted, at the highest level of the Iraqi government by the Vice President of Iraq and by Deputy Prime Minister Tariq Aziz. Minister Aziz has been the leading Iraqi spokesman for more than a decade, going back, actually, before the gulf war in 1991. When Minister Aziz speaks, there is no doubt that he is speaking at the highest level of the Iraqi government.

The Iraqi government awarded the suicide bomber two posthumous medals and the Vice President said the suicide attacks will become routine military policy in Iraq and in the United States unless the Bush administration abandons the (then) 10-day-old war and pulls back its troops.

The interview by ABC TV news correspondent Richard Engel went on to question Deputy Prime Minister Aziz about the nature of such attacks in the future, and Minister Aziz commented: ''There will be others. Iraqis, Arabs, maybe Muslims, yes. We welcome them.''

Minister Aziz took pride in pointing out: ''[T]he first one who did it was an Iraqi. He was not a foreigner.''

It is my view that this is one of a series of acts by the Iraqi Government in violation of the laws of war itemized in the Hague and Geneva Conventions, and that more and varied types of atrocities may be expected by the desperate Iraqi Government.

That is why I have prepared today this resolution which calls upon:

. . . the governments of the United States, the United Kingdom, and other nations comprising the coalition conducting Operation Iraqi Freedom [to] prosecute by trial by tribunal each person in the Government of Iraq, each person in the armed forces of Iraq, and any other person, regardless of nationality, who orders, directs, solicits, procures, coordinates, participates in, or supports acts in violation of the international law of armed conflict (including the aspects of such law known as the Hague and Geneva Conventions) . . . .

The resolution specifies a series of circumstances where there is:

. . . abuse of places protected from military attack under international law, such as the use of mosques and hospitals as military headquarters or for other military purposes;

. . . the ruse by which Iraqi combatants wear civilian clothing instead of, or over, uniforms to conceal their status as combatants and, while so clothed, attack coalition forces;

. . . the ruse by which Iraqi combatants feign surrender to coalition forces to gain advantage used by the Iraqi combatants to attack personnel of the coalition forces;

. . . the use of civilians or other persons protected under international law as human shields for Iraqi combatants on the battlefield;

. . . assault, murder, kidnapping, or torture of civilians or other persons protected under international law in order to terrorize those persons or others or to prevent them from gaining the protection of coalition forces;

. . . abuse, torture, assault, or murder of personnel of coalition forces entitled to treatment as prisoners of war or of civilians entitled to a protected status under international law; and

. . . recruitment or encouragement of non-Iraqi foreign nationals to engage in violations of the international law of armed conflict.

We are saying what has occurred in Iraq today are the actions of a desperate nation.

I believe it is very important that the upper echelon of the Iraqi Government, people such as the Vice President, people such as Deputy Prime Minister Aziz, be put on notice that these acts in violation of The Hague and Geneva Conventions will be dealt with very forcefully by a tribunal which is yet to be established.

I do not specify at this time the kind of tribunal. That will require some further analysis. It could be a military tribunal to try those offenses where the victims are soldiers of the U.S. Army, or of the British Army, or soldiers of the coalition forces.

It might be an international tribunal such as that which was established for the former Yugoslavia, or Rwanda.

It is worth noting, and the Iraqi officials ought to be watching, what has happened at The Hague and what happened in Rwanda. The former head of state of Rwanda is now serving a life sentence—notwithstanding that he was the head of state of Rwanda—for crimes against humanity. In a well-publicized case, former Yugoslavian President Milosevic is now on trial in The Hague for violations of international law and crimes against humanity. Many have been sentenced for criminal conduct, for violations of international law in Bosnia and in Kosovo. So at this early stage I believe it is important that the word go out to the Iraqi high command and to those who follow orders of the Iraqi high command that they will be prosecuted as war criminals.

It is not a defense that someone says that he or she is operating under an order from a superior officer. In a very celebrated case in World War I, a German U-boat sank an Allied ship. As it went down, those in lifeboats were machinegunned by the submarine, which had surfaced. The perpetrator of the machinegunning entered a defense that the machinegunner was operating under superior's orders. That was soundly rejected. So the principle has been established as a matter of international law that it is no defense to say a person operates under superior's orders.

Of course, it is not a defense at all for ranking officials such as the Iraqi Vice President and the Iraqi Deputy Prime Minister, who know better, who are engaging in these violations of international law. Those who carry out the orders of these Iraqis ought to be on notice, too, that these matters will not be over when we win the war, when the war stops, because these individuals will be pursued in trials just as the head of state of Rwanda was pursued and is serving a life sentence; just as former President Milosevic is being pursued and prosecuted; as so many others are being pursued.

This word ought to go out in a very forceful way to the Iraqis that this conduct in violation of international law will not be tolerated.

In 1998 I introduced S. Con. Res. 78 calling for a war crimes tribunal to try Saddam Hussein as a war criminal. On March 13, 1998, that was passed unanimously, 93 to nothing, by the Senate. So there is a demonstrated interest on the part of this body in acting very forcefully to give notice to, not only Saddam Hussein, but other Iraqi officials and those who carry out their orders that they will be prosecuted as war criminals if they continue to violate international law.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 31, 2003, at 4:00 p.m., in open session, to receive testimony on the U.S. Air Force investigation into allegations of sexual assault at the U.S. Air Force Academy and related recommendations.

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

COMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, March 31, 2003, at 2:00 p.m., in open session to receive testimony on the science and technology program and the role of Department of Defense laboratories in review of the Defense authorization request for fiscal year 2004.

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

HOUSE CONCURRENT RESOLUTION 95

The Senate passed H. Con. Res. 95 on Wednesday, March 26, 2003 as follows:

In the Senate of the United States, March 26, 2003.

Resolved, That the resolution from the House of Representatives (H. Con. Res. 95) entitled ''Concurrent resolution establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013.'', do pass with the following amendment:

Strike out all after the resolving clause and insert:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004.

(a) DECLARATION.—Congress declares that this resolution is the concurrent resolution on the budget for fiscal years 2003 and 2004 including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013 as authorized by section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632).

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2004.

TITLE I—LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Social Security.
Sec. 103. Major functional categories.
Sec. 104. Reconciliation in the Senate.

TITLE II—BUDGET ENFORCEMENT AND RULEMAKING

Subtitle A—Budget Enforcement

Sec. 201. Extension of supermajority enforcement.
Sec. 202. Discretionary spending limits in the Senate.
Sec. 203. Restrictions on advance appropriations in the Senate.
Sec. 204. Emergency legislation.
Sec. 205. Pay-as-you-go point of order in the Senate.
Sec. 206. Sense of the Senate on reports on liabilities and future costs

Subtitle B—Reserve Funds and Other Adjustments

Sec. 211. Adjustment for special education.
Sec. 212. Adjustment for highways and highway safety and transit.
Sec. 213. Reserve fund for medicare.
Sec. 214. Reserve fund for health insurance for the uninsured.
Sec. 215. Reserve fund for children with special needs.
Sec. 216. Reserve fund for medicaid reform.
Sec. 217. Reserve fund for project bioshield.
Sec. 218. Reserve fund for stateside grant program.
Sec. 219. Reserve fund for State children's health insurance program.

Subtitle C—Miscellaneous Provisions

Sec. 221. Adjustments to reflect changes in concepts and definitions.
Sec. 222. Application and effect of changes in allocations and aggregates.
Sec. 223. Exercise of rulemaking powers.

TITLE III—SENSE OF THE SENATE

Sec. 301. Sense of the Senate on Federal employee pay.
Sec. 302. Sense of the Senate on tribal colleges and universities.
Sec. 303. Sense of the Senate regarding the 504 small business credit program.
Sec. 304. Sense of the Senate regarding Pell Grants.
Sec. 305. Sense of the Senate regarding the National Guard.
Sec. 306. Sense of the Senate regarding weapons of mass destruction civil support teams.
Sec. 307. Sense of the Senate on emergency and disaster assistance for livestock and agriculture producers.
Sec. 308. Social Security restructuring.
Sec. 309. Sense of the Senate concerning State fiscal relief.
Sec. 310. Federal Agency Review Commission.
Sec. 311. Sense of the Senate regarding highway spending.
Sec. 312. Sense of the Senate concerning an expansion in health care coverage.
Sec. 313. Sense of the Senate on the State Criminal Alien Assistance Program.
Sec. 314. Sense of the Senate concerning programs of the Corps of Engineers.
Sec. 315. Radio interoperability for first responders.
Sec. 316. Sense of the Senate on corporate tax haven loopholes.
Sec. 317. Sense of Senate on phased-in concurrent receipt of retired pay and veterans' disability compensation for veterans with service-connected disabilities rated at 60 percent or higher.
Sec. 318. Sense of the Senate concerning Native American health.
Sec. 319. Reserve fund to strengthen social security.
Sec. 320. Sense of the Senate on providing tax and other incentives to revitalize rural America.
Sec. 321. Sense of the Senate concerning higher education affordability.
Sec. 322. Sense of the Senate concerning children's graduate medical education.
Sec. 323. Sense of the Senate on funding for criminal justice.
Sec. 324. Sense of the Senate concerning funding for drug treatment programs.
Sec. 325. Funding for after-school programs.
Sec. 326. Sense of the Senate on the $1,000 child credit
Sec. 327. Sense of the Senate concerning funding for domestic nutrition assistance programs

Sec. 328. Sense of Senate concerning free trade agreement with the United Kingdom
Sec. 329. Reserve fund for possible military action and reconstruction in Iraq

TITLE I—LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 2003 through 2013:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution—

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2003: $1,333,861,000,000.
Fiscal year 2004: $1,400,789,000,000.
Fiscal year 2005: $1,566,044,000,000.
Fiscal year 2006: $1,702,314,000,000.
Fiscal year 2007: $1,828,213,000,000.
Fiscal year 2008: $1,935,251,000,000.
Fiscal year 2009: $2,043,323,000,000.
Fiscal year 2010: $2,141,398,000,000.
Fiscal year 2011: $2,309,946,000,000.
Fiscal year 2012: $2,463,192,000,000.
Fiscal year 2013: $2,522,440,090,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 2003: −$25,973,000,000.
Fiscal year 2004: −$65,581,000,000
Fiscal year 2005: −$50,982,000,000.
Fiscal year 2006: −$38,358,000,000.
Fiscal year 2007: −$24,953,000,000.
Fiscal year 2008: −$27,726,000,000.
Fiscal year 2009: −$35,007,000,000.
Fiscal year 2010: −$51,644,000,000.
Fiscal year 2011: −$117,550,000,000.
Fiscal year 2012: −$186,587,000,000.
Fiscal year 2013: −$176,785,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2003: $1,794,227,000,000.
Fiscal year 2004: $1,874,032,000,000.
Fiscal year 2005: $1,994,686,000,000.
Fiscal year 2006: $2,124,245,000,000.
Fiscal year 2007: $2,235,720,000,000.
Fiscal year 2008: $2,348,071,000,000.
Fiscal year 2009: $2,437,669,000,000.
Fiscal year 2010: $2,500,565,000,000.
Fiscal year 2011: $2,635,593,000,000.
Fiscal year 2012: $2,714,087,000,000.
Fiscal year 2013: $2,826,659,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2003: $1,781,356,000,000.
Fiscal year 2004: $1,861,586,000,000.
Fiscal year 2005: $1,978,275,000,000.
Fiscal year 2006: $2,086,486,000,000.
Fiscal year 2007: $2,190,507,000,000.
Fiscal year 2008: $2,302,685,000,000.
Fiscal year 2009: $2,401,719,000,000.
Fiscal year 2010: $2,482,496,000,000.
Fiscal year 2011: $2,620,630,000,000.
Fiscal year 2012: $2,683,238,000,000.
Fiscal year 2013: $2,804,218,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 2003: −$447,570,000,000.
Fiscal year 2004: −$460,721,000,000.
Fiscal year 2005: −$411,598,000,000.
Fiscal year 2006: −$383,662,000,000.
Fiscal year 2007: −$362,067,000,000.
Fiscal year 2008: −$367,527,000,000.
Fiscal year 2009: −$358,779,000,000.
Fiscal year 2010: −$341,720,000,000.
Fiscal year 2011: −$312,000,000,000.
Fiscal year 2012: −$221,616,000,000.
Fiscal year 2013: −$178,665,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 2003: $6,677,267,000,000.
Fiscal year 2004: $7,215,918,000,000.
Fiscal year 2005: $7,733,105,000,000.
Fiscal year 2006: $8,241,417,000,000.
Fiscal year 2007: $8,732,633,000,000.
Fiscal year 2008: $9,233,290,000,000.
Fiscal year 2009: $9,726,900,000,000.
Fiscal year 2010: $10,207,984,000,000.
Fiscal year 2011: $10,663,002,000,000.
Fiscal year 2012: $11,034,232,000,000.
Fiscal year 2013: $11,363,714,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of the debt held by the public are as follows:

Fiscal year 2003: $3,847,900,000,000.
Fiscal year 2004: $4,131,037,000,000.
Fiscal year 2005: $4,354,830,000,000.
Fiscal year 2006: $4,536,407,000,000.
Fiscal year 2007: $4,676,003,000,000.
Fiscal year 2008: $4,800,602,000,000.
Fiscal year 2009: $4,896,298,000,000.
Fiscal year 2010: $4,955,445,000,000.
Fiscal year 2011: $4,966,079,000,000.
Fiscal year 2012: $4,870,951,000,000.
Fiscal year 2013: $4,517,682,000,000.

SEC. 102. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2003: $531,607,000,000.
Fiscal year 2004: $557,826,000,000.
Fiscal year 2005: $587,785,000,000.
Fiscal year 2006: $619,062,000,000.
Fiscal year 2007: $651,128,000,000.
Fiscal year 2008: $684,409,000,000.
Fiscal year 2009: $719,112,000,000.
Fiscal year 2010: $755,724,000,000.
Fiscal year 2011: $792,122,000,000.
Fiscal year 2012: $829,538,000,000.
Fiscal year 2013: $869,650,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2003: $366,296,000,000.
Fiscal year 2004: $380,467,000,000.
Fiscal year 2005: $390,247,000,000.
Fiscal year 2006: $402,579,000,000.
Fiscal year 2007: $415,605,000,000.
Fiscal year 2008: $429,595,000,000.
Fiscal year 2009: $446,203,000,000.
Fiscal year 2010: $464,626,000,000.
Fiscal year 2011: $483,334,000,000.
Fiscal year 2012: $506,507,000,000.
Fiscal year 2013: $533,097,000,000.

(c) SOCIAL SECURITY ADMINISTRATIVE EXPENSES.—In the Senate, the amounts of new budget authority and budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses are as follows:

Fiscal year 2003:
(A) New budget authority, $3,812,000,000.
(B) Outlays, $3,838,000,000.
Fiscal year 2004:
(A) New budget authority, $4,257,000,000.
(B) Outlays, $4,207,000,000.
Fiscal year 2005:
(A) New budget authority, $4,338,000,000.
(B) Outlays, $4,301,000,000.
Fiscal year 2006:
(A) New budget authority, $4,424,000,000.
(B) Outlays, $4,409,000,000.
Fiscal year 2007:
(A) New budget authority, $4,522,000,000.
(B) Outlays, $4,505,000,000.
Fiscal year 2008:
(A) New budget authority, $4,638,000,000.
(B) Outlays, $4,617,000,000.
Fiscal year 2009:
(A) New budget authority, $4,792,000,000.
(B) Outlays, $4,766,000,000.
Fiscal year 2010:
(A) New budget authority, $4,954,000,000.
(B) Outlays, $4,924,000,000.
Fiscal year 2011:
(A) New budget authority, $5,121,000,000.
(B) Outlays, $5,091,000,000.
Fiscal year 2012:
(A) New budget authority, $5,292,000,000.
(B) Outlays, $5,260,000,000.
Fiscal year 2013:
(A) New budget authority, $5,471,000,000.
(B) Outlays, $5,439,000,000.

SEC. 103. MAJOR FUNCTIONAL CATEGORIES.

Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 2003 through 2013 for each major functional category are:

(1) National Defense (050):
Fiscal year 2003:
(A) New budget authority, $395,494,000,000.
(B) Outlays, $389,229,000,000.
Fiscal year 2004:
(A) New budget authority, $400,658,000,000.
(B) Outlays, $401,064,000,000.
Fiscal year 2005:
(A) New budget authority, $420,402,000,000.
(B) Outlays, $414,536,000,000.
Fiscal year 2006:
(A) New budget authority, $440,769,000,000.
(B) Outlays, $426,591,000,000.
Fiscal year 2007:
(A) New budget authority, $461,400,000,000.
(B) Outlays, $439,621,000,000.
Fiscal year 2008:
(A) New budget authority, $482,340,000,000.
(B) Outlays, $464,315,000,000.
Fiscal year 2009:
(A) New budget authority, $489,209,000,000.
(B) Outlays, $477,989,000,000.
Fiscal year 2010:
(A) New budget authority, $495,079,000,000.
(B) Outlays, $487,993,000,000.
Fiscal year 2011:
(A) New budget authority, $502,947,000,000.
(B) Outlays, $500,478,000,000.
Fiscal year 2012:
(A) New budget authority, $510,984,000,000.
(B) Outlays, $501,628,000,000.
Fiscal year 2013:
(A) New budget authority, $519,393,000,000.
(B) Outlays, $514,885,000,000.
(2) International Affairs (150):
Fiscal year 2003:
(A) New budget authority, $22,506,000,000.
(B) Outlays, $19,283,000,000.
Fiscal year 2004:
(A) New budget authority, $25,681,000,000.
(B) Outlays, $24,207,000,000.
Fiscal year 2005:
(A) New budget authority, $29,734,000,000.
(B) Outlays, $24,917,000,000.
Fiscal year 2006:
(A) New budget authority, $32,308,000,000.
(B) Outlays, $26,539,000,000.
Fiscal year 2007:
(A) New budget authority, $33,603,000,000.
(B) Outlays, $28,464,000,000.
Fiscal year 2008:
(A) New budget authority, $34,611,000,000.
(B) Outlays, $29,604,000,000.
Fiscal year 2009:
(A) New budget authority, $35,413,000,000.
(B) Outlays, $30,733,000,000.
Fiscal year 2010:
(A) New budget authority, $36,258,000,000.
(B) Outlays, $31,689,000,000.
Fiscal year 2011:
(A) New budget authority, $37,136,000,000.
(B) Outlays, $32,565,000,000.
Fiscal year 2012:
(A) New budget authority, $38,005,000,000.
(B) Outlays, $33,408,000,000.
Fiscal year 2013:
(A) New budget authority, $38,885,000,000.
(B) Outlays, $34,298,000,000.
(3) General Science, Space, and Technology (250):

Fiscal year 2003:
(A) New budget authority, $23,153,000,000.
(B) Outlays, $21,556,000,000.
Fiscal year 2004:
(A) New budget authority, $23,603,000,000.
(B) Outlays, $22,728,000,000.
Fiscal year 2005:
(A) New budget authority, $24,433,000,000.
(B) Outlays, $23,715,000,000.
Fiscal year 2006:
(A) New budget authority, $25,217,000,000.
(B) Outlays, $24,420,000,000.
Fiscal year 2007:
(A) New budget authority, $26,055,000,000.
(B) Outlays, $25,202,000,000.
Fiscal year 2008:
(A) New budget authority, $26,832,000,000.
(B) Outlays, $25,942,000,000.
Fiscal year 2009:
(A) New budget authority, $27,462,000,000.
(B) Outlays, $26,639,000,000.
Fiscal year 2010:
(A) New budget authority, $28,121,000,000.
(B) Outlays, $27,296,000,000.
Fiscal year 2011:
(A) New budget authority, $28,805,000,000.
(B) Outlays, $27,963,000,000.
Fiscal year 2012:
(A) New budget authority, $29,492,000,000.
(B) Outlays, $28,639,000,000.
Fiscal year 2013:
(A) New budget authority, $30,185,000,000.
(B) Outlays, $29,319,000,000.
(4) Energy (270):
Fiscal year 2003:
(A) New budget authority, $2,074,000,000.
(B) Outlays, $439,000,000.
Fiscal year 2004:
(A) New budget authority, $2,634,000,000.
(B) Outlays, $873,000,000.
Fiscal year 2005:
(A) New budget authority, $2,797,000,000.
(B) Outlays, $947,000,000.
Fiscal year 2006:
(A) New budget authority, $2,714,000,000.
(B) Outlays, $1,272,000,000.
Fiscal year 2007:
(A) New budget authority, $2,540,000,000.
(B) Outlays, $1,069,000,000.
Fiscal year 2008:
(A) New budget authority, $3,080,000,000.
(B) Outlays, $1,419,000,000.
Fiscal year 2009:
(A) New budget authority, $3,090,000,000.
(B) Outlays, $1,686,000,000.
Fiscal year 2010:
(A) New budget authority, $3,194,000,000.
(B) Outlays, $1,794,000,000.
Fiscal year 2011:
(A) New budget authority, $3,296,000,000.
(B) Outlays, $1,976,000,000.
Fiscal year 2012:
(A) New budget authority, $3,408,000,000.
(B) Outlays, $2,357,000,000.
Fiscal year 2013:
(A) New budget authority, $3,520,000,000.
(B) Outlays, $2,326,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 2003:
(A) New budget authority, $30,816,000,000.
(B) Outlays, $28,940,000,000.
Fiscal year 2004:
(A) New budget authority, $35,253,000,000.
(B) Outlays, $31,378,000,000.
Fiscal year 2005:
(A) New budget authority, $32,639,000,000.
(B) Outlays, $32,325,000,000.
Fiscal year 2006:
(A) New budget authority, $33,261,000,000.
(B) Outlays, $33,889,000,000.
Fiscal year 2007:
(A) New budget authority, $33,576,000,000.
(B) Outlays, $34,128,000,000.
Fiscal year 2008:
(A) New budget authority, $34,245,000,000.
(B) Outlays, $34,119,000,000.
Fiscal year 2009:
(A) New budget authority, $35,370,000,000.
(B) Outlays, $34,701,000,000.
Fiscal year 2010:
(A) New budget authority, $36,198,000,000.
(B) Outlays, $35,512,000,000.
Fiscal year 2011:
(A) New budget authority, $36,958,000,000.
(B) Outlays, $36,267,000,000.
Fiscal year 2012:
(A) New budget authority, $37,592,000,000.
(B) Outlays, $36,874,000,000.
Fiscal year 2013:
(A) New budget authority, $38,316,000,000.
(B) Outlays, $37,677,000,000.
(6) Agriculture (350):
Fiscal year 2003:
(A) New budget authority, $24,418,000,000.
(B) Outlays, $23,365,000,000.
Fiscal year 2004:
(A) New budget authority, $24,457,000,000.
(B) Outlays, $23,530,000,000.
Fiscal year 2005:
(A) New budget authority, $26,844,000,000.
(B) Outlays, $25,604,000,000.
Fiscal year 2006:
(A) New budget authority, $26,661,000,000.
(B) Outlays, $25,426,000,000.
Fiscal year 2007:
(A) New budget authority, $26,141,000,000.
(B) Outlays, $24,949,000,000.
Fiscal year 2008:
(A) New budget authority, $25,363,000,000.
(B) Outlays, $24,237,000,000.
Fiscal year 2009:
(A) New budget authority, $25,943,000,000.
(B) Outlays, $24,979,000,000.
Fiscal year 2010:
(A) New budget authority, $25,407,000,000.
(B) Outlays, $24,578,000,000.
Fiscal year 2011:
(A) New budget authority, $24,864,000,000.
(B) Outlays, $24,053,000,000.
Fiscal year 2012:
(A) New budget authority, $24,455,000,000.
(B) Outlays, $23,660,000,000.
Fiscal year 2013:
(A) New budget authority, $24,185,000,000.
(B) Outlays, $23,386,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 2003:
(A) New budget authority, $8,812,000,000.
(B) Outlays, $5,881,000,000.
Fiscal year 2004:
(A) New budget authority, $7,428,000,000.
(B) Outlays, $3,486,000,000.
Fiscal year 2005:
(A) New budget authority, $8,655,000,000.
(B) Outlays, $3,962,000,000.
Fiscal year 2006:
(A) New budget authority, $8,192,000,000.
(B) Outlays, $3,028,000,000.
Fiscal year 2007:
(A) New budget authority, $8,538,000,000.
(B) Outlays, $2,563,000,000.
Fiscal year 2008:
(A) New budget authority, $8,655,000,000.
(B) Outlays, $2,155,000,000.
Fiscal year 2009:
(A) New budget authority, $8,438,000,000.
(B) Outlays, $1,931,000,000.
Fiscal year 2010:
(A) New budget authority, $8,319,000,000.
(B) Outlays, $1,450,000,000.
Fiscal year 2011:
(A) New budget authority, $8,298,000,000.
(B) Outlays, $846,000,000.
Fiscal year 2012:
(A) New budget authority, $8,401,000,000.
(B) Outlays, $554,000,000.
Fiscal year 2013:
(A) New budget authority, $8,475,000,000.
(B) Outlays, $668,000,000.
(8) Transportation (400):
Fiscal year 2003:
(A) New budget authority, $64,091,000,000.
(B) Outlays, $67,847,000,000.
Fiscal year 2004:
(A) New budget authority, $75,783,000,000.
(B) Outlays, $71,555,000,000.
Fiscal year 2005:
(A) New budget authority, $76,502,000,000.
(B) Outlays, $71,581,000,000.
Fiscal year 2006:
(A) New budget authority, $77,515,000,000.
(B) Outlays, $73,035,000,000.
Fiscal year 2007:
(A) New budget authority, $79,931,000,000.
(B) Outlays, $74,938,000,000.
Fiscal year 2008:
(A) New budget authority, $82,747,000,000.
(B) Outlays, $77,285,000,000.
Fiscal year 2009:
(A) New budget authority, $85,361,000,000.
(B) Outlays, $79,865,000,000.
Fiscal year 2010:
(A) New budget authority, $72,323,000,000.
(B) Outlays, $79,034,000,000.
Fiscal year 2011:
(A) New budget authority, $73,183,000,000.
(B) Outlays, $75,686,000,000.
Fiscal year 2012:
(A) New budget authority, $74,067,000,000.
(B) Outlays, $74,865,000,000.
Fiscal year 2013:
(A) New budget authority, $74,987,000,000.
(B) Outlays, $75,124,000,000.
(9) Community and Regional Development (450):
Fiscal year 2003:
(A) New budget authority, $15,751,000,000.
(B) Outlays, $17,569,000,000.
Fiscal year 2004:
(A) New budget authority, $14,323,000,000.
(B) Outlays, $16,716,000,000.
Fiscal year 2005:
(A) New budget authority, $14,398,000,000.
(B) Outlays, $16,696,000,000.
Fiscal year 2006:
(A) New budget authority, $14,581,000,000.
(B) Outlays, $15,553,000,000.
Fiscal year 2007:
(A) New budget authority, $14,796,000,000.
(B) Outlays, $15,096,000,000.
Fiscal year 2008:
(A) New budget authority, $15,005,000,000.
(B) Outlays, $14,383,000,000.
Fiscal year 2009:
(A) New budget authority, $15,240,000,000.
(B) Outlays, $14,558,000,000.
Fiscal year 2010:
(A) New budget authority, $15,493,000,000.
(B) Outlays, $14,761,000,000.
Fiscal year 2011:
(A) New budget authority, $15,752,000,000.
(B) Outlays, $15,010,000,000.
Fiscal year 2012:
(A) New budget authority, $16,015,000,000.
(B) Outlays, $15,252,000,000.
Fiscal year 2013:
(A) New budget authority, $16,283,000,000.
(B) Outlays, $15,519,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 2003:
(A) New budget authority, $82,974,000,000.
(B) Outlays, $81,531,000,000.
Fiscal year 2004:
(A) New budget authority, $97,609,602,000.
(B) Outlays, $86,279,192,040.
Fiscal year 2005:
(A) New budget authority, $91,777,000,000.
(B) Outlays, $91,286,709,260.
Fiscal year 2006:
(A) New budget authority, $92,818,000,000.
(B) Outlays, $91,964,210,600.
Fiscal year 2007:
(A) New budget authority, $95,959,000,000.
(B) Outlays, $92,948,420,100.
Fiscal year 2008:
(A) New budget authority, $99,315,000,000.
(B) Outlays, $95,279,070,000.
Fiscal year 2009:
(A) New budget authority, $102,203,000,000.
(B) Outlays, $98,470,000,000.
Fiscal year 2010:
(A) New budget authority, $104,059,000,000.
(B) Outlays, $101,281,000,000.

Fiscal year 2011:
(A) New budget authority, $106,160,000,000.
(B) Outlays, $103,536,000,000.
Fiscal year 2012:
(A) New budget authority, $108,544,000,000.
(B) Outlays, $105,570,000,000.
Fiscal year 2013:
(A) New budget authority, $110,143,000,000.
(B) Outlays, $107,642,000,000.
(11) Health (550):
Fiscal year 2003:
(A) New budget authority, $222,913,000,000.
(B) Outlays, $217,881,000,000.
Fiscal year 2004:
(A) New budget authority, $248,464,000,000.
(B) Outlays, $246,670,960,000.
Fiscal year 2005:
(A) New budget authority, $264,948,000,000.
(B) Outlays, $264,679,520,000.
Fiscal year 2006:
(A) New budget authority, $284,216,000,000.
(B) Outlays, $284,023,760,000.
Fiscal year 2007:
(A) New budget authority, $304,438,000,000.
(B) Outlays, $303,521,840,000.
Fiscal year 2008:
(A) New budget authority, $326,942,000,000.
(B) Outlays, $325,618,000,000.
Fiscal year 2009:
(A) New budget authority, $350,373,000,000.
(B) Outlays, $348,889,000,000.
Fiscal year 2010:
(A) New budget authority, $375,419,000,000.
(B) Outlays, $373,890,000,000.
Fiscal year 2011:
(A) New budget authority, $401,552,000,000.
(B) Outlays, $400,014,000,000.
Fiscal year 2012:
(A) New budget authority, $415,777,000,000.
(B) Outlays, $414,359,000,000.
Fiscal year 2013:
(A) New budget authority, $445,554,000,000.
(B) Outlays, $444,147,000,000.
(12) Medicare (570):
Fiscal year 2003:
(A) New budget authority, $248,586,000,000.
(B) Outlays, $248,434,000,000.
Fiscal year 2004:
(A) New budget authority, $265,178,000,000.
(B) Outlays, $265,443,000,000.
Fiscal year 2005:
(A) New budget authority, $282,869,000,000.
(B) Outlays, $285,817,000,000.
Fiscal year 2006:
(A) New budget authority, $322,045,000,000.
(B) Outlays, $318,806,000,000.
Fiscal year 2007:
(A) New budget authority, $344,178,000,000.
(B) Outlays, $344,448,000,000.
Fiscal year 2008:
(A) New budget authority, $369,577,000,000.
(B) Outlays, $369,452,000,000.
Fiscal year 2009:
(A) New budget authority, $395,685,000,000.
(B) Outlays, $395,424,000,000.
Fiscal year 2010:
(A) New budget authority, $422,684,000,000.
(B) Outlays, $422,942,000,000.
Fiscal year 2011:
(A) New budget authority, $453,721,000,000.
(B) Outlays, $457,078,000,000.
Fiscal year 2012:
(A) New budget authority, $488,367,000,000.
(B) Outlays, $484,541,000,000.
Fiscal year 2013:
(A) New budget authority, $526,981,000,000.
(B) Outlays, $527,237,000,000.
(13) Income Security (600):
Fiscal year 2003:
(A) New budget authority, $326,390,000,000.
(B) Outlays, $334,169,000,000.
Fiscal year 2004:
(A) New budget authority, $319,513,000,000.
(B) Outlays, $324,701,000,000.
Fiscal year 2005:
(A) New budget authority, $333,810,000,000.
(B) Outlays, $337,157,000,000.
Fiscal year 2006:
(A) New budget authority, $341,805,000,000.
(B) Outlays, $344,322,000,000.
Fiscal year 2007:
(A) New budget authority, $349,191,000,000.
(B) Outlays, $350,983,000,000.
Fiscal year 2008:
(A) New budget authority, $362,006,000,000.
(B) Outlays, $363,115,000,000.
Fiscal year 2009:
(A) New budget authority, $373,681,000,000.
(B) Outlays, $374,384,000,000.
Fiscal year 2010:
(A) New budget authority, $385,152,000,000.
(B) Outlays, $385,671,000,000.
Fiscal year 2011:
(A) New budget authority, $400,573,000,000.
(B) Outlays, $401,003,000,000.
Fiscal year 2012:
(A) New budget authority, $404,045,000,000.
(B) Outlays, $404,453,000,000.
Fiscal year 2013:
(A) New budget authority, $418,978,000,000.
(B) Outlays, $419,551,000,000.
(14) Social Security (650):
Fiscal year 2003:
(A) New budget authority, $13,255,000,000.
(B) Outlays, $13,255,000,000.
Fiscal year 2004:
(A) New budget authority, $14,294,000,000.
(B) Outlays, $14,293,000,000.
Fiscal year 2005:
(A) New budget authority, $15,471,000,000.
(B) Outlays, $15,471,000,000.
Fiscal year 2006:
(A) New budget authority, $16,421,000,000.
(B) Outlays, $16,421,000,000.
Fiscal year 2007:
(A) New budget authority, $17,919,000,000.
(B) Outlays, $17,919,000,000.
Fiscal year 2008:
(A) New budget authority, $19,704,000,000.
(B) Outlays, $19,704,000,000.
Fiscal year 2009:
(A) New budget authority, $21,810,000,000.
(B) Outlays, $21,810,000,000.
Fiscal year 2010:
(A) New budget authority, $24,283,000,000.
(B) Outlays, $24,283,000,000.
Fiscal year 2011:
(A) New budget authority, $28,170,000,000.
(B) Outlays, $28,170,000,000.
Fiscal year 2012:
(A) New budget authority, $31,357,000,000.
(B) Outlays, $31,357,000,000.
Fiscal year 2013:
(A) New budget authority, $34,347,000,000.
(B) Outlays, $34,347,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2003:
(A) New budget authority, $57,597,000,000.
(B) Outlays, $57,486,000,000.
Fiscal year 2004:
(A) New budget authority, $63,773,000,000.
(B) Outlays, $63,200,000,000.
Fiscal year 2005:
(A) New budget authority, $67,125,000,000.
(B) Outlays, $66,530,000,000.
Fiscal year 2006:
(A) New budget authority, $65,388,000,000.
(B) Outlays, $64,970,000,000.
Fiscal year 2007:
(A) New budget authority, $63,859,000,000.
(B) Outlays, $63,416,000,000.
Fiscal year 2008:
(A) New budget authority, $67,645,000,000.
(B) Outlays, $67,374,000,000.
Fiscal year 2009:
(A) New budget authority, $69,254,000,000.
(B) Outlays, $68,899,000,000.
Fiscal year 2010:
(A) New budget authority, $70,967,000,000.
(B) Outlays, $70,563,000,000.
Fiscal year 2011:
(A) New budget authority, $75,643,000,000.
(B) Outlays, $75,223,000,000.
Fiscal year 2012:
(A) New budget authority, $72,592,000,000.
(B) Outlays, $72,071,000,000.
Fiscal year 2013:
(A) New budget authority, $77,429,000,000.
(B) Outlays, $76,963,000,000.
(16) Administration of Justice (750):
Fiscal year 2003:
(A) New budget authority, $38,543,000,000.
(B) Outlays, $37,712,000,000.
Fiscal year 2004:
(A) New budget authority, $37,757,000,000.
(B) Outlays, $40,882,000,000.
Fiscal year 2005:
(A) New budget authority, $38,077,000,000.
(B) Outlays, $39,324,000,000.
Fiscal year 2006:
(A) New budget authority, $37,965,000,000.
(B) Outlays, $38,348,000,000.
Fiscal year 2007:
(A) New budget authority, $38,442,000,000.
(B) Outlays, $38,233,000,000.
Fiscal year 2008:
(A) New budget authority, $39,458,000,000.
(B) Outlays, $39,109,000,000.
Fiscal year 2009:
(A) New budget authority, $40,478,000,000.
(B) Outlays, $40,193,000,000.
Fiscal year 2010:
(A) New budget authority, $41,580,000,000.
(B) Outlays, $41,280,000,000.
Fiscal year 2011:
(A) New budget authority, $42,870,000,000.
(B) Outlays, $42,453,000,000.
Fiscal year 2012:
(A) New budget authority, $44,188,000,000.
(B) Outlays, $43,741,000,000.
Fiscal year 2013:
(A) New budget authority, $45,557,000,000.
(B) Outlays, $45,101,000,000.
(17) General Government (800):
Fiscal year 2003:
(A) New budget authority, $18,195,000,000.
(B) Outlays, $18,120,000,000.
Fiscal year 2004:
(A) New budget authority, $20,012,000,000.
(B) Outlays, $19,876,000,000.
Fiscal year 2005:
(A) New budget authority, $20,341,000,000.
(B) Outlays, $20,420,000,000.
Fiscal year 2006:
(A) New budget authority, $22,396,000,000.
(B) Outlays, $22,225,000,000.
Fiscal year 2007:
(A) New budget authority, $21,147,000,000.
(B) Outlays, $20,897,000,000.
Fiscal year 2008:
(A) New budget authority, $21,646,000,000.
(B) Outlays, $21,423,000,000.
Fiscal year 2009:
(A) New budget authority, $21,957,000,000.
(B) Outlays, $21,515,000,000.
Fiscal year 2010:
(A) New budget authority, $22,706,000,000.
(B) Outlays, $22,223,000,000.
Fiscal year 2011:
(A) New budget authority, $23,469,000,000.
(B) Outlays, $22,957,000,000.
Fiscal year 2012:
(A) New budget authority, $24,267,000,000.
(B) Outlays, $23,892,000,000.
Fiscal year 2013:
(A) New budget authority, $25,138,000,000.
(B) Outlays, $24,582,000,000.
(18) Net Interest (900):
Fiscal year 2003:
(A) New budget authority, $239,648,000,000.
(B) Outlays, $239,648,000,000.
Fiscal year 2004:
(A) New budget authority, $255,627,000,000.
(B) Outlays, $255,627,000,000.
Fiscal year 2005:
(A) New budget authority, $301,415,000,000.
(B) Outlays, $301,415,000,000.
Fiscal year 2006:
(A) New budget authority, $338,960,000,000.
(B) Outlays, $338,960,000,000.
Fiscal year 2007:
(A) New budget authority, $364,560,000,000.
(B) Outlays, $364,560,000,000.
Fiscal year 2008:

(A) New budget authority, $387,284,000,000.
(B) Outlays, $387,284,000,000.
Fiscal year 2009:
(A) New budget authority, $409,603,000,000.
(B) Outlays, $409,603,000,000.
Fiscal year 2010:
(A) New budget authority, $429,721,000,000.
(B) Outlays, $429,721,000,000.
Fiscal year 2011:
(A) New budget authority, $449,879,000,000.
(B) Outlays, $449,879,000,000.
Fiscal year 2012:
(A) New budget authority, $467,960,000,000.
(B) Outlays, $467,960,000,000.
Fiscal year 2013:
(A) New budget authority, $480,344,000,000.
(B) Outlays, $480,344,000,000.
(19) Allowances (920):
Fiscal year 2003:
(A) New budget authority, $115,000,000.
(B) Outlays, $115,000,000.
Fiscal year 2004:
(A) New budget authority, −$16,121,602,000.
(B) Outlays, −$8,343,152,040.
Fiscal year 2005:
(A) New budget authority, −$5,943,000,000.
(B) Outlays, −$6,134,229,260.
Fiscal year 2006:
(A) New budget authority, −$2,104,000,000.
(B) Outlays, −$5,958,970,600.
Fiscal year 2007:
(A) New budget authority, −$1,467,000,000.
(B) Outlays, −$3,698,260,100.
Fiscal year 2008:
(A) New budget authority, −$6,263,000,000.
(B) Outlays, −$7,163,070,000.
Fiscal year 2009:
(A) New budget authority, −$19,939,000,000.
(B) Outlays, −$17,617,000,000.
Fiscal year 2010:
(A) New budget authority, −$41,290,000,000.
(B) Outlays, −$38,356,000,000.
Fiscal year 2011:
(A) New budget authority, −$19,883,000,000.
(B) Outlays, −$16,729,000,000.
Fiscal year 2012:
(A) New budget authority, −$23,031,000,000.
(B) Outlays, −$19,546,000,000.
Fiscal year 2013:
(A) New budget authority, −$27,371,000,000.
(B) Outlays, −$24,228,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2003:
(A) New budget authority, −$41,104,000,000.
(B) Outlays, −$41,104,000,000.
Fiscal year 2004:
(A) New budget authority, −$42,894,000,000.
(B) Outlays, −$42,894,000,000.
Fiscal year 2005:
(A) New budget authority, −$52,608,000,000.
(B) Outlays, −$52,608,000,000.
Fiscal year 2006:
(A) New budget authority, −$57,884,000,000.
(B) Outlays, −$57,884,000,000.
Fiscal year 2007:
(A) New budget authority, −$49,087,000,000.
(B) Outlays, −$49,087,000,000.
Fiscal year 2008:
(A) New budget authority, −$52,121,000,000.
(B) Outlays, −$52,121,000,000.
Fiscal year 2009:
(A) New budget authority, −$52,962,000,000.
(B) Outlays, −$52,962,000,000.
Fiscal year 2010:
(A) New budget authority, −$55,108,000,000.
(B) Outlays, −$55,108,000,000.
Fiscal year 2011:
(A) New budget authority, −$57,359,000,000.
(B) Outlays, −$57,359,000,000.
Fiscal year 2012:
(A) New budget authority, −$62,012,000,000.
(B) Outlays, −$62,012,000,000.
Fiscal year 2013:
(A) New budget authority, −$64,358,000,000.
(B) Outlays, −$64,358,000,000.

SEC. 104. RECONCILIATION IN THE SENATE.

The Senate Committee on Finance shall report a reconciliation bill not later than April 8, 2003, that consists of changes in laws within its jurisdiction sufficient to reduce revenues by not more than $322,524,000,000 and increase the total level of outlays by not more than $27,476,000,000 for the period of fiscal years 2003 through 2013.

TITLE II—BUDGET ENFORCEMENT AND RULEMAKING

Subtitle A—Budget Enforcement

SEC. 201. EXTENSION OF SUPERMAJORITY ENFORCEMENT.

(a) IN GENERAL.—Notwithstanding any provision of the Congressional Budget Act of 1974, subsections (c)(2) and (d)(3) of section 904 of the Congressional Budget Act of 1974 shall remain in effect for purposes of Senate enforcement through September 30, 2008.

(b) REPEAL.—Senate Resolution 304, agreed to October 16, 2002 (107th Congress), is repealed.

SEC. 202. DISCRETIONARY SPENDING LIMITS IN THE SENATE.

(a) DISCRETIONARY SPENDING LIMITS.—In the Senate and as used in this section, the term ''discretionary spending limit'' means—

(1) for fiscal year 2003—

(A) $770,860,000,000 in new budget authority and $771,442,000,000 in outlays for the discretionary category;

(B) for the highway category, $31,264,000,000 in outlays; and

(C) for the mass transit category, $1,436,000,000 in new budget authority, and $6,551,000,000 in outlays;

(2) for fiscal year 2004—

(A) $788,459,000,000 in new budget authority and $797,890,000,000 in outlays for the discretionary category;

(B) for the highway category, $32,016,000,000 in outlays; and

(C) for the mass transit category, $2,209,000,000 in new budget authority, and $6,746,000,000 in outlays; and

(3) for fiscal year 2005—

(A) $813,597,000,000 in new budget authority, and $814,987,000,000 in outlays for the discretionary category;

(B) for the highway category, $34,665,000,000 in outlays; and

(C) for the mass transit category $2,544,000,000 in new budget authority, and $7,109,000,000 in outlays;

as adjusted in conformance with subsection (b).

(b) ADJUSTMENTS.—

(1) IN GENERAL.—

(A) CHAIRMAN.—After the reporting of a bill or joint resolution, the offering of an amendment thereto, or the submission of a conference report thereon, the chairman of the Committee on the Budget may make the adjustments set forth in subparagraph (B) for the amount of new budget authority in that measure (if that measure meets the requirements set forth in paragraph (2)) and the outlays flowing from that budget authority.

(B) MATTERS TO BE ADJUSTED.—The adjustments referred to in subparagraph (A) are to be made to—

(i) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;

(ii) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a); and

(iii) the budgetary aggregates as set forth in the appropriate concurrent resolution on the budget.

(2) AMOUNTS OF ADJUSTMENTS.—The adjustment referred to in paragraph (1) shall be—

(A) an amount provided and designated as an emergency requirement pursuant to section 204;

(B) an amount authorized for grants to States under part B of the Individuals with Disabilities Education Act as provided for in section 211; and

(C) an amount provided for transportation under section 212.

(3) APPLICATION OF ADJUSTMENTS.—The adjustments made for legislation pursuant to paragraph (1) shall—

(A) apply while that legislation is under consideration;

(B) take effect upon the enactment of that legislation; and

(C) be published in the Congressional Record as soon as practicable.

(4) REPORTING REVISED SUBALLOCATIONS.—Following any adjustment made under paragraph (1), the Committees on Appropriations of the Senate shall report appropriately revised suballocations under section 302(b) to carry out this subsection.

SEC. 203. RESTRICTIONS ON ADVANCE APPROPRIATIONS IN THE SENATE.

(a) IN GENERAL.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any reported bill or joint resolution, or amendment thereto or conference report thereon, that would provide an advance appropriation.

(b) EXCEPTION.—An advance appropriation may be provided—

(1) for fiscal years 2005 and 2006 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading ''Accounts Identified for Advance Appropriations'' in an aggregate amount not to exceed $23,158,000,000 in new budget authority in each year; and

(2) for the Corporation for Public Broadcasting.

(c) APPLICATION OF POINT OF ORDER IN THE SENATE.—

(1) WAIVER AND APPEAL.—In the Senate, subsection (a) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(2) FORM OF THE POINT OF ORDER.—A point of order under subsection (a) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(3) CONFERENCE REPORTS.—If a point of order is sustained under subsection (a) against a conference report in the Senate, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.

(d) DEFINITION.—In this section, the term ''advance appropriation'' means any discretionary new budget authority in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2004 that first becomes available for any fiscal year after 2004 or making general appropriations or continuing appropriations for fiscal year 2005 that first becomes available for any fiscal year after 2005.

SEC. 204. EMERGENCY LEGISLATION.

(a) AUTHORITY TO DESIGNATE.—If a provision of direct spending or receipts legislation is enacted or if appropriations for discretionary accounts are enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be designated as an emergency requirement for the purpose of this resolution.

(b) DESIGNATIONS.—

(1) GUIDANCE.—If a provision of legislation is designated as an emergency requirement under subsection (a), the committee report and any statement of managers accompanying that legislation shall analyze whether a proposed emergency requirement meets all the criteria in paragraph (2).

(2) CRITERIA.—

(A) IN GENERAL.—The criteria to be considered in determining whether a proposed expenditure or tax change is an emergency requirement are that the expenditure or tax change is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(3) JUSTIFICATION FOR USE OF DESIGNATION.—When an emergency designation is proposed in any bill, joint resolution, or conference report thereon, the committee report and the statement of managers accompanying a conference report, as the case may be, shall provide a written justification of why the provision meets the criteria set forth in paragraph (2).

(c) DEFINITIONS.—In this section, the terms ''direct spending'', ''receipts'', and ''appropriations for discretionary accounts'' means any provision of a bill, joint resolution, amendment, motion or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) POINT OF ORDER.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, a point of order may be made by a Senator against an emergency designation in that measure and if the Presiding Officer sustains that point of order, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(e) WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(f) DEFINITION OF AN EMERGENCY REQUIREMENT.—A provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to subsection (a).

(g) FORM OF THE POINT OF ORDER.—A point of order under this section may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(h) CONFERENCE REPORTS.—If a point of order is sustained under this section against a conference report, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.

(i) EXCEPTION FOR DEFENSE AND HOMELAND SECURITY SPENDING.—Subsection (d) shall not apply against an emergency designation for a provision making discretionary appropriations in the defense category and for homeland security programs.

SEC. 205. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term ''applicable time period'' means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term ''direct-spending legislation'' means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms ''direct-spending legislation'' and ''revenue legislation'' do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget based on laws enacted on the date of adoption of that resolution as adjusted for up to $350,000,000,000 in revenues or direct spending assumed by section 104 of this resolution; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(e) SUNSET.—This section shall expire on September 30, 2008.

SEC. 206. SENSE OF THE SENATE ON REPORTS ON LIABILITIES AND FUTURE COSTS.

It is the sense of the Senate that the Congressional Budget Office shall consult with the Committee on the Budget of the Senate in order to prepare a report containing—

(1) an estimate of the unfunded liabilities of the Federal Government;

(2) an estimate of the contingent liabilities of Federal programs; and

(3) an accrual-based estimate of the current and future costs of Federal programs.

Subtitle B—Reserve Funds and Other Adjustments

SEC. 211. ADJUSTMENT FOR SPECIAL EDUCATION.

(a) IN GENERAL.—In the Senate, if the Committee on Health, Education, Labor, and Pensions reports a bill or joint resolution, and such measure is enacted in 2003 that reauthorizes grants to States under part B of the Individuals with Disabilities Education Act (IDEA) and reforms IDEA so as to provide an allowance of uniform discipline policies for all students; provide local fiscal relief; and minimize the over-identification of students with disabilities, the chairman of the Committee on the Budget may make the revisions set out in subsection (b).

(b) REVISIONS.—

(1) FISCAL YEAR 2004.—If the Committee on Appropriations reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides in excess of $4,803,000,000 in new budget authority for fiscal year 2004 for grants to States authorized under part B of IDEA as described in subsection (a), the chairman of the Committee on the Budget may revise the appropriate allocations for such committee and other appropriate levels in this resolution by that excess amount provided by that measure for that purpose, but not to exceed $205,000,000 in new budget authority for fiscal year 2004 and outlays flowing therefrom.

(2) FISCAL YEAR 2005.—If the Committee on Appropriations reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that when combined with any advance appropriation provided for 2005 for part B of IDEA in a bill or joint resolution making appropriations for fiscal year 2004, provides in excess of $11,038,000,000 in new budget authority for fiscal year 2005 for grants to States authorized under part B of IDEA as described in subsection (a), the chairman of the Committee on the Budget may revise the appropriate allocations for such committee and other appropriate levels in this resolution by that excess amount provided by that measure for that purpose, but not to exceed $209,000,000 in new budget authority for fiscal year 2005 and outlays flowing therefrom.

SEC. 212. ADJUSTMENT FOR HIGHWAYS AND HIGHWAY SAFETY AND TRANSIT.

In the Senate, if the Committee on Environment and Public Works, or the Committee on Banking, Housing, and Urban Affairs, or the Committee on Commerce, Science, and Transportation reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that reauthorizes the programs set out in the Transportation Equity Act for the 21st Century and that legislation provides new governmental receipts reported from the Committee on Finance, the chairman of the Committee on the Budget, may revise committee allocations for the appropriate committees and the transportation limits in section 202 by an amount consistent with the level of new receipts.

SEC. 213. RESERVE FUND FOR MEDICARE.

If the Committee on Finance of the Senate reports a bill or joint resolution, or an amendment is offered thereto, or a conference report thereon is submitted, which strengthens and enhances the Medicare Program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and improves the access of beneficiaries under that program to prescription drugs or promotes geographic equity payments, the chairman of the Committee on the Budget, may revise committee allocations for that committee and other appropriate budgetary aggregates and allocations of new budget authority (and the outlays resulting therefrom) in this resolution by the amount provided by that measure for that purpose, but not to exceed $400,000,000,000 for the period of fiscal years 2004 through 2013.

SEC. 214. RESERVE FUND FOR HEALTH INSURANCE FOR THE UNINSURED.

If the Committee on Finance of the Senate reports a bill or joint resolution, or an amendment thereto is offered, or a conference report thereon is submitted, that provides health insurance for the uninsured (including a measure providing for tax deductions for the purchase of health insurance for, among others, moderate income individuals not receiving health insurance from

their employers), the chairman of the Committee on the Budget may revise committee allocations for that committee and other appropriate budgetary aggregates and allocations of new budget authority (and the outlays resulting therefrom) and may revise the revenue aggregates and other appropriate budgetary aggregates and allocations in this resolution by the amount provided by that measure for that purpose, but not to exceed $88,000,000,000 for the period of fiscal years 2004 through 2013.

SEC. 215. RESERVE FUND FOR CHILDREN WITH SPECIAL NEEDS.

If the Committee on Finance of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides States with the option to expand Medicaid coverage for children with special needs, allowing families of disabled children to purchase coverage under the Medicaid Program for such children, the chairman of the Committee on the Budget may revise committee allocations for that committee and other appropriate budgetary aggregates and allocations of new budget authority (and the outlays resulting therefrom) in this resolution by the amount provided by that measure for that purpose, but not to exceed $43,000,000 in new budget authority and $42,000,000 in outlays for fiscal year 2004, and $7,462,000,000 in new budget authority and $7,262,000,000 in outlays for the period of fiscal years 2004 through 2013.

SEC. 216. RESERVE FUND FOR MEDICAID REFORM.

If the Committee on Finance of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides significant reform of the Medicaid Program, the chairman of the Committee on the Budget may revise committee allocations for that committee and other appropriate budgetary aggregates and allocations of new budget authority (and the outlays resulting therefrom) in this resolution by the amount provided by that measure for that purpose, but not to exceed $3,258,000,000 in new budget authority and outlays for fiscal year 2004, and $8,944,000,000 in new budget authority and outlays for the period of fiscal years 2004 through 2008, and not more than $12,782,000,000 in budget authority and outlays for the period of fiscal years 2004 through 2010 provided further that the legislation would not increase the deficit over the period of fiscal years 2004 through 2013.

SEC. 217. RESERVE FUND FOR PROJECT BIOSHIELD.

If the Committee on Health, Education, Labor, and Pensions of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that will facilitate procurement for inclusion by the Secretary of Health and Human Services in the Strategic National Stockpile of countermeasures necessary to protect the public health from current and emerging threats of chemical, biological, radiological, or nuclear agents, the chairman of the Committee on the Budget may revise committee allocations for that committee and other appropriate budgetary aggregates and allocations of new budget authority (and the outlays resulting therefrom) in this resolution by the amount provided by that measure for that purpose, but not to exceed $890,000,000 in new budget authority and $575,000,000 in outlays for fiscal year 2004, and $5,593,000,000 in new budget authority and $5,593,000,000 in outlays for the period of fiscal years 2004 through 2013.

SEC. 218. RESERVE FUND FOR STATESIDE GRANT PROGRAM.

(a) CONDITION.—If the Committee on Energy and Natural Resources of the Senate reports a bill or joint resolution that permits exploration and production of oil in the 1002 Area of the Arctic National Wildlife Refuge and such measure is enacted, the chairman of the Committee on the Budget of the Senate may make the adjustments described in subsection (b).

(b) ADJUSTMENT FOR THE LAND AND WATER CONSERVATION FUND STATE GRANT PROGRAM.—If the Committee on Energy and Natural Resources of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted that makes available a portion of the receipts resulting from enactment of the legislation described in subsection (a) for the National Park Service Stateside Grant Program which is currently funded as a part of the Land and Water Conservation Fund, the chairman of the Committee on the Budget may revise committee allocations for that committee and other appropriate budgetary aggregates and allocations of new budget authority (and the outlays resulting therefrom) in this resolution by the amount provided by that measure for that purpose, but not to exceed $750,000,000 in new budget authority (and the outlays flowing therefrom) for the period of fiscal years 2004 through 2008 and $2,000,000,000 in new budget authority (and the outlays flowing therefrom) for the period of fiscal years 2004 through 2013, provided further that no funds become available prior to fiscal year 2006 and the amount of funds made available in any single fiscal year does not exceed $250,000,000 per year.

SEC. 219. RESERVE FUND FOR STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

If the Committee on Finance of the Senate reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that extends the availability of fiscal year 1998 and 1999 expired State Children's Health Insurance Program allotments and the expiring fiscal year 2000 allotments, the chairman of the Committee on the Budget may revise committee allocations for that committee and other appropriate budgetary aggregates and allocations of new budget authority (and the outlays resulting therefrom) in this resolution by the amount provided by that measure for that purpose, but not to exceed $1,260,000,000 in new budget authority and $85,000,000 in outlays for fiscal year 2003, $1,330,000,000 in new budget authority and $85,000,000,000 in outlays for fiscal year 2004, $1,950,000,000 in new budget authority and $845,000,000 in outlays for the period of fiscal years 2003 through 2008, and $1,825,000,000 in new budget authority and $975,000,000 in outlays for the period of fiscal years 2003 through 2013.

Subtitle C—Miscellaneous Provisions

SEC. 221. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.

In the Senate, upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the Chairman of the Committee on the Budget shall make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).

SEC. 222. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committees on the Budget of the House of Representatives and the Senate; and

(2) such chairman, as applicable, may make any other necessary adjustments to such levels to carry out this resolution.

SEC. 223. EXERCISE OF RULEMAKING POWERS.

Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change those rules (so far as they relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

TITLE III—SENSE OF THE SENATE

SEC. 301. SENSE OF THE SENATE ON FEDERAL EMPLOYEE PAY.

(a) FINDINGS.—The Senate finds the following:

(1) Members of the uniformed services and civilian employees of the United States make significant contributions to the general welfare of the Nation.

(2) Increases in the pay of members of the uniformed services and of civilian employees of the United States have not kept pace with increases in the overall pay levels of workers in the private sector, so that there now exists—

(A) a 32 percent gap between compensation levels of Federal civilian employees and compensation levels of private sector workers; and

(B) an estimated 10 percent gap between compensation levels of members of the uniformed services and compensation levels of private sector workers.

(3) The President's budget proposal for fiscal year 2004 includes an average 4.1 percent pay raise for military personnel.

(4) The Office of Management and Budget has requested that Federal agencies plan their fiscal year 2004 budgets with a 2 percent pay raise for civilian Federal employees.

(5) In almost every year during the past two decades, there have been equal adjustments in the compensation of members of the uniformed services and the compensation of civilian employees of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that rates of compensation for civilian employees of the United States should be adjusted at the same time, and in the same proportion, as are rates of compensation for members of the uniformed services.

SEC. 302. SENSE OF THE SENATE ON TRIBAL COLLEGES AND UNIVERSITIES.

(a) FINDINGS.—The Senate finds the following:

(1) More than 30,000 full- and part-time Native American students from 250 federally recognized tribes nationwide attend tribal colleges and Universities, a majority of whom are first-generation college students.

(2) The colleges and universities are located in rural and isolated areas and are often the only accredited institutions of higher education in their service area. While the Tribal College Act provides funding solely for Indian students, the colleges serve students of all ages, about 20 percent of whom are non-Indian. With rare exception, tribal colleges and universities do not receive operating funds from the States for these non-Indian State resident students. Yet, if these same students attended any other public institution in their States, the State would provide basic operating funds to that institution.

(3) While Congress has been increasing the annual appropriations for tribal colleges in recent years, the President's fiscal year 2004 budget recommends a $4,000,000 decrease in institutional operating funds. The combination of annual increases in enrollments, reduced Federal

funding, and the addition of two new tribal colleges would result in a devastating decrease in funding of $540 per student below the fiscal year 2003 estimate.

(4) Despite a $2,000,000 increase in fiscal year 2003 for basic institutional operating budgets of the reservation-based tribal colleges, the per Indian student count (ISC) is only $30 more than in fiscal year 2002, or $3,946, still less than ⅔ of the $6,000 authorized.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) this resolution recognizes the funding challenges faced by tribal colleges and assumes that priority consideration will be provided to them through funding through the Tribally Controlled College or University Assistance Act, the Equity in Educational Land Grant Status Act, title III of the Higher Education Act, and the National Science Foundation Tribal College Program; and

(2) such priority consideration reflects Congress' intent to continue to work toward statutory Federal funding goals for the tribal colleges and universities.

SEC. 303. SENSE OF THE SENATE REGARDING THE 504 SMALL BUSINESS CREDIT PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) Small businesses play a critical role in our Nation and our economy and the Federal Government assists that role by providing small businesses with loans and loan guarantees.

(2) Since the enactment of the Federal Credit Reform Act of 1990, the Small Business Administration and the Office of Management and Budget have repeatedly overestimated the subsidy cost of the Small Business Administration's 7(a) and 504 credit programs. Those overestimates have resulted in borrowers and lenders having to pay higher than necessary fees to participate in those programs.

(3) Last year, in response to bipartisan pressure from the Senate Budget and Small Business Committees, the administration developed a new econometric model to improve the accuracy of its estimates of the cost of the 7(a) program. Consistent with claims by the Senate Budget and Small Business Committees, that effort resulted in the administration lowering the estimated subsidy cost of the 7(a) program by an astounding 40 percent in 2003, allowing the Federal Government to guarantee an additional $3,300,000,000 in small business loans this year alone.

(4) Notwithstanding past assurances, the administration, however, has failed to begin work on an econometric model for the 504 small business credit program, despite similar, chronic problems with estimates of that program's costs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the performance of the SBA and OMB in administering the Federal Credit Reform Act for the 504 small business credit program remains unsatisfactory;

(2) the administration should develop an econometric model for the 504 program for use in the fiscal year 2004 appropriations cycle; and

(3) the Office of Management and Budget should report to the Budget and Small Business Committees on the progress of this work by no later than June 2003.

SEC. 304. SENSE OF THE SENATE REGARDING PELL GRANTS.

(a) FINDINGS.—The Senate finds the following:

(1) Public investment in higher education yields a return of several dollars for each dollar invested.

(2) Higher education promotes economic opportunity.

(3) For a generation, the Federal Pell Grant has served as an effective means of providing access to higher education.

(4) Over the past decade, the Pell Grant has failed to keep pace with inflation, and over the past 25 years, the value of the average Pell Grant has decreased substantially.

(5) Grant aid as a portion of student aid has fallen significantly over the past 5 years.

(6) The percentage of freshmen attending public and private 4-year institutions from families whose income is below the national median has fallen since 1981.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that—

(1) within the discretionary allocation provided to the Committee on Appropriations, the maximum Pell Grant award should be raised to the maximum extent practicable, and funding for the Pell Grant program should be higher than the level requested by the President; and

(2) to the maximum extent practicable, Congress should seek to increase the maximum individual Federal Pell Grant award to $9,000 by fiscal year 2010.

SEC. 305. SENSE OF THE SENATE REGARDING THE NATIONAL GUARD.

(a) FINDINGS.—The Senate finds the following:

(1) The Army National Guard relies heavily upon thousands of full-time employees, Active Guard/Reserves and Military Technicians, to ensure unit readiness throughout the Army National Guard.

(2) These employees perform vital day-to-day functions, ranging from equipment maintenance to leadership and staff roles, that allow the National Guard to dedicate drill weekends and annual active duty training of part-time personnel to preparation for the National Guard's war fighting and peacetime missions.

(3) The role of full-time National Guard personnel is especially important as tens of thousands of our National Guard and Reserve forces are being mobilized for the ongoing fight against terrorism and in preparation for a possible war with Iraq.

(4) When the ability to provide sufficient Active Guard/Reserves and Military Technicians end strength is reduced, unit readiness, as well as quality of life for soldiers and families, is degraded.

(5) The Army National Guard, with agreement from the Department of Defense, requires a minimum essential requirement of 25,286 Active Guard/Reserves and 26,189 Military Technicians.

(6) The fiscal year 2004 budget request for the Army National Guard includes the minimum required end strengths, but provides resources sufficient for only approximately 24,562 Active Guard/Reserves and 25,702 Military Technicians, funding shortfalls of $51,200,000 and $29,300,000, respectively.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the functional totals in this resolution assume that the Department of Defense will give priority to fully funding the Active Guard/Reserves and Military Technicians at least at the minimum required levels.

SEC. 306. SENSE OF THE SENATE REGARDING WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS.

(a) FINDINGS.—The Senate finds the following:

(1) The emerging chemical, biological, and other threats of the 21st century present new challenges to our military and to local first responders.

(2) Local first responders are on the front lines of combating terrorism and responding to other large-scale incidents.

(3) The National Guard's Weapons of Mass Destruction Civil Support Teams (WMD–CSTs) play a vital role in assisting local first responders in investigating and combating these new threats.

(4) The September 11, 2001, terrorist attacks emphasize the need to have full-time WMD–CSTs in each State.

(5) There are currently 32 full-time and 23 part-time WMD–CSTs.

(6) Section 1403 of Public Law 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003, requires the Secretary of Defense to establish an additional 23 WMD–CSTs and that at least one team be located in each State and territory of the United States.

(7) The President's fiscal year 2004 budget request includes no funding for these additional WMD–CSTs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the functional totals in this resolution assume that the Department of Defense should give priority to fully implementing section 1403 of Public Law 107–314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003; and

(2) the Department should increase its full-time manning requirements to include the 506 additional full-time National Guard personnel that will be needed to man the 23 additional WMD–CSTs.

SEC. 307. SENSE OF THE SENATE ON EMERGENCY AND DISASTER ASSISTANCE FOR LIVESTOCK AND AGRICULTURE PRODUCERS.

(a) FINDINGS.—The Senate finds the following:

(1) Significant portions of the United States suffered through severe drought conditions in 2000 and 2001.

(2) The economic effects of drought are long-term and widespread.

(3) Current drought indices predict that the drought will continue through 2003.

(4) Congress has a history of providing financial assistance to agricultural and livestock producers for losses incurred due to drought.

(5) Emphasis must be placed on planning efforts that will mitigate the negative effects of drought.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate—

(1) develop a long-term drought plan that effectively recognizes the reoccurring nature of drought cycles and adequately support emergency and disaster assistance to livestock and agricultural producers hurt by drought; and

(2) establish an agricultural reserve to fund the activities in paragraph (1).

SEC. 308. SOCIAL SECURITY RESTRUCTURING.

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(D) without structural reform, the Social Security trust fund will be exhausted in 2042, and Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(E) without structural reform, future Congresses may have to raise payroll taxes 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of as much as 16.9 percent by 2042 and 18.9 percent by 2077;

(F) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars or $3,500,000,000,000 measured in present value terms;

(G) absent structural reforms, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt or less spending on other Federal programs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Congress and the American people (including seniors, workers, women, minorities, and disabled persons) should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system; and

(2) Social Security reform—

(A) must protect current and near retirees from any changes to Social Security benefits;

(B) must reduce the pressure on future taxpayers and on other budgetary priorities;

(C) must provide benefit levels that adequately reflect individual contributions to the Social Security System.

(D) must preserve and strengthen the safety net for vulnerable populations, including the disabled and survivors.

(3) We should honor section 13301 of the Budget Enforcement Act of 1990.

SEC. 309. SENSE OF THE SENATE CONCERNING STATE FISCAL RELIEF.

(a) FINDINGS.—The Senate makes the following findings:

(1) States are experiencing the most severe fiscal crisis since World War II.

(2) States are instituting severe cuts to a variety of vital programs such as health care, child care, education, and other essential services.

(3) According to the Kaiser Commission on Medicaid and the Uninsured, 49 States already have taken actions or plan to cut medicaid before or during the current fiscal year 2003. Medicaid budget proposals in many States would eliminate or curtail health benefits for eligible families and substantially reduce or freeze provider reimbursement rates.

(4) In 2002, at least 13 States reported decreased State investments in their child care assistance programs.

(5) According to a forthcoming analysis of 22 States, at least 1,700,000 people are now at risk of losing their health care coverage under cuts that have already been implemented or proposed.

(6) Fiscal relief would help avoid adding even more Americans to the ranks of the uninsured while preserving the safety net when it is most needed during an economic downturn.

(7) Curtailing the States' need to cut spending and increase taxes is essential for true economic growth.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the functional totals in this resolution assume that any legislation enacted to provide economic growth for the United States should include not less than $30,000,000,000 for State fiscal relief over the next 18 months (of which at least half should be provided through a temporary increase in the Federal medical assistance percentage (FMAP)).

SEC. 310. FEDERAL AGENCY REVIEW COMMISSION.

It is the sense of the Senate that a commission should be established to review Federal domestic agencies, and programs within such agencies, with the express purpose of providing Congress with recommendations, and legislation to implement those recommendations, to realign or eliminate government agencies and programs that are duplicative, wasteful, inefficient, outdated, or irrelevant, or have failed to accomplish their intended purpose.

SEC. 311. SENSE OF THE SENATE REGARDING HIGHWAY SPENDING.

(a) FINDINGS.—The Senate makes the following findings:

(1) Highway construction funding should increase over current levels.

(2) The Senate Budget Committee-passed Resolution increases highway funding above the President's request.

(3) All vehicles, whether they are operated by gasoline, gasohol, or electricity, do damage to our highways.

(4) As set out in TEA–21, the direct relationship between excise taxes and highway spending makes sense and should be maintained.

(5) Highways should be funded through user fees such as excise taxes and not through the General Fund of the Treasury.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should only consider legislation that increases highway spending if such legislation changes highway user fees to pay for such increased spending.

SEC. 312. SENSE OF THE SENATE CONCERNING AN EXPANSION IN HEALTH CARE COVERAGE.

(a) FINDINGS.—The Senate finds that—

(1) there were 74,700,000 Americans who were uninsured for all or part of the two-year period of 2001 and 2002;

(2) this large group of uninsured Americans constitutes almost one out of every three Americans under the age of 65;

(3) most of these uninsured individual were without health coverage for lengthy periods of time, with two-thirds of them uninsured for over six months;

(4) four out of five uninsured individuals are in working families;

(5) high health care costs, the large number of unemployed workers, and State cutbacks of public health programs occasioned by State fiscal crises are causing more and more individuals to become uninsured; and

(6) uninsured individuals are less likely to have a usual source of care outside of an emergency room, often go without screenings and preventive care, often delay or forgo needed medical care, are often subject to avoidable hospital days, and are sicker and die earlier than those individuals who have health insurance.

(b) SENSE OF SENATE.—It is the sense of the Senate that the functional totals in this resolution assume that—

(1) expanded access to health care coverage throughout the United States is a top priority for national policymaking; and

(2) to the extent that additional funds are made available, a significant portion of such funds should be dedicated to expanding access to health care coverage so that fewer individuals are uninsured and fewer individuals are likely to become uninsured.

SEC. 313. SENSE OF THE SENATE ON THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) The control of illegal immigration is a Federal responsibility.

(2) In fiscal year 2002, however, State and local governments spent more than $13,000,000,000 in costs associated with the incarceration of undocumented criminal aliens.

(3) The Federal Government provided $565,000,000 in appropriated funding to the State Criminal Alien Assistance Program (SCAAP) to reimburse State and local governments for these costs.

(4) In fiscal year 2003, the fiscal burden of incarcerating undocumented criminal aliens is likely to grow, however, Congress provided only $250,000,000 to help cover these costs.

(5) The 56 percent cut in fiscal year 2003 funding for SCAAP will place an enormous burden on State and local law enforcement agencies during a time of heightened efforts to secure our homeland.

(6) The Administration did not include funding for SCAAP in its fiscal year 2004 budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the functional totals underlying this resolution on the budget assumes that the State Criminal Alien Assistance Program be funded at $585,000,000 to reimburse State and local law enforcement agencies for the burdens imposed in fiscal year 2003 by the incarceration of undocumented criminal aliens; and

(2) Congress enact a long-term reauthorization of the State Criminal Alien Assistance Program beginning with the authorization of $750,000,000 in fiscal year 2004 to reimburse State and county governments for the burdens undocumented criminal aliens have placed on the local criminal justice system.

SEC. 314. SENSE OF THE SENATE CONCERNING PROGRAMS OF THE CORPS OF ENGINEERS.

(a) FINDINGS.—The Senate finds that—

(1) the Corps of Engineers provides quality, responsive engineering services to the United States, including planning, designing, building, and operating invaluable water resources and civil works projects;

(2) the ports of the United States are a vital component of the economy of the United States, playing a critical role in international trade and commerce and in maintaining the energy supply of the United States;

(3) interruption of port operations would have a devastating effect on the United States;

(4) the navigation program of the Corps enables 2,400,000,000 tons of commerce to move on navigable waterways;

(5) the Department of Transportation estimates that those cargo movements have created jobs for 13,000,000 people;

(6) flood damage reduction structures provided and maintained by the Corps save taxpayers $21,000,000,000 in damages every year, in addition to numerous human lives;

(7) the Corps designs and manages the construction of military facilities for the Army and Air Force while providing support to the Department of Defense and other Federal agencies;

(8) the Civil Works program of the Corps adds significant value to the economy of the United States, including recreation and ecosystem restoration;

(9) through contracting methods, the civil works program employs thousands of private sector contract employees, as well as Federal employees, in all aspects of construction, science, engineering, architecture, management, planning, design, operations, and maintenance; and

(10) the Bureau of Labor Statistics indicates that $1,000,000,000 expended for the Civil Works program generates approximately 40,000 jobs in support of construction operation and maintenance activities in the United States.

(b) BUDGETARY ASSUMPTIONS.—It is the sense of the Senate that—

(1) to perform vital functions described in subsection (a), the Corps of Engineers requires additional funding; and

(2) the budgetary totals in this resolution assume that the level of funding provided for programs of the Corps described in subsection (a) will not be reduced below current baseline spending levels established for the programs.

SEC. 315. RADIO INTEROPERABILITY FOR FIRST RESPONDERS.

(a) STUDY.—It is the sense of the Senate that the Attorney General, in consultation with the Secretary of Homeland Security, should conduct a study of the need and cost to make the radio systems used by fire departments and emergency medical services agencies interoperable with those used by law enforcement to the extent that interoperability will not interfere with law enforcement operations.

(b) GRANT PROGRAM.—It is the sense of the Senate that Congress should authorize and appropriate $20,000,000 to establish a grant program through which the Attorney General would award grants to local governments to assist fire departments and emergency medical services agencies to establish radio interoperability.

SEC. 316. SENSE OF THE SENATE ON CORPORATE TAX HAVEN LOOPHOLES.

(a) FINDINGS.—Congress finds that companies are taking advantage of loopholes in the United States tax code to direct taxable income to tax haven jurisdictions, some of which have excessive bank secrecy laws and a poor record of cooperation with United States civil and criminal tax enforcement.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should act to stop companies from avoiding paying their fair share of United States taxes by—

(1) addressing the problem of corporations that have renounced their United States citizenship (''inverted'') by relocating their headquarters to tax haven jurisdictions while maintaining their primary offices and production or service facilities in the United States; and

(2) addressing the problem of Bermuda-based insurance companies that are using reinsurance agreements with their subsidiaries to direct property and casualty insurance premiums out of the United States into Bermuda to reduce their United States taxes in a way that places United States property and casualty insurance companies at a competitive disadvantage.

SEC. 317. SENSE OF SENATE ON PHASED-IN CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AT 60 PERCENT OR HIGHER.

It is the sense of the Senate that the new budget authority and outlays for fiscal years 2004 through 2013 for National Defense (050) specified in section 103(1) are adequate to provide, and should provide, for the phased-in of concurrent receipt of retired pay and veterans' disability compensation by veterans with service-connected disabilities rated 60 percent or higher as if section 1414 of title 10, United States Code, were amended to read as follows:

''§ 1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation for disabilities rated at 60 percent or higher

''(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—A member or former member of the uniformed services described in subsection (b) is entitled to be paid retired pay, up to the amount determined for such member or former member under subsection (d), in addition to any entitlement to veterans' disability compensation, without regard to sections 5304 and 5305 of title 38.

''(b) COVERED MEMBERS.—A member or former member described in this subsection is any member or former member who is entitled to retired pay (other than as specified in subsection (c)) and who is also entitled to veterans' disability compensation for a service-connected disability rated at 60 percent or higher, as determined under laws administered by the Secretary of Veterans Affairs.

''(c) EXCEPTION.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title at the time of the member's retirement.

''(d) MAXIMUM AMOUNT OF RETIRED PAY.—The maximum amount of retired pay to which a member or former member is entitled under subsection (a) is as follows:

''(1) For months beginning with January 2004 and ending with December 2004, the amount equal to 45 percent of the amount of retired pay to which the member or former member would be entitled if the member or former member were paid retired pay without regard to sections 5304 and 5305 of title 38 for such months.

''(2) For months beginning with January 2005 and ending with December 2005, the amount equal to 60 percent of the amount of retired pay to which the member or former member would be entitled if the member or former member were paid retired pay without regard to sections 5304 and 5305 of title 38 for such months.

''(3) For months beginning with January 2006 and ending with December 2006, the amount equal to 80 percent of the amount of retired pay to which the member or former member would be entitled if the member or former member were paid retired pay without regard to sections 5304 and 5305 of title 38 for such months.

''(4) For months beginning after December 2006, the amount equal to the full amount of retired pay to which the member or former member would be entitled if the member or former member were paid retired pay without regard to sections 5304 and 5305 of title 38 for such months.

''(e) DEFINITIONS.—In this section:

''(1) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

''(2) The term 'service-connected' has the meaning given that term in section 101(16) of title 38.

''(3) The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(12) of title 38.''.

(2) COORDINATION WITH SPECIAL COMPENSATION AUTHORITY.—Section 1413 of such title is amended—

(1) in subsection (a)—

(A) by inserting '', for months in 2002 and 2003,'' after ''Secretary concerned shall''; and

(B) by striking the last sentence; and

(2) in subsection (b)—

(A) in paragraph (2), by striking ''September 2004'' and inserting ''December 2003''; and

(B) by striking paragraph (3).

(3) ADDITIONAL CONFORMING AMENDMENTS.—(A) Effective on December 31, 2003, section 1413a of such title is repealed.

(B) Effective on the date of the enactment of this Act, subsection (d) of section 641 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1150; 10 U.S.C. 1414 note) is repealed.

(4) CLERICAL AMENDMENTS.—(A) Effective on the date of the enactment of this Act, the table of sections at the beginning of chapter 71 of title 10, United States Code, is amended by striking the item relating to section 1414 and inserting the following new item:

''1414. Members eligible for retired pay who have service-connected disabilities: payment of retired pay and veterans' disability compensation for disabilities rated at 60 percent or higher.''.

(B) Effective December 31, 2003, the table of sections at the beginning of such chapter is amended by striking the item relating to section 1413a.

SEC. 318. SENSE OF THE SENATE CONCERNING NATIVE AMERICAN HEALTH.

It is the sense of the Senate that Congress has recognized the importance of Native American health. In 1997, Congress enacted a program to spend $30,000,000 a year on research and treatment on diabetes in the Native American community. This amount was increased to $100,000,000 a year in 2000 and further increased to $150,000,000 a year in 2002. This is a 500 percent increase since 1997. This priority focuses on prevention and treatment for a major disease in the Native American community.

SEC. 319. RESERVE FUND TO STRENGTHEN SOCIAL SECURITY.

If legislation is reported by the Senate Committee on Finance, or an amendment thereto is offered or a conference report thereon is submitted that would extend the solvency of the Social Security Trust Funds, the Chairman of the Senate Committee on the Budget may revise the aggregates, functional totals, allocations, and other appropriate levels and limits in this resolution by up to $396,000,000,000 in budget authority and outlays for the total of fiscal years 2003 through 2013.

SEC. 320. SENSE OF THE SENATE ON PROVIDING TAX AND OTHER INCENTIVES TO REVITALIZE RURAL AMERICA.

It is the sense of the Senate that if tax relief measures are passed in accordance with the assumptions in the budget resolution in this session of Congress, such legislation should include tax and other financial incentives, like those included in the New Homestead Act (S. 602), to help rural communities fight the economic decimation caused by chronic out-migration by giving them the tools they need to attract individuals to live and work, or to start and grow a business, in such rural areas.

SEC. 321. SENSE OF THE SENATE CONCERNING HIGHER EDUCATION AFFORDABILITY.

(a) FINDINGS.—The Senate finds that—

(1) in our increasingly competitive global economy, the attainment of higher education is critical to the economic success of an individual, as evidenced by the fact that, in 1975, college graduates earned an average of 57 percent more than individuals who were only high school graduates, as compared to the fact that, in 2001, college graduates earned an average of 84 percent more than high school graduates;

(2) over the past 20 years, the average cost of college tuition has increased by over 250 percent and is increasing—

(A) at a faster rate than any consumer item, including health care; and

(B) at a rate that is more than twice as fast as the rate of inflation;

(3) despite increases in grant amounts contained in legislation recently enacted by Congress, the value of the maximum Pell Grant has declined 15 percent since 1975 in inflation-adjusted terms, forcing more students to rely on student loans to finance the cost of a higher education;

(4) from fiscal years 1990 to 2000, the demand for student loans rose by 41 percent and the average student loan amount increased by 48.2 percent; and

(5) according to the Department of Education, there is approximately $150,000,000,000 in outstanding student loan debt and students borrowed more during the decade beginning in 1990 than during all of the decades beginning in 1960, 1970, and 1980.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that economic stimulus legislation enacted pursuant to the instructions contained in this concurrent resolution on the budget should include provisions to make higher education affordable, including—

(1) a provision to make permanent the above-the-line deduction for the higher education expenses of a taxpayer and members of the taxpayer's family and to increase such deduction to $8,000 for taxable year 2003 and $12,000 for taxable year 2004 and thereafter; and

(2) a credit against tax of up to $1,500 for each taxable year (indexed for inflation) for interest paid during such taxable year on loans incurred for higher education expenses—

(A) during the first 60 months such payments are required; and

(B) paid by individuals who are not dependents.

SEC. 322. SENSE OF THE SENATE CONCERNING CHILDREN'S GRADUATE MEDICAL EDUCATION.

(a) FINDINGS.—The Senate finds that—

(1) children's hospitals provide excellent care for children;

(2) the importance of children's hospitals extends to the health care of all children throughout the United States;

(3) making up only 1 percent of all hospitals, independent children's hospitals train almost 30 percent of all pediatricians and 50 percent of all pediatric specialists;

(4) children's hospitals provide over 50 percent of the hospital care in the United States for children with serious illness, including needing cardiatric surgery, children with cancer, and children with cerebral palsy; and

(5) children's hospitals are important centers for pediatric research and the major pipeline for future pediatric researchers.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, for fiscal year 2004, children's

graduate medical education should be funded at $305,000,000.

SEC. 323. SENSE OF THE SENATE ON FUNDING FOR CRIMINAL JUSTICE.

(a) FINDINGS.—The Senate finds that—

(1) bipartisan efforts have led to success in the fight against crime and improvements in the administration of justice;

(2) Congress steadily increased funding for crime identification technologies between 1994 and 2003; and

(3) a strong commitment to improve crime identification technologies is still needed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the funding levels in this resolution assume that the programs authorized under the Crime Identification Technology Act of 1998 to improve the justice system will be fully funded at the levels authorized for each of the fiscal years 2004 through 2007.

SEC. 324. SENSE OF THE SENATE CONCERNING FUNDING FOR DRUG TREATMENT PROGRAMS.

It is the sense of the Senate that the functional totals in this resolution assume that up to $20,000,000 from funds designated, but not obligated, for travel and administrative expenses, from drug interdiction activities should be used for service-oriented targeted grants for the utilization of substances that block the craving for heroin and that are newly approved for such use by the Food and Drug Administration.

SEC. 325. FUNDING FOR AFTER-SCHOOL PROGRAMS.

(a) FINDINGS.—Congress finds that:

(1) Studies show that organized extracurricular activities, such as after-school programs, reduce crime, drug use, and teenage pregnancy.

(2) According to the FBI, youth are most at risk for committing violent acts and being victims of violent crimes between 3:00 p.m. and 8:00 p.m.—after school is out and before parents arrive home.

(3) There remains a great need for after-school programs. The Census Bureau reported that at least 8 to 15 million children have no place to go after school is out.

(4) Current funding for after-school programs provide almost 1.4 million children across the country a safe and enriching place to go after school instead of being home alone.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that funding for 21st Century Community Learning Centers is at least enough to ensure the number of children participating in after-school programs does not decrease.

SEC. 326. SENSE OF THE SENATE ON THE $1,000 CHILD CREDIT.

It is the sense of the Senate that extending the $1,000 child credit for 3 additional years (2011–2013) can be accommodated within the revenue totals and instructions of this resolution.

SEC. 327. SENSE OF THE SENATE CONCERNING FUNDING FOR DOMESTIC NUTRITION ASSISTANCE PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) domestic nutrition assistance programs administered by the Secretary of Agriculture—

(A) have a long history of bipartisan support;

(B) have an accomplished record of preventing health problems for children and promoting the health, growth, and development of children;

(C) provide United States agricultural producers and food manufacturers with important and substantial markets through which they can obtain and sustain livelihoods; and

(D) are due to be reauthorized and improved during the 108th Congress; and

(2) the budget proposed by the President for fiscal year 2004—

(A) maintains current levels of funding for child nutrition;

(B) extends and improves nutrition assistance programs, including—

(i) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(ii) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(iii) the child and adult care food program established under the section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); and

(C) renews and fully funds the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the final budget conference agreement should not take or propose any actions that reduce the level of funding provided for domestic nutrition assistance programs administered by the Secretary of Agriculture below current baseline spending levels for the programs.

SEC. 328. SENSE OF SENATE CONCERNING FREE TRADE AGREEMENT WITH THE UNITED KINGDOM.

It is the sense of the Senate that the President should negotiate a free trade agreement with the United Kingdom.

SEC. 329. RESERVE FUND FOR POSSIBLE MILITARY ACTION AND RECONSTRUCTION IN IRAQ.

(a) IN GENERAL.—Upon the favorable reporting of legislation by the Committee on Appropriations of the Senate making discretionary appropriations in excess of the levels assumed in this resolution for expenses for possible military action and reconstruction in Iraq in fiscal years 2003 through 2013, the Committee on the Budget of the Senate may, in consultation with the Chairman and Ranking Member of the appropriate committee, revise the level of total new budget authority and outlays, the functional totals, allocations, discretionary spending limits, and levels of deficits and debt in this resolution by up to $100,000,000,000 in budget authority and outlays.

(b) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(c) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(d) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget of the Senate; and

(2) the Chairman of that Committee may make any other necessary adjustments to such levels to carry out this resolution.

SMALL BUSINESS DROUGHT RELIEF ACT OF 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that the Small Business Committee be discharged from further action on S. 318 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 318) to provide emergency assistance to nonfarm-related small business concerns that have suffered substantial economic harm from drought.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statements regarding this matter be printed in the RECORD.

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

The bill (S. 318) was read the third time and passed, as follows:

S. 318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOANS TO SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Drought Relief Act of 2003''.

(b) FINDINGS.—Congress finds that—

(1) as of July 2002, more than 36 States (including Massachusetts, South Carolina, and Louisiana) have suffered from continuing drought conditions;

(2) droughts have a negative effect on State and regional economies;

(3) many small businesses in the United States sell, distribute, market, or otherwise engage in commerce related to water and water sources, such as lakes, rivers, and streams;

(4) many small businesses in the United States suffer economic injury from drought conditions, leading to revenue losses, job layoffs, and bankruptcies;

(5) these small businesses need access to low-interest loans for business-related purposes, including paying their bills and making payroll until business returns to normal;

(6) absent a legislative change, the practice of the Small Business Administration of permitting only agriculture and agriculture-related businesses to be eligible for Federal disaster loan assistance as a result of drought conditions would likely continue;

(7) during the past several years small businesses that rely on the Great Lakes have suffered economic injury as a result of lower than average water levels, resulting from low precipitation and increased evaporation, and there are concerns that small businesses in other regions could suffer similar hardships beyond their control and that they should also be eligible for assistance; and

(8) it is necessary to amend the Small Business Act to clarify that nonfarm-related small businesses that have suffered economic injury from drought are eligible to receive financial assistance through Small Business Administration Economic Injury Disaster Loans.

(c) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting ''(1)'' after ''(k)''; and

(B) by adding at the end the following:

''(2) For purposes of section 7(b)(2), the term 'disaster' includes—

''(A) drought; and

''(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.''.

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting ''including drought, with respect to both farm-related and nonfarm-related small business concerns affected by drought,'' before ''if the Administration''; and

(B) in subparagraph (B), by striking ''the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)'' and inserting the following: ''section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph''.

(d) PROMPT RESPONSE TO DISASTER REQUESTS.—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking ''Upon receipt of such certification, the Administration may'' and inserting ''Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may''.

(e) LIMITATION ON LOANS.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during fiscal year 2003 to provide drought disaster loans to non-farm related small business concerns.

(f) RULEMAKING.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this Act and the amendments made by this Act.

EXECUTIVE SESSION

NOMINATION OF HARRY DAMELIN TO BE INSPECTOR GENERAL FOR THE SMALL BUSINESS ADMINISTRATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Small Business Committee be discharged from further consideration of Harry Damelin, to be inspector general for the Small Business Administration; I further ask unanimous consent that the nomination be referred to the Governmental Affairs Committee as under a previous agreement, the nomination then be immediately discharged; further, the Senate proceed to its consideration, the nomination be confirmed, and the motion to reconsider be laid upon the table; finally, I ask unanimous consent that the President be notified immediately of the Senate's action and the Senate then resume legislative session.

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

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ACCEPTANCE OF STATUE OF PRESIDENT DWIGHT D. EISENHOWER

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res 84, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 84) 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.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The resolution (H. Con. Res. 84) was agreed to.

The preamble was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BENNETT. 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. 46, 89, 93, 94, 95, 96, 97, and all nominations on the Secretary's desk.

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 considered and confirmed are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Linda M. Springer, of Pennsylvania, to be Controller, Office of Federal Financial Management, Office of Management and Budget.

DEPARTMENT OF JUSTICE

McGregor William Scott, of California, to be United States Attorney for the Eastern District of California for the term of four years, vice Paul L. Seave, resigned.

ARMY

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

To be major general

Brig. Gen. Dennis M. Kenneally, 2586

To be brigadier general

Col. Oscar B. Hilman, 6837

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

To be major general

Brig. Gen. Edwin H. Roberts, Jr., 0530

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

To be brigadier general

Col. Sheila R. Baxter, 5724

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

To be major general

Brigadier General Jeffery L. Arnold, 2649
Brigadier General Robert M. Carrothers, 3234
Brigadier General Michael G. Corrigan, 8444
Brigadier General George R. Fay, 4701
Brigadier General John R. Hawkins, III, 7069
Brigadier General Michael K. Jelinsky, 5149
Brigadier General Terrill K. Moffett, 6766
Brigadier General Paul D. Patrick, 6466
Brigadier General Harry J. Philips, Jr., 8457
Brigadier General Jerry W. Reshetar, 0799
Brigadier General Stephen B. Thompson, 2012
Brigadier General Stephen D. Tom, 2119
Brigadier General George W. Wells, Jr., 9978
Brigadier General Robert J. Williamson, 7138

To be brigadier general

Colonel Charles J. Barr, 7265
Colonel David N. Blackledge, 1316
Colonel Brian J. Bowers, 6804
Colonel Edwin S. Castle, 3201
Colonel Oscar S. DePriest, IV, 1453
Colonel Mari K. Eder, 2706
Colonel Alan E. Grice, 6369
Colonel Paul F. Hamm, 4818
Colonel Philip L. Hanrahan, 2194
Colonel Christopher A. Ingram, 5053
Colonel Janis L. Karpinski, 0063
Colonel John F. McNeill, 6825
Colonel William Monk, III, 7931
Colonel Gary M. Profit, 1548
Colonel Douglas G. Richardson, 7068
Colonel Michael J. Schweiger, 1172
Colonel Richard J. Sherlock, Jr., 9856
Colonel Charles B. Skaggs, 7815
Colonel Richard M. Tabor, 7175
Colonel Phillip J. Thorpe, 4583
Colonel Ennis C. Whitehead, III, 9925

NAVY

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. David O. Anderson, 4824
Capt. David J. Cronk, 9384
Capt. Dirk J. Debbink, 0752
Capt. Frank F. Rennie, IV, 3148

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN181 Air Force nominations (114) beginning COLBY D. * ADAMS, and ending ROBERT K. * YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of January 13, 2003.

PN229 Air Force nominations (1597)) beginning RAYMOND B. ABARCA, and ending MICHAEL A. ZROSTLIK, which nominations were received by the Senate and appeared in the Congressional Record of January 16, 2003.

PN358 Air Force nominations (14) beginning JOYCE A. ADKINS, and ending STEVEN A. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 2003.

PN361 Air Force nominations (1501) beginning JOHN J. ABBATIELLO, and ending MICHAEL P. ZUMWALT, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 2003.

PN362 Air Force nominations (98) beginning CATHERINE M. AMITRANO, and ending CYNTHIA K. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 2003.

ARMY

PN364 Army nominations (6) beginning BRIAN K. BALFE, and ending JAMES H. TROGDON, III, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 2003.

PN420 Army nomination of William O. Prettyman, II, which was received by the Senate and appeared in the Congressional Record of March 11, 2003.

PN421 Army nomination of Darrell S. Ransom, which was received by the Senate and appeared in the Congressional Record of March 11, 2003.

PN422 Army nomination of Frederick D. White, which was received by the Senate and appeared in the Congressional Record of March 11, 2003.

MARINE CORPS

PN423 Marine Corps nominations (2) beginning MICHAEL P. KILLION, and ending DOUGLAS S. KURTH, which nominations were received by the Senate and appeared in the Congressional Record of March 11, 2003.

PN365 Marine Corps nominations (377) beginning BRIAN T. ALEXANDER, and ending PHILLIP J. ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 2003.

NAVY

PN366 Navy nomination of Rosemarie H. O'Carroll, which was received by the Senate and appeared in the Congressional Record of February 25, 2003.

PN367 Navy nomination of John M. Hakanson, which was received by the Senate and appeared in the Congressional Record of February 25, 2003.

PN368 Navy nominations (28) beginning DANIEL P. ARTHUR, and ending WALTER C. WRYE, IV, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 2003.

ORDERS FOR TUESDAY, APRIL 1, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. Tuesday, April 1; I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that notwithstanding the previous order, the Senate begin a period of morning business until 10 a.m., with the time equally divided between Senator HUTCHISON and the minority leader or his designee; provided that at 10 a.m. the Senate proceed to executive session to consider the nomination of Timothy Tymkovich to be a circuit judge for the Tenth Circuit as provided under the previous order. I further ask consent that the Senate stand in recess from 12:30 p.m. to 2:15 p.m. for the weekly party meetings.

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

PROGRAM

Mr. BENNETT. Mr. President, for the information of all Senators, the Senate will be in a period of morning business tomorrow until 10 a.m. Members who wish to make statements in support of our troops are encouraged to do so during that time.

At 10 a.m., the Senate will proceed to executive session to consider the nomination of Timothy Tymkovich, to be a circuit judge for the Tenth Circuit.

Under the previous order, there will be up to 6 hours for debate on the nomination. Following the use or yielding back of that time, the Senate will proceed to vote on the confirmation.

For the remainder of the week, the Senate is expected to complete action on several important issues, including the supplemental appropriations bill. Therefore, on behalf of the leader, I notify all Senators to expect a very busy week with rollcall votes each day.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:41 p.m., adjourned until Tuesday, April 1, 2003, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 31, 2003:

EXECUTIVE OFFICE OF THE PRESIDENT

LINDA M. SPRINGER, OF PENNSYLVANIA, TO BE CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET.

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.

SMALL BUSINESS ADMINISTRATION

HAROLD DAMELIN, OF VIRGINIA, TO BE INSPECTOR GENERAL, SMALL BUSINESS ADMINISTRATION.

THE JUDICIARY

THERESA LAZAR SPRINGMANN, OF INDIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF INDIANA.

DEPARTMENT OF JUSTICE

MCGREGOR WILLIAM SCOTT, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DENNIS M. KENNEALLY

To be brigadier general

COL. OSCAR B. HILMAN

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

21BRIG. GEN. EDWIN H. ROBERTS, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. SHEILA R. BAXTER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL JEFFERY L. ARNOLD
BRIGADIER GENERAL ROBERT M. CARROTHERS
BRIGADIER GENERAL MICHAEL G. CORRIGAN
BRIGADIER GENERAL GEORGE R. FAY
BRIGADIER GENERAL JOHN R. HAWKINS III
BRIGADIER GENERAL MICHAEL K. JELINSKY
BRIGADIER GENERAL TERRILL K. MOFFETT
BRIGADIER GENERAL PAUL D. PATRICK
BRIGADIER GENERAL HARRY J. PHILIPS, JR.
BRIGADIER GENERAL JERRY W. RESHETAR
BRIGADIER GENERAL STEPHEN B. THOMPSON
BRIGADIER GENERAL STEPHEN D. TOM
BRIGADIER GENERAL GEORGE W. WELLS, JR.
BRIGADIER GENERAL ROBERT J. WILLIAMSON

To be brigadier general

COLONEL CHARLES J. BARR
COLONEL DAVID N. BLACKLEDGE
COLONEL BRIAN J. BOWERS
COLONEL EDWIN S. CASTLE
COLONEL OSCAR S. DEPRIEST IV
COLONEL MARI K. EDER
COLONEL ALAN E. GRICE
COLONEL PAUL F. HAMM
COLONEL PHILIP L. HANRAHAN
COLONEL CHRISTOPHER A. INGRAM
COLONEL JANIS L. KARPINSKI
COLONEL JOHN F. MCNEILL
COLONEL WILLIAM MONK III
COLONEL GARY M. PROFIT
COLONEL DOUGLAS G. RICHARDSON
COLONEL MICHAEL J. SCHWEIGER
COLONEL RICHARD J. SHERLOCK, JR.
COLONEL CHARLES B. SKAGGS
COLONEL RICHARD M. TABOR
COLONEL PHILLIP J. THORPE
COLONEL ENNIS C. WHITEHEAD III

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. DAVID O. ANDERSON
CAPT. DAVID J. CRONK
CAPT. DIRK J. DEBBINK
CAPT. FRANK F. RENNIE IV

AIR FORCE NOMINATIONS BEGINNING COLBY D. ADAMS AND ENDING ROBERT K. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 13, 2003.

AIR FORCE NOMINATIONS BEGINNING RAYMOND B. ABARCA AND ENDING MICHAEL A. ZROSTLIK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 16, 2003.

AIR FORCE NOMINATIONS BEGINNING JOYCE A. ADKINS AND ENDING STEVEN A. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

AIR FORCE NOMINATIONS BEGINNING JOHN J. ABBATIELLO AND ENDING MICHEL P. ZUMWALT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

AIR FORCE NOMINATIONS BEGINNING CATHERINE M. AMITRANO AND ENDING CYNTHIA K. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

ARMY NOMINATIONS BEGINNING BRIAN K. BALFE AND ENDING JAMES H. TROGDON III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

ARMY NOMINATION OF WILLIAM O. PRETTYMAN II.

ARMY NOMINATION OF DARRELL S. RANSOM.

ARMY NOMINATION OF FREDERICK D. WHITE.

MARINE CORPS NOMINATIONS BEGINNING BRIAN T. ALEXANDER AND ENDING PHILLIP J. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

MARINE CORPS NOMINATIONS BEGINNING MICHAEL P. KILLION AND ENDING DOUGLAS S. KURTH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 2003.

NAVY NOMINATION OF ROSEMARIE H. O'CARROLL.

NAVY NOMINATION OF JOHN M. HAKANSON.

NAVY NOMINATIONS BEGINNING DANIEL P. ARTHUR AND ENDING WALTER C. WRYE IV, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.